

The Corporation of the
TOWNSHIP OF THE ARCHIPELAGO

BY-LAW NO. 2022- 28

**A By-law to regulate noise within the Township of
The Archipelago and to repeal By-law 07-19, as
amended.**

WHEREAS Section 129, of *The Municipal Act*, 2001, S.O. c. 25, provides authority for municipalities to prohibit and regulate noise and vibration;

AND WHEREAS The Council of the Corporation of the Township of The Archipelago deems it necessary to regulate or prohibit noise within the Township of The Archipelago;

AND WHEREAS Section 436 of the Ontario Municipal Act, S.O. 2001, c.25, as amended, authorizes a municipality to pass by-laws providing that the municipality may enter on land for the purpose of carrying out inspections, to determine compliance with a by-law, direction, order, or condition of licence;

AND WHEREAS Section 391 of the Municipal Act, 2001, S.O. 2001, c. 25, authorizes Council to pass by-laws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of it, and for costs payable by it for services or activities provided or done by or on behalf of any other municipality, or local board;

AND WHEREAS Section 429, subject to subsection (4), of the Municipal Act, 2001, S.O. 2001, c. 25, provides that a municipality may establish a system of fines for offences under a by-law of the municipality passed under this Act;

AND WHEREAS Section 446 of the Ontario Municipal Act, S.O. 2001, c.25, as amended, provides that, where a municipality directs or requires by by-law or otherwise that a matter or thing be done, in default of it being done by the person directed or required to do it, such matter or thing may be done at the person's expense, and that the municipality may recover the cost of doing such thing or matter by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

NOW THEREFORE BE IT RESOLVED that the Council of the Corporation of the Township of The Archipelago enacts as follows:

1.0 DEFINITIONS:

For the purposes of this By-law the following definitions shall apply;

Construction

"construction" includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earthmoving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and highway building, concreting, equipment installation and alteration and the structural installation of construction components and materials in any form or for any purpose, and includes any work in connection therewith;

Construction Equipment

"construction equipment" means any equipment or device designed and intended for use in construction, or material handling, including but not limited to, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;

Conveyance

"conveyance" includes a vehicle and any other device employed to transport a person or persons or goods from place to place but does not include any such device or vehicle if operated only within the dwelling of a person;

Council

"Council" means the Council of the Corporation of the Township of The Archipelago;

Electronic Device

"electronic device" means a device intended primarily for the production, reproduction or amplification of sound, including, but not limited to, any musical instrument, radio receiver, television receiver, recorder, phonograph, loudspeakers, amplifiers, microphones or reproducers or any combination of such equipment, including devices used in the reproduction of music, speech or other sounds;

Highway

"highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicles;

Motor Vehicle

"motor vehicle" includes an automobile, motorcycle, a motorized snow vehicle and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electric or steam railways, or other motor vehicles running only upon rails, or traction engine, farm tractor, self propelled implement of husbandry or road building machine within the meaning of the Highway Traffic Act;

Motorized Conveyance

"motorized conveyance" means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;

Municipality

"municipality" means the land within the geographic limit of the Corporation of the Township of The Archipelago;

Noise

"noise" means unwanted sound at the *point of reception* that is of such volume or nature that it is likely to disturb the inhabitants of the municipality;

Officer

"officer" means a Municipal Law Enforcement Officer, a Police Officer or any other person designated by Council as responsible for the administration of this by-law from time to time;

Owner

"owner" includes with respect to land or Property, the registered owner, occupant, tenant, or the person for the time managing or receiving the rent of the property whether on his own account or on account of an agent or trustee of any other person, or any of the aforesaid;

Person

"person" includes an individual, an Owner, corporation, partnership, company, firm, association, or party and includes the successors, assigns, heirs, executors, administrators, or other legal representatives of a person to who the context can apply according to law and the singular shall include the plural;

Point of Reception

"point of reception" means any point on the premises of a person where sound originating from other than those premises is received;

Premise

"premise" means any physical piece of land located geographically within the municipality being used, owned or occupied by any *person* at any time and the plural shall have the corresponding meaning;

Racing

"racing" means any manner of driving that occurs to a degree or in a fashion that constitutes a marked departure from the standards of the norm;

Set Fine

"set fine" means a monetary penalty that can be issued to a person or corporation found in violation of the provisions of this by-law, established by by-laws passed by the Township, the *Provincial Offences Act*, R.S.O. 1990 or the *Municipal Act*, 2001.

