

THE CORPORATION OF THE COUNTY OF PRINCE EDWARD

BY-LAW NO. 143-2022

A BY-LAW TO REGULATE NOISE WITHIN THE COUNTY OF PRINCE EDWARD

WHEREAS Section 128 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes a local municipality to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

AND WHEREAS excessive sound and inadequately controlled Noise may impair public health, safety and welfare, and may become a nuisance;

AND WHEREAS Section 129 of The *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides authority for municipalities to prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination;

AND WHEREAS in the opinion of Council for the Corporation of the County of Prince Edward, excessive sounds and inadequately controlled noise may impair public health, safety and welfare and could become a public nuisance;

AND WHEREAS Section 425 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes a municipality to pass by-laws providing that a Person who contravenes a by-law of the municipality passed under that *Act* is guilty of an offence;

AND WHEREAS Section 429 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes a municipality to establish a system of fines for offences under a by-law passed under that *Act*;

AND WHEREAS Section 436 of the *Municipal Act, 2001*, 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 a license passed or made under that *Act*;

NOW THEREFORE the Council of the Corporation of the County of Prince Edward enacts as follows:

DEFINITIONS

1. In this By-law, unless the context otherwise requires:

- a) "Agricultural Operation" has the same meaning as contained in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, C.1 as amended, or any successor legislation;
- b) "Amplified Sound" means any sound made by any electronic device or a group of connected electronic devices incorporating one or more loudspeakers or other electro mechanical transducers, and intended for the production, reproduction or amplification of sound.
- c) "Construction" means the erection, alteration, repair, painting, maintenance, relocation, demolition or removal of a building or other structure and includes all land clearing, landscaping, earth moving, grading, excavating, all public works activities, the erection or laying of lines, cable, pipes and conduit (whether above or below ground level), street building, paving, concreting and similar activities on a site and the installation, alteration or removal of construction equipment, components and materials in any form or for any purpose, and any work being done in connection therewith;
- d) "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, trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment;
- e) "Council" means the Council of the Corporation of the County of Prince Edward;
- f) "County" means the Corporation of the County of Prince Edward;
- g) "Emergency" means a situation or an impending situation, often dangerous, caused by the forces of nature, an accident, an intentional act or otherwise, which arises suddenly and calls for prompt action;
- h) "Institutional " shall include any institutional use as defined in the County of Prince Edward Comprehensive Zoning By-law 1816-2006
- i) "Motor Vehicle" means any motorized conveyance and includes any automobile, motorcycle and any other vehicle propelled or driven otherwise than by muscular power;

- j) "Normal Farm Practice" has the same meaning as contained in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, C.1 as amended, or any successor legislation;
- k) "Officer" means a person appointed by Council as a Municipal By-law Enforcement Officer, a Police Officer, or any other individual duly appointed to enforce this By-law;
- l) "Person" includes a person, firm, association, co-partnership, joint venture, corporation or any entity, public or private in nature;
- m) "Point of Reception" means:
 - i. any premises or location where sound is received, other than the premises from which the sound originates; or
 - ii. any place on a highway where sound is received.
- n) "pit" and or "quarry" means land from which unconsolidated aggregate is being or has been excavated and or stored, and that has not been finally rehabilitated.
- o) "Premises" means a parcel of land and includes any buildings and structures on the land;
- p) "Residential Area" shall include any area of the County where residential use is permitted under the provisions of the County of Prince Edward Comprehensive Zoning By-law No. 1816-2006.

GENERAL PROHIBITION

- 2. No person shall at any time ring any bell, blow any horn, shout or make any unusual noise or noise likely to disturb the inhabitants of the County, if clearly audible at a point of reception.

OPINION OF COUNCIL

- 3. Without limiting the generality of Section 2 of this By-law, the noises from the sources and at the times described in Schedule "A" are noises which Council hereby deems to be noises likely to disturb the inhabitants of the County.

NOISE FROM INDUSTRIAL SOURCES

- 4. Nothing in this by-law shall be interpreted to authorize the making of any noise where the same would be a contravention of the *Environmental Protection Act*, R.S.O. 1990, c. E.19, as amended, and that nothing in this by-law shall prohibit the making of noise where such noise is made under the authority of a Certificate of Approval or Provisional Certificate of Approval issued pursuant to the provisions of the *Environmental Protection Act*, R.S.O. 1990, c. E.19, as amended.

