

COPY

THE CORPORATION OF THE TOWNSHIP OF MACDONALD, MEREDITH
& ABERDEEN ADDITIONAL

BY-LAW #10-1690

BEING A BY-LAW TO CONTROL NOISES

WHEREAS:

1. The making, creation or maintenance of excessive and unreasonable noise within The Corporation of the Township of Macdonald, Meredith & Aberdeen Additional (the "municipality") affects and is a detriment to public health, comfort, convenience, safety and welfare of the people of the municipality;
2. It is in the public interest to reduce the noise level within the municipality, so as to preserve, protect and promote the public health, safety, welfare and peace and quiet of the inhabitants thereof; and
3. The Council has authority under s. 129 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, to pass this by-law.

NOW THEREFORE, the Council of The Corporation of the Township of Macdonald, Meredith & Aberdeen Additional hereby enacts as follows:

1. Interpretation

(1) In this by-law,

- (a) "construction equipment" means any equipment or device designed and intended for use in construction or material handling, including, but not limited to, hand tools, power tools, 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;
- (b) "construction work" includes, but is not limited to, erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, the laying of pipe and conduit, whether above or below ground level, street and highway building, application of concrete, 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 with construction;
- (c) "conveyance" includes a vehicle and any other device employed to transport a person or persons or goods from place to place;
- (d) "Council" means the Council of The Corporation of the Township of Macdonald, Meredith & Aberdeen Additional;
- (e) "highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is designed and intended for or used by the general public;
- (f) "inhabitants" means one or more persons who reside in The Corporation of the Township of Macdonald, Meredith & Aberdeen Additional;
- (g) "motor vehicle" includes an automobile, motorcycle, motor assisted bicycle and any other vehicles propelled or driven other than by muscular power but does not include the cars of electric or steam railways, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended;
- (h) "motorized conveyance" means a conveyance propelled or driven by other than muscular, gravitational or wind power;
- (i) "motorized equipment" means any equipment or device that contains an engine or motor essential to the basic function of such equipment or device;
- (j) "municipality" means the land within the geographic limit of The Corporation of the Township of Macdonald, Meredith, & Aberdeen Additional;
- (k) "noise" means unwanted sound;

- (1) "owner" includes:
- (i) the person who for the time being manages or receives the rent for the land or premises in connection with which the word is used, whether on the person's own account or as agent or trustee of any other person, or who would receive the rent if the land and premises were let; and
 - (ii) a lessee or occupant of the property;
- (m) "point of reception" means any point on the premises of a person where noise originating from other than those premises is received;
- (n) "power device" means any powered device used in the servicing, maintenance or repair of any property, excluding devices driven by muscular power and snow blowers;
- (o) "property" means a building or structure or part of a building or structure, the lands appurtenant to the building or structure, all mobile homes, mobile buildings or mobile structures and includes vacant land; and
- (p) "Residential Area" means any property within the municipality which is zoned for residential use by an applicable zoning by-law or which is used in whole or in part for human habitation.

2. Prohibitions

- (1) No person shall emit, cause or permit the emission of sound which is clearly audible at a point of reception anywhere within the municipality resulting from any of the following acts:
- (a) the racing of any motorized conveyance other than in a racing event regulated by law;
 - (b) the operation of a motor vehicle in such a way that the tires squeal;
 - (c) the operation of a motor vehicle, motorized equipment, construction equipment or pneumatic device without an effective exhaust, intake-muffling device or other sound attenuation device of a type specified by the manufacturer, which is in good working order, and in constant operation;
 - (d) the operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sound due to improperly secured load or equipment or inadequate maintenance;
 - (e) the operation of a motor vehicle horn or other warning device except where required or authorized by law or in accordance with good highway traffic safety practices;
 - (f) the operation of any electronic device incorporating one or more loudspeakers or other electro-mechanical transducers intended for the production, reproduction or amplification of sound except in connection with any public election meeting, public celebration or other reasonable gathering that has first obtained an exemption from the Council pursuant to section 5 hereof; and
 - (g) the persistent barking, calling, whining or other similar persistent noise making by any domestic pet or any other animal kept or used for any purpose other than agriculture.
- (2) No person shall emit, cause or permit the emission of sound, clearly audible at a point of reception located anywhere within the municipality on any day at any time between the hours of 11:00 p.m. and 7:00 a.m., both inclusive, resulting from any of the following acts:
- (a) the detonation of fireworks or explosives not used in construction;
 - (b) the operation of a combustion engine which is in or 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;
 - (c) the operation of any auditory signaling device including but not limited to the ringing of bells or gongs or 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 exempted by Council;
 - (d) yelling, shouting, hooting or whistling in a manner likely to disturb and inhabitant;

- (e) loading, unloading, delivering, packing, unpacking or otherwise handling any containers, product materials or refuse unless necessary for the maintenance of essential services or moving of private household effects;
- (f) the operation of any motorized equipment except in a case of short term emergency;
- (g) the operation of any power device or any tool for domestic purposes other than snow removal except in the case of short term emergency; and
- (h) construction work.

3. Limitations

- (1) No person shall operate an engine or motor in or on any motorized conveyance or attached auxiliary equipment for a continuous period exceeding five minutes while it is stationary in a Residential Area unless:
 - (a) the operation of such engine or motor is essential to the basic function of the motorized conveyance or equipment including, but not limited to, lift platforms and refuse compactors;
 - (b) prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or
 - (c) the idling is for the purpose of cleaning and flushing the radiator and associated circulation systems for seasonal change of antifreeze, cleaning of the fuel system or carburetor when such work is performed other than for profit.

4. Application of strictest standard

Where a source of sound is subject to more than one provision of this by-law, the most restrictive provision shall prevail.

5. Exemptions

- (1) Despite any other provision of this by-law, it shall be lawful for the municipality, the Province of Ontario, the Government of Canada or any of their authorized agents, to emit, cause or permit the emission of sound in connection with measures undertaken for the:
 - (a) immediate health, safety or welfare of the inhabitants of the municipality; or
 - (b) preservation, restoration or demolition of any highway.
- (2) Despite anything contained in