2.0 GENERAL PROHIBITIONS

- 2.1 No *person* shall make cause or permit the emission of *noise* which disturbs or is likely to disturb the quiet piece rest enjoyment comfort or convenience of the inhabitants of the Township of The Archipelago.
- 2.2 No *person* shall emit or cause or permit the emission of *noise* resulting from an act listed in Schedule "A" - General Prohibitions, attached hereto, and which *noise* is clearly audible at a *point of reception*.

3.0 PROHIBITIONS BY TIME

- 3.1 No *person* shall make cause or permit the emission of *noise* which disturbs or is likely to disturb the quiet piece rest enjoyment comfort or convenience of the inhabitants of the Township of The Archipelago.
- 3.2 No *person* or *owner* shall emit, cause, or permit the emission of excessive *noise*, which disrupts the normal living or working environment of a person at a *point of reception*, resulting from an

act or emanating from a device listed in Schedule "B" attached hereto this By-law.

4.0 EXEMPTION

4.1 This By-law does not apply:

- a) during an emergency involving the health, safety or welfare of the public;
- b) to the operation of snow plowing or snow removal equipment on public or private property;
- c) to community event(s);
- d) to any *person* who is granted an exemption under Section 5 of this By-law by Council provided all terms and conditions set by Council are met for the period of time set out in the exemption granted;
- e) the use of church bells or chimes normally associated with church activities.

5.0 GRANT OF EXEMPTION BY COUNCIL

5.1 Application to Council

Notwithstanding anything contained in this By-law, any person may make application to Council to be granted an exemption from any of the provisions of this by-law with respect to any *noise* for which they might be prosecuted.

5.2 An application for a noise exemption under Section 5.1 shall be filed with the Clerk and submitted on an application in the form prescribed by Schedule "D".

6.0 RIGHT OF ENTRY

6.1 An *Officer* may enter at all reasonable times upon any premises or property to ascertain whether the provisions of this By-law are obeyed and to enforce and carry into effect the provisions of this By-law.

6.2 An *Officer* must upon request, display or produce proper identification in the form of the appointment resolution from *council*.

7.0 OBSTRUCTION

7.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any *Officer* exercising a power or performing a duty under this By-law.

7.2 Any person, who has been alleged to have contravened any of the provisions of this By-law, shall identify himself or herself to the *Officer* upon request. Failure to do so shall be deemed to have obstructed or hindered the *Officer* in the execution of his or her duties.

8.0 PENALTY

- 8.1 Every person who contravenes or fails to comply with any of the provisions of this By-law is guilty of an offence and on conviction is liable to the *set fines* and other penalties prescribed by the *Provincial Offences Act* R.S.O. 1990, c. 33, as amended. The applicable minimum fines for a first offense are identified on Schedule "C" of this Bylaw.
- 8.2
- a) The Enforcement Official may at their discretion, subject to the specific circumstances, issue a first time formal documented warning. There after section's 8.2(b) and Section 9 may be applied.
 - b) If there is a 2nd validated violation of this Bylaw which occurs on property occupied by or owned by the same person(s) as 8.1(a) that person or persons are then subject to relative fines under Schedule "C" and/or additional fines or further enforcement actions as determined under the Ontario Provincial Offences Act. In addition, the property owner(s) are then also subject to penalties under Section 9 and Schedule "E".

9.0 RECOVERY OF COSTS

- 9.1 In addition to any fines or penalties established elsewhere in accordance with this By-law, the person(s) responsible for the site, at the time of the violation, and therein allowing or creating the noise violation, or permitting it to happen, and/or the absentee property owners shall be liable to the Township by way of a fee or charge, as calculated in accordance with Schedule "E" to this By-law, including those costs and expenses incurred by the Township including (9.1.1 and 9.1.2).
- 9.2 Investigating and responding to a complaint made to the Township, or a Bylaw enforcement Officer by any person acting reasonably and in good faith, which resulted in causing or have caused actual discomfort to the complainant, or was in violation of a By-law and therein resulted in.
- 9.3 The dispatching of an Officer, and/or other agencies, their vehicles or equipment and and/or emergency support personnel for the purpose of: investigating a noise complaint and/or initiating the controlling or validating that the onsite situation, was in violation of this Noise By-law.
- 9.4 All fees and charges payable under this By-law, Section 9.1 are due and owing to the Township within thirty (30) days of the date of an invoice rendered to the person liable to pay them.
- 9.5 All overdue accounts shall accrue interest at the rate of 1.25% per month (15% per annum), calculated monthly, from the due date until paid in full.
- 9.6 If a person who causes or allows noise content or levels contrary to this By-law is not the owner of the property but occupies or is using