EXCEPTIONS

5. The provisions of this By-law shall not apply to any noise caused by:
 - a) measures undertaken in an emergency for the:
 - i. immediate health, safety or welfare of the inhabitants; or
 - ii. preservation or restoration of property, unless the noise is clearly of a longer duration or of a more disturbing nature than is reasonably necessary to deal with the emergency.
 - b) the sound of a church bell or chime;
 - c) audible traffic signals;
 - d) the noise created by the collection or disposal of garbage, waste or recyclable material;
 - e) the noise caused by the erection, demolition, alteration or repair of a building or by construction or earth-moving equipment working upon a site or highway when such work is undertaken by forces of the County, any other public utility, or their agents or servants;
 - f) police officers, fire fighters and operators of emergency vehicles in the conduct of their lawful duty;
 - g) the operation of domestic power tools, chain saw, chipper or leaf blower power, equipment used for lawn, garden, building or property maintenance, but excluding construction, on any day between 7:00 a.m. and 11:00 p.m.;
 - h) the noise arising from the operation of construction or construction equipment on any day between the hours of 7:00 a.m. and 7:00 p.m. This exemption shall not apply to construction equipment being operated without the originally installed muffling devices or their equivalent in good working order and in constant operation;
 - i) the operation of a street sweeper, snow removal equipment, parks and public works maintenance machines and equipment by or on behalf of the County, or other institutional uses within the County of Prince Edward limits;
 - j) occasional cultural, recreational and other gatherings, public dances, shows, and sporting and entertainment events provided said events are conducted pursuant to a permit or licence issued by the County of Prince Edward relative to the staging of said events;
 - k) agricultural operations carried on in accordance with normal farm practice;

- l) activities or work specifically exempted from this By-law by Council provided such conditions or requirements as may be imposed by Council are observed or met.

TEMPORARY NOISE PERMIT

- 6. Any person may make application to be granted an exemption from any of the noise prohibitions in this By-Law by the issuance of a temporary noise permit. The application for the issuance of a temporary noise permit shall be made in writing at least 45 days prior to the commencement of the requested exemption and shall contain:
 - a) the name and address of the applicant;
 - b) a description of the source of noise in respect of which exemption is sought;
 - c) a statement of the particular provision or provisions of the By-law from which exemption is sought;
 - d) the period of time for which the exemption is sought;
 - e) the reason why the exemption should be granted;
 - f) a non-refundable application fee of \$100.00; and
 - g) a permit fee of \$200.00, refundable if the application is not approved.
- 7. Council maintains the discretion to waive the application fees and/or permit fees for a temporary noise permit.
- 8. In determining whether to grant an exemption by way of a temporary noise permit and/or to waive any fees, Council shall:
 - a) determine whether the applicant has provided all of the information required by subsection 10;
 - b) determine whether the applicant has complied with all terms and conditions of approval of any previous permit issued to the applicant under this section, if any;
 - c) consider any negative effects the issuance of the temporary noise permit may have on neighbouring properties or the County; and
 - d) consider any benefits the issuance of the temporary noise permit may have for neighbouring properties or the County.

9. Council may impose conditions on temporary noise permits including but not limited to:
 - a) the type and volume of noise that may be made;
 - b) the times during which may be made;
 - c) the date of expiry of the temporary noise permit;
 - d) requiring the posting of security prior to the activity; and
 - e) requiring that the applicant, County staff or a professional engineer monitor the noise levels resulting from the event or activity and requiring a report of the findings to be filed with the County of Prince Edward within 30 days of the event or activity, all at the applicant's expense.
10. Any temporary noise permit issued under this By-law shall expire on the date set out on the temporary noise permit, or if no date is set out on the temporary noise permit, the permit shall expire forty-eight hours after its issuance.
11. Any breach by the holder of the temporary noise permit of any of its terms or conditions shall render the temporary noise permit null and void.
12. No holder of a temporary noise permit shall fail to comply with the terms and conditions of the temporary noise permit.

ENFORCEMENT AND RIGHT OF ENTRY

13. This By-law may be enforced by an Officer or other individual authorized by Council from time to time.
14. An Officer may at all reasonable times enter upon any premises other than dwellings in order to ascertain whether the provisions of this By-law are being observed or to enforce this By-law.
15. No person shall obstruct or hinder or attempt to obstruct or hinder an Officer or other authorized employee or agent of the County in the exercise of a power or the performance of a duty under this by-law.
16. Where an Officer has reasonable grounds to believe that an offence under this By-Law has been committed by a Person, the Officer may require the name, address, and proof of identity of that Person.
17. Every person shall provide proof of identification satisfactory to the Officer when requested to do so pursuant to this By-Law and failure to do so shall constitute obstruction of an Officer.

PENALTY

- 18. Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable for a fine as provided for by the *Provincial Offences Act, R.S.O. 1990, c.P.33*, as amended.
- 19. Pursuant to the authority established in s. 429(2) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, every person who contravenes any provision of this by-law is guilty of an offence and upon conviction pursuant to Part III of the *Provincial Offences Act, R.S.O. 1990, c.P.33*, as amended, shall be subject to the following penalties:
 - a) a person who is convicted of an offence is liable to a fine of not more than \$25,000 for a first offence and to a fine of not more than \$50,000 for a subsequent offence.
 - b) a corporation who is convicted of an offence is liable to a fine of not more than \$50,000 for a first offence and to a fine of not more than \$100,000 for a subsequent offence.

SEVERABILITY

- 19. If any section, clause or provision of this By-law is for any reason declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention of Council that the remaining sections, clauses or provisions of the by-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions of this by-law shall have been declared to be invalid.

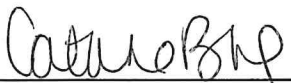
REPEAL


- 20. By-Law 221-2021 is hereby repealed.

ENACTMENT

- 21. **THAT** this By-law shall come into force and effect upon the final passing hereof.

