

The Corporation of the Town of Aurora

By-law Number 6381-21

Being a By-law to prohibit and regulate noise in the Town of Aurora.

Whereas subsection 8(1) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended (the "Municipal Act"), provides that powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

And whereas section 9 of the *Municipal Act* provides that a municipality has the capacity, rights, powers and privileges of a natural person;

And whereas it is in the public interest to reduce the noise level in the Town of Aurora, so as to preserve, protect and promote public health, safety, welfare and peace and quiet of the inhabitants of the Town;

And whereas subsection 11(3) of the *Municipal Act* provides that a local municipality may pass by-laws respecting economic, social and environmental well-being of the municipality, respecting health, safety and well-being of persons, and respecting protection of persons and property;

And whereas section 129 of the *Municipal Act* provides that, without limiting sections 9 and 11 of the *Municipal Act*, a municipality may prohibit and regulate with respect to noise, vibration and to prohibit the same unless a permit is obtained from the municipality for those matters and that the municipality may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

And whereas section 128 of the *Municipal Act* provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances;

And whereas in the opinion of Council for the Town of Aurora, certain kinds of noise are or could become a public nuisance;

Now therefore the Council of The Corporation of the Town of Aurora hereby enacts as follows:

1. Definitions

1.1 In this by-law, the following words have the following meanings:

- (a) **"Construction"** includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, 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 for any purpose, and includes any work, delivery or movement of any equipment or materials in connection therewith;
- (b) **"Council"** means the council of the Town;

- (c) **"Director"** means the department head responsible for the Bylaw Services division of the Town, or his/her designate or successor;
- (d) **"Manager"** means the manager of the Bylaw Services division or his/her designate or successor;
- (e) **"Municipal Act"** means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended or successor thereto;
- (f) **"Noise"** means a sound that a Person finds disturbing to their peace, rest, enjoyment, comfort or convenience;
- (g) **"Officer"** means a Person appointed by the Town as a Municipal Law Enforcement Officer and any police officer;
- (h) **"Persistent Noise"** means any Noise that is continuously heard for a period of ten minutes or more, or intermittently heard over a period of one hour or more;
- (i) **"Person"** includes an individual, sole proprietorship, partnership, limited partnership, trust or corporation, or an individual in his or her capacity as a trustee, executor, administrator or other legal representative;
- (j) **"Point of Reception"** means any location on the premises of a Person where sound originating from other than those premises is received, and the following locations are points of reception:
 - (i) an outdoor area that is:
 - 1. near the façade of a building, at a height of 1.5 metres above ground, typically in backyards, front yards, terraces or patios; or
 - 2. on a balcony or elevated terrace (for example, a rooftop) provided it is not enclosed; or
 - (ii) an indoor area that is inside a building with windows and doors closed;
- (k) **"Residential Abutting"** means any property or business that is located adjacent to a property that is zoned as a Residential Zone, as identified in section 2.1, or in a succeeding provision thereof, of the Zoning By-law;
- (l) **"Residential Renovation"** means any Construction on a property that is zoned as residential or on a property that permits residential use under the Zoning By-law that is conducted by:
 - (i) a property owner on his or her own property, or
 - (ii) an occupant or tenant on a property on which they ordinarily reside, but shall not include any Construction by a Person that is hired to do such work;
- (m) **"Town"** means The Corporation of the Town of Aurora and/or the geographical limits of the Town of Aurora, depending on the context of the provision in which the term appears;

- (n) **"Unreasonable Noise"** means any Noise that would disturb the peace, rest, enjoyment, comfort or convenience of a reasonable Person in the circumstances, but does not include commonplace household or workplace sounds such as sound from furniture being moved, children playing or people engaging in conversation;
- (o) **"Waste"** means any discarded or unwanted material including, but not limited to, garbage, recyclable material, debris, refuse, compostable material, excrement, ashes, packing material, cans, bottles, mechanical equipment, cardboard, grass clippings, tree branches, or leaves;
- (p) **"Zoning By-law"** means the Zoning By-law of the Town of Aurora as amended or successor legislation thereto.