the property with the owner's consent, the owner and the person(s) on site- shall be jointly and severally liable to pay any fees and charges imposed by this By-law.

- 9.7 All fees and charges payable under this By-law constitute a debt of the person liable for payment of them to the Township and, in the case of owners of a property being responsible for payment of the fees and charges, the Township may add the amount owing to the tax roll for the owner(s) real property and collect them in like manner as municipal taxes.

10.0 ADMINISTRATION OF THE BY-LAW

- 10.1 Municipal Law Enforcement / By-law Officers employed by the Township: and also Peace Officers who are part of but not limited to members of the Ontario Provincial Police, Ministry of Northern Development, Mines, Natural Resources, and Forestry, and any other provincial or federal government bodies are hereby authorized to enforce this By-law.

- 10.2 Where the singular is used, it shall also mean or stand for the plural.

11.0 SHORT TITLE

- 11.1 The short title of this By-law is the "Noise By-law".

12.0 SEVERABILITY

- 12.1 If a court of competent jurisdiction should declare any section or a part of this By-law to be invalid, the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

13.0 REPEAL OF PREVIOUS BY-LAWS

- 13.1 That By-law No. 07-19 as amended, is hereby repealed and any and all by-laws contrary hereto or inconsistent herewith be and the same are hereby repealed.
- 13.2 Schedules "A", "B", "C", "D" and "E" attached hereto form part of this By-law.
- 13.3 That this By-law shall come into full force and effect on its date of passing, in a form the same or substantially the same and to the satisfaction of the CAO and the Township Solicitor.

READ and FINALLY PASSED in OPEN COUNCIL this 22nd day of July, 2022.

THE CORPORATION OF THE TOWNSHIP OF THE ARCHIPELAGO


Bert Liverance, Reeve


Mann Martin, Clerk



SCHEDULE "A" TO BY-LAW NO. 2022- 28

GENERAL PROHIBITIONS

1. *Racing* other than in a *racing* event regulated by law.
2. The operation of *motor vehicle* in such a way that the tires squeal.
3. The operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in good working order and in constant operation.
4. The operation of a *motor vehicle* or a vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to improperly secured load or equipment, or inadequate maintenance.
5. The operation of an engine or motor in, or on, any *motor vehicle* or item of attached auxiliary equipment for a continuous period exceeding five minutes, while such vehicle is stationary, unless:
 - a) the original equipment manufacturer specifically recommends a longer idling period for normal and efficient operation of the motor vehicle in which case such recommended period shall not be exceeded; or,
 - b) operation of such engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to, operation of ready-mixed concrete trucks and lift platforms; or,
 - c) weather conditions justify the use of heating or refrigerating systems powered by the motor or engine for the safety and welfare of the operator, passengers or animals, or the preservation of perishable cargo, and the vehicle is stationary for purposes of delivery or loading; or,
 - d) prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or,
 - e) the idling is for the purpose of cleaning and flushing the radiator and associated circulation system for seasonal change of antifreeze, cleaning of the fuel system, carburettor or the like, when such work is performed other than for profit.
6. The operation of a *motor vehicle* horn or other warning device except where required or authorized by law or in accordance with good safety practices.
7. The operation of any item of *construction equipment* without effective muffling devices in good working order and in constant operation and in accordance with the equipment manufacturer.
8. The operation of any wind energy or power system which produces *noise* at the *point of reception*.
9. The discharge of firearms, other than as part of an otherwise lawful hunt, gun club, or what such discharge has law enforcement or agricultural purposes.