Read a first, second and third time and finally passed this 16 day of August


Catalina Blumenberg, **CLERK**


Steve Ferguson, **MAYOR**



SCHEDULE "A"

	Particulars of Noise	Prohibited Period
1	The operation of any construction equipment in connection with construction, unless otherwise exempt under the provisions of this by-law	7:00 pm of one day to 7:00 am of the next day
2	The operation of any construction equipment without the originally installed muffling devices or their equivalent in good working order and in constant operation	At any time
3	The detonation of fireworks or explosive devices	11:00 pm of one day to 7:00 am of the next day
4	The operations of combustion engine which, is, or is used in, or is intended for use in, a toy or a model replica of a larger device, which model or replica has no function other than amusement and which is not a conveyance	9:00 pm of one day to 7:00 am of the next day
5	The operation of any motor vehicle other than on a highway or other place intended for its operations	11:00 pm of one day to 7:00 am of the next day
6	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	11:00 pm of one day to 7:00 am of the next day
7	The operations of any powered tool for domestic purposes other than snow removal	11:00 pm of one day to 7:00 am of the next day
8	The operations of solid waste bulk lift or refuse compacting equipment	11:00 pm of one day to 7:00 am of the next day
9	Yelling, shouting, hooting, whistling or singing or similar sounds	11:00 pm of one day to 7:00 am of the next day
10	The operations of a sound emitting pest control device	11:00 pm of one day to 7:00 am of the next day
11	Racing of any motor vehicle other than in a racing event regulated by law	At any time
12	The operations of a motor vehicle in such a way that the tires squeal	At any time
13	The operations of any combustion engine without an effective exhaust muffling device in good working order and in constant operation	At any time
14	The operating of any auditory signaling 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 except where	9:00 pm of one day to 7:00 am of the next day

	required or authorized in accordance with good safety practices or for accessibility purposes	
15	Indoor/Outdoor amplified sound within a hamlet or urban area	11:00 pm of one day to 9:00 am of the next day
16	Indoor/Outdoor amplified sound outside of a hamlet or urban area	11:00 pm of one day to 9:00 am of the next day
17	Operation of a pit or quarry	7:00 pm of one day to 7:00 am of the next day

**CORPORATION OF THE COUNTY
OF PRINCE EDWARD**

PART I Provincial Offences Act

**By-Law No. 143-2022 Being a By-Law to Regulate Noise within
The County of Prince Edward**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1.	Ring bell	s.2	\$200.00
2.	Blow horn	s.2	\$200.00
3.	Shout	s.2	\$200.00
4.	Make unusual noise	s.2	\$200.00
5.	Make noise likely to disturb	s.2	\$200.00
6.	Noise, operate construction equipment at prohibited time	s.3, Schedule A(1)	\$200.00
7.	Noise, operate construction equipment without muffler	s.3, Schedule A(2)	\$200.00
8.	Noise, detonation of fireworks at prohibited time	s.3, Schedule A(3)	\$200.00
9.	Noise, detonation of explosive device at prohibited time	s.3, Schedule A(3)	\$200.00
10.	Noise, operation of model combustion engine at prohibited time	s.3, Schedule A(4)	\$200.00
11.	Noise, operate motorized vehicle at prohibited time	s.3, Schedule A(5)	\$200.00
12.	Noise, venting at prohibited time	s.3, Schedule A(6)	\$200.00
13.	Noise, operate power tool at prohibited time	s.3, Schedule A(7)	\$200.00
14.	Noise, operate bulk lift at prohibited time	s.3, Schedule A(8)	\$200.00

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15.	Noise, operate refuse compacting equipment at prohibited time	s.3, Schedule A(8)	\$200.00
16.	Noise, yelling, shouting, or similar sounds at prohibited time	s.3, Schedule A(9)	\$200.00
17.	Noise, operate pest control device at prohibited time	s.3, Schedule A(10)	\$200.00
18.	Noise, racing motorized vehicle	s.3, Schedule A(11)	\$200.00
19.	Noise, squeal tires	s.3, Schedule A(12)	\$200.00
20.	Noise, operate engine without muffler	s.3, Schedule A(13)	\$200.00
21.	Noise, operate signaling device at prohibited time	s.3, Schedule A(14)	\$200.00
22.	Noise, amplified sound within urban area at prohibited time	s.3, Schedule A(15)	\$200.00
23.	Noise, amplified sound outside urban area at prohibited time	s.3, Schedule A(16)	\$200.00
24.	Noise, Operation of a pit or quarry at prohibited time	s.3, Schedule A(17)	\$200.00
25.	Fail to comply with temporary noise permit	s.12	\$200.00
26.	Obstruct officer or authorized employee	s. 15	\$200.00

NOTE: The penalty provision for the offences indicated above is contained in Section 18 of By-Law No. 143-2022, a certified copy of which has been filed.

The fine amounts listed above have been approved by the Regional Senior Justice.

Dated: October 6, 2022

Electronic Signature:

W. Vincent Clifford

W. Vincent Clifford
Regional Senior Justice
Ontario Court of Justice - East Region