2. Prohibitions

- 2.1 No Person shall make, cause or permit Noise, at any time, that is Unreasonable Noise and Persistent Noise that is audible at a Point of Reception.
- 2.2 Notwithstanding section 2.1 above, the prohibition set out in section 2.1 does not apply to:
 - (a) Noise resulting from Construction activity,
 - (b) Noise resulting from Residential Renovation, and
 - (c) Noise resulting from collection, disposal or emptying of Waste using mechanical means, and
 - (d) Noise made by an animal.
- 2.3 No Person shall make, emit, cause, or permit any Noise resulting from any Construction activity, other than Residential Renovation, that is audible at a Point of Reception during the following times:
 - (a) on any statutory holiday,
 - (b) from 8:00 p.m. to 7:00 a.m. the following day, Monday to Friday,
 - (c) from 8:00 p.m. on Friday to 9:00 a.m. on Saturday, and
 - (d) from 5:00 p.m. on Saturday to 7:00 a.m. on Monday.
- 2.4 No Person shall make, emit, cause or permit any Noise resulting from any Residential Renovation activity that is audible at a Point of Reception during the following times:
 - (a) from 9:00 p.m. to 7:00 a.m. the following day, Monday to Saturday, and
 - (b) from 8:00 p.m. on Saturday to 9:00 a.m. on Sunday, and
 - (c) from 5:00 p.m. on Sunday to 7:00 a.m. on Monday.
- 2.5 No Person shall make, emit, cause, or permit any Noise resulting from the collection, disposal or emptying of Waste using mechanical means from any Residential Abutting property that is audible at a Point of Reception during the following times:

- (a) from 11:00 p.m. to 5:00 a.m. the following day.
- 2.6 No Person shall cause or permit Persistent Noise, at any time, that is audible at a Point of Reception, including barking, calling, or whining or other similar Persistent Noise, to be made by any animal kept or used for any purpose, except for:
- (a) farm animals on lands on which agricultural use is permitted pursuant to the Zoning By-law;
 - (b) animals at a veterinary hospital, clinic, office or veterinary service lawfully operated and supervised by a veterinarian licensed to practice in Ontario;
 - (c) animals at a premise registered as a research facility in accordance with the *Animals For Research Act*, R.S.O. 1990, c. A.22, as amended, or any successor legislation thereto;
 - (d) animals at a kennel licensed by the Town in accordance with the Town's Licensing By-law; and
 - (e) animals at a facility that provides animal services that is legally operated on premises where the Zoning By-law permits such uses, such as pet retailers, pet shops, obedience schools, and animal daycare, grooming or spa facilities.

3. Exemptions

- 3.1 Despite any other provisions of this by-law, it shall be lawful to make, emit, cause, or permit the emission of sound as a result of or as part conducting the activities listed in Schedule "A".
- 3.2 Any Person may apply for an exemption permit from the Noise limitation provision in section 2.2 of this by-law in connection with Construction activities by submitting an application to the Manager. The form, content, terms, conditions and requirements of the application for the exemption shall be as prescribed by the Manager from time to time and the Manager may, without limiting the Manager's authority to prescribe the application and its form, content, terms, conditions and requirements, require as part of an application:
- (a) description of the Construction activity that the applicant wishes to have exempted;
 - (b) description of the time(s) and location(s) for which the exemption is being sought;
 - (c) the name, address and telephone number of the applicant;
 - (d) explanation of why the exemption is being sought; and
 - (e) application fee as outlined in the Town's Fees and Charges By-Law.
- 3.3 Upon receipt of an application for a Noise exemption under section 3.2 of this by-law and any applicable fees, the Manager shall make investigations as necessary to assess the application, including considering the evaluation criteria outlined in this by-law and considering any submissions from neighbouring property owners or occupants, and may:

- (a) issue a Noise exemption permit after receipt of a complete application;
 - (b) in the case of an approved application for a Noise exemption, impose such terms and conditions on the permit as deemed appropriate by the Manager:
 - (i) for the protection of any public infrastructure and property abutting the area subject to the permit,
 - (ii) for the protection of health, safety and well-being of Persons and the environment,
 - (iii) for the purposes of ensuring that areas and Persons affected by the exemption are kept informed with respect to activities subject to the exemption;
 - (iv) for the purposes of administration of the permit and the operations of the Town,
 - (v) for the purposes of protecting the Town interests with respect to any risks associated with the activities pursuant to the permit, and
 - (vi) to satisfy any requirements of this by-law or any other applicable legislation.
 - (c) refuse to issue a Noise exemption permit if:
 - (i) the application is not completed, all the information as required under this by-law is not provided or the application does not meet all the requirements of this by-law,
 - (ii) in the opinion of the Manager, based on the evaluation criteria set out in this by-law, the Noise exemption is unwarranted or not in the public interest, or
 - (iii) the required fees are not provided.
- 3.4 As part of reviewing and evaluating any application for a Noise exemption, the Manager shall consider:
- (a) the necessity for the Noise exemption and any undue hardship and difficulty for the applicant if such exemption is not provided;
 - (b) any negative impact, including on the health, welfare and safety, on any Persons that may be affected by the Noise exemption.
- 3.5 Any decision of the Manager pursuant to this article 3 shall be final without a right to appeal to the Council.
4. **Administration and Enforcement**
- 4.1 The Director and the Manager shall be responsible for and are delegated the power to administer and enforce this by-law, including prescribing the content of any forms or other documents required under this by-law.