10. Residential domestic activities that produce *noise* of such nature that is unwanted, on-going, persistent, unusual, repetitive, a public nuisance that disturbs a *person*.
11. The operation of a combustion engine which is, used in or is intended for use in, a toy or a model or replica of any device, which model or replica has no function other than amusement and which is not a conveyance.
12. Persistent barking, calling or whining or other similar persistent noise making by any domestic pet or any other animal kept or used for any purpose other than agriculture.

SCHEDULE "B" TO BY-LAW NO. 2022- 28

PROHIBITIONS BY TIME

		Prohibited Period
1.	The detonation of fireworks or explosive devices not used in <i>construction</i> except for Victoria Day, Independence Day (USA) and Canada Day and the one day immediately preceding and/or following each of these days.	At all times
2.	The sound from or created by audio or visual device, public address system, sound equipment, loud speaker, or any musical or sound producing instrument of whatever kind when the same is played or operated in such a manner or with such volume as to disturb the peace, quiet, comfort or repose of any <i>person</i> in any <i>premise</i> .	A
3.	The operation of any auditory signalling device, including but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles, or the production, reproduction or amplification of any similar sounds by electronic means except where required or authorized by law or in accordance with good safety practices, but at no times to cause an unwanted <i>noise</i> to any <i>person</i> on a <i>premise</i> .	C
4.	The operation of any <i>motorized conveyance</i> other than on a <i>highway</i> or other place intended for its operation.	B
5.	The venting, release or pressure relief of air, steam or other gaseous material, product or compound from any autoclave, boiler pressure vessel, pipe, valve, machine, device or system.	A
6.	Yelling, shouting, hooting, whistling, or singing.	A
7.	All selling or advertising by shouting or outcry or amplified sound.	C
8.	Loading, unloading, delivering, packing unpacking, or otherwise handling any containers, products, materials or refuse, whatsoever, unless necessary for the maintenance of essential services or the moving of private household effects.	C
9.	The operation of any equipment in connection with <i>construction</i> .	C
10.	The operation or use of any tool for domestic purposes other than snow removal.	B
11.	The operation of solid waste bulk lift or refuse compacting equipment.	B
12.	The banging of drums, strumming of guitar or production of noise by any other non-amplified musical instrument	A

Prohibited Periods of Time

- A - 23 00 one day to 07 00 next day (0900 Sundays)
- B - 19 00 one day to 07 00 next day (0900 Sundays)
- C - 19 00 one day to 07 00 next day. All day Sundays and Statutory Holidays

SCHEDULE "C" TO BY-LAW NO. 2022- 28

NOISE BY-LAW - Part 1 - SET FINE SCHEDULE Provincial Offences Act

ITEM	<u>COLUMN 1</u> SHORT FORM WORDING	<u>COLUMN 2</u> OFFENCE CREATING PROVISION	<u>COLUMN 3</u> SET FINE
1.	Cause or permit <i>noise</i> to disturb inhabitants of Township of The Archipelago	Section 2.1	\$300.00
2.	Cause or permit <i>noise</i> by <i>racing a motorized vehicle</i>	Section 2.2 Schedule A-1	\$300.00
3.	Cause or permit <i>noise</i> from a <i>motor vehicle</i> in such a way that the tires squeal	Section 2.2 Schedule A-2	\$300.00
4.	Cause or permit <i>noise</i> from any engine or device without an exhaust or intake muffling device	Section 2.2 Schedule A-3	\$300.00
5.	Cause or permit <i>noise</i> from the operation of a <i>motor vehicle</i> with a trailer	Section 2.2 Schedule A-4	\$300.00
6.	Cause or permit <i>noise</i> from engine idling longer than five (5) minutes	Section 2.2 Schedule A-5	\$300.00
7.	Cause or permit <i>noise</i> from a vehicle or horn or other warning device	Section 2.2 Schedule A-6	\$300.00
8.	Cause or permit <i>noise</i> from the operation of <i>construction equipment</i> that is not properly maintained	Section 2.2 Schedule A-7	\$300.00
9.	Cause or permit <i>noise</i> from the operation of a wind energy system	Section 2.2 Schedule A-8	\$300.00
10.	Cause or permit <i>noise</i> from the discharge of a firearm	Section 2.2 Schedule A-9	\$300.00
11.	Cause or permit <i>noise</i> from residential domestic activity	Section 2.2 Schedule A-10	\$300.00
12.	Cause or permit <i>noise</i> by the operation of a toy motor when prohibited	Section 2.2 Schedule A-11	\$300.00
13.	Permit <i>noise</i> from continuous barking when prohibited	Section 3.2 Schedule A-12	\$300.00
14.	Cause or permit <i>noise</i> from fireworks when prohibited	Section 3.2 Schedule B-1	\$300.00
15.	Cause or permit <i>noise</i> from any electronic device or sound producing equipment when prohibited	Section 3.2 Schedule B-2	\$300.00
16.	Cause or permit <i>noise</i> from auditory signalling devices when prohibited	Section 3.2 Schedule B-3	\$300.00
17.	Cause or permit <i>noise</i> from the operation of a <i>motorized conveyance</i> when prohibited	Section 3.2 Schedule B-4	\$300.00
18.	Cause or permit <i>noise</i> from pressure relief of air/steam/gaseous materials	Section 3.2 Schedule B-5	\$300.00

	when prohibited		
19.	Cause or permit <i>noise</i> by persistent yelling, shouting, hooting or similar noise when prohibited	Section 3.2 Schedule B-6	\$300.00
20.	Cause or permit <i>noise</i> by selling or advertising by amplified sound when prohibited	Section 3.2 Schedule B-7	\$300.00
21.	Cause or permit <i>noise</i> by handling materials when prohibited	Section 3.2 Schedule B-8	\$300.00
22.	Cause or permit <i>noise</i> by operating <i>construction equipment</i> when prohibited	Section 3.2 Schedule B-9	\$300.00
23.	Cause or permit <i>noise</i> from the operation of domestic power tool when prohibited	Section 3.2 Schedule B-10	\$300.00
24.	Cause or permit <i>noise</i> from bulk lift, compacting, crushing or shredding equipment when prohibited	Section 3.2 Schedule B-11	\$300.00
25.	Cause or permit <i>noise</i> created by non-amplified musical instrument when prohibited	Section 3.2 Schedule B-12	\$300.00
26.	Obstructing an <i>officer</i> performing their duty	Section 7.1	\$400.00
27.	Failure to identify themselves to an <i>officer</i> while in contravention of this By-Law	Section 7.2	\$400.00

SCHEDULE "D" TO BY-LAW NO. 2022- 28

NOTICE OF INTENTION & APPLICATION FOR EXEMPTION
Noise Control By-law

UNDER AUTHORITY GRANTED BY PART BY-LAW 2022-

BEING A BY-LAW TO PROVIDE FOR THE REGULATION AND PROHIBITION
OF UNUSUAL NOISES OR NOISES LIKELY TO DISTURB THE PUBLIC
PEACE AND FOR THE PREVENTION OF PUBLIC NUISANCES IN THE
TOWNSHIP OF THE ARCHIEPLAGO.

APPLICATION DETAILS	
APPLICANT INFORMATION	
First and Last Name:	
Address:	
Phone Number:	
Email:	
Time period of exemption	
Reason for exemption	
ON-SITE CONTACT INFORMATION	
	☐ Same as applicant
First and Last Name:	
Address:	
Phone Number:	
Email:	

SCHEDULE "E" TO BY-LAW NO. 2022- 28

COSTS OF INVESTIGATION/ENFORCEMENTS PER SECTION 9

ITEM	AUTHORITY SECTION	RELATED COSTS MAY INCLUDE	CALCULATED & DOCUMENTED BY
Responding to a Scene	Section 9	TIME, per By-law <i>Officer @ \$50.00</i> per hour	<i>Officer's time</i> sheets and various video/photo's
Occurrence and Investigation Time	Section 9	TIME, per By-law <i>Officer @ \$75.00</i> per hour	<i>Officer's time</i> sheets and various video/photo's
Court – MLEO Time	Section 9	TIME, per By-law <i>Officer @ \$75.00</i> per hour	<i>Officer's time</i> sheets and various video/photo's
Court – Prosecutor(s) Costs	Section 9	TIME, as per Prosecutor's Case Invoice	Legal Invoice(s)
Administrative Costs	Section 9	Staff TIME	Office staff & Officer logged hours