- 4.2 The Manager shall be responsible for and is delegated the power to issue, revoke, suspend, set conditions of, process and administer Noise exemption permits and any related applications.
- 4.3 The Director, the Manager and Officers are hereby delegated the authority to enforce this by-law, including the authority to conduct inspections pursuant to this by-law, the Municipal Act, as amended, and any other applicable by-law or legislation.
- 4.4 The Director is authorized to delegate responsibilities for the administration and enforcement of this by-law to any Town staff or external third parties deemed to be qualified and appropriate by the Director for such purposes.
5. **Power of Entry, Inspection, Prohibitions**
- 5.1 An Officer, or any other individual authorized to enforce this by-law on behalf of the Town, may at any reasonable time enter upon any land for the purpose of carrying out an inspection to determine whether the following are being complied with:
- (a) this by-law
 - (b) any permit issued pursuant to this by-law,
 - (c) any direction or order under this by-law;
 - (d) an order issued under section 431 of the Municipal Act.
- 5.2 Where an inspection is conducted pursuant to this section, an Officer or any other individual authorized to enforce this by-law on behalf of the Town, may:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies and extracts;
 - (c) require information from any Person concerning a matter related to the inspection; and
 - (d) alone or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
- 5.3 No Person shall hinder or obstruct or attempt to hinder or obstruct the Town, its employees, officers, or agents from carrying out any powers or duties under this by-law.
- 5.4 No Person shall fail to comply with, or contravene, any order or direction issued by the Town pursuant to this by-law or the Municipal Act.
- 5.5 Where an Officer, or an individual authorized to enforce this by-law, has reasonable grounds to believe that an offence has been committed by any Person, they may require the name, address, and proof of identity of that Person, and the Person shall supply the required information.

- 5.6 No Person shall decline or neglect to give, produce or deliver any information, document or other thing that is requested by the Town pursuant to this by-law.
- 5.7 No Person shall knowingly make, participate in, assent to or acquiesce in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this by-law.

6. Orders

- 6.1 Where the Manager or any Officer is satisfied that a contravention of this by-law has occurred, such Manager or Officer may make an order requiring that the Person who caused or permitted such contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity and/or to do work to correct the contravention.
- 6.2 An order pursuant to this article 6 shall set out the following:
- (a) reasonable particulars identifying the location of the land on which the contravention occurred;
 - (b) reasonable particulars of the contravention;
 - (c) what is required of the Person subject to the order (i.e., what activity is to be seized and/or actions or work to be done);
 - (d) the date by which there must be compliance with the order and/or, if any work is ordered, the date by which any such work must be done; and
 - (e) information regarding the Town's contact Person.
- 6.3 An order pursuant to this article 6 shall be deemed to have been received upon:
- (a) personal service of the order on the Person subject to the order;
 - (b) one day after transmission of the order through electronic means to an email or social media address provided by the Person subject to the order;
 - (c) one day after posting the order in a conspicuous location on the property subject to the order;
 - (d) the fifth (5th) day after the order is sent by registered mail to the last known address of the Person who is subject to the order.
- 6.4 In the case where there is evidence that the occupant of the land subject to an order is not the registered property owner, such order shall be served on both the registered property owner and the occupant of the land.

7. Remedial Action and Cost Recovery

- 7.1 Wherever this by-law or an order issued under this by-law directs or requires any matter or thing to be done by any Person within a specified time period, in default of it being done by the Person directed or required to do it, the action may be taken under the direction of the Director or an Officer at that Person's expense and the Town may recover the costs incurred through a legal action or by recovering the costs in the same manner as taxes.

- 7.2 For the purposes of taking remedial action under this article 7, the Town, its staff and/or its agents may enter, at any reasonable time, upon any lands on which a default to carry out a required thing or matter occurred.

8. Offences and Penalties

- 8.1 Every Person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33.
- 8.2 Every Person who contravenes any order issued pursuant to this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33.
- 8.3 If a corporation has contravened a provision of this by-law, including an order issued under this by-law, every director and officer who knowingly concurred in such a contravention is guilty of an offence.
- 8.4 Pursuant to subsection 429(2) of the Act, all contraventions of this by-law or orders issued under this by-law are designated as continuing offences. If a contravention of any provision of this by-law has not been corrected, or an order issued under this by-law has not been complied with, the contravention of such a provision or an order shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected or an order not complied with.
- 8.5 On conviction of an offence under this by-law, every Person is liable to a fine in accordance with the following rules pursuant to the Municipal Act:
- (a) to a fine of not less than \$500.00 and not more than \$100,000.00;
 - (b) in the case of a continuing offence, for each day or part of a day that the offence continues, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00, despite paragraph (a), the total of all the daily fines for an offence is not limited to \$100,000;
 - (c) in the case of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00, despite paragraph (a), the total of all fines for each included offence is not limited to \$100,000.
- 8.6 In addition to fines under this article 8, a Person convicted of an offence under this by-law may be liable to a special fine in the amount of the economic advantage or gain that such a Person obtained from the contravention of this by-law. Notwithstanding section 8.5 above, a special fine may exceed \$100,000.
- 8.7 Where a Person is convicted of an offence under this by-law, the court in which the conviction has been entered, and any court of competent jurisdiction, thereafter, may make an order prohibiting the continuation or repetition of the offence by the Person convicted.

9. Administrative Penalties

- 9.1 Instead of laying a charge under the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended, for a breach of any provision of this by-law, an individual authorized

to enforce this by-law on behalf of the Town may issue an administrative penalty to the Person who has contravened this by-law.

9.2 Individuals authorized to enforce this by-law on behalf of the Town have the discretion to either proceed by way of an administrative penalty or a charge laid under the *Provincial Offences Act*, R.S.O. 1990, c. P.33. If an administrative penalty is issued to a Person for the breach, no charge shall be laid against that same Person for the same breach.

9.3 The amount of the administrative penalty for a breach of a provision of this by-law, shall be as established pursuant to applicable Town by-laws.

9.4 A Person who is issued an administrative penalty shall be subject to the procedures as provided for in the applicable Town by-laws relating to administrative penalties.

9.5 An administrative penalty imposed on a Person pursuant to this by-law that is not paid within fifteen (15) days after the day it becomes due and payable, constitutes a debt of the Person to the Town and may be added to a municipal tax roll and collected in the same manner as municipal taxes.

10. **Presumption**

10.1 An owner of a property on which a non-compliance or contravention has occurred shall be presumed to have carried out or caused or permitted to be carried out the non-compliance or contravention, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

11. **Severability**

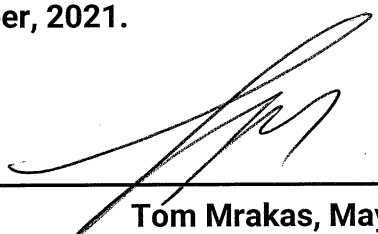
11.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid or to be of no force and effect, it is the intention of the Town in enacting this by-law that such provision or part of a provision shall be severable, and such a decision shall not affect the validity of the remaining sections, subsections, clauses, or phrases of this by-law.

12. **Repeal and Transition**

12.1 By-law Number 4787.06.P, as amended, be and is hereby repealed.

12.2 Notwithstanding the repeal, By-law Number 4787.06.P shall continue to apply to any acts, omissions, or occurrences and to any offences that took place prior to the enactment of this by-law.

Enacted by Town of Aurora Council this 26th day of October, 2021.



Tom Mrakas, Mayor

Michael de Rond, Town Clerk

Schedule "A"**Exempted Activities**

1. Operation of emergency vehicles by police, fire, and paramedic services.
2. Any special event that is specifically approved by the Town, only to the extent of the authority for such event.
3. Any projects, activities or operations undertaken by the Town, or by any agents or contractors of the Town engaged in carrying out projects, activities, or operations on behalf of the Town.
4. Any Construction, rehabilitation or maintenance work conducted by the Province of Ontario, the Government of Canada and any of their agencies or agents including the operation of motor vehicles and equipment actually engaged in the work.
5. Any Construction, rehabilitation or maintenance work conducted by The Regional Municipality of York, the Lake Simcoe Region Conservation Authority, the Toronto and Region Conservation Authority, or any utility company, provided that reasonable prior notice of such activity is provided to the Town.
6. Measures undertaken for the immediate health, safety, or welfare of Persons under emergency circumstances.
7. Operation of farm equipment or machinery for cultivating, seeding, crop maintenance, or harvesting on any lands on which agricultural use is permitted pursuant to the Zoning By-law.
8. Operation of bells, chimes, carillons, and clocks in any building dedicated to religious worship, including a church, synagogue, temple, mosque, monastery, or convent, between the hours of 7:00 a.m. to 10 p.m. of any day.
9. Operation of bells, chimes, carillons, and clocks in any school when the school is open and in operation for students.
10. Operation of any transit vehicles, trains or equipment that is operated by any public transit authority, public government body, railroad authority or any agency of the aforementioned.
11. Operation of bells or horns utilized as traffic control devices, including the following:
 - (a) bells and other audible devices at traffic signal locations; and
 - (b) bells and horns associated with railway crossings.
12. Snow removal activities that are necessary to render safe and/or operational any property on which a business, a school or a residential condominium is located. For clarity, this exemption does not extend to maintenance, staging and preparation of equipment that is used as part of such snow removal activities, unless such maintenance, staging or preparation is part of the snow removal activity and is conducted on, or in the immediate vicinity, of the property subject to the snow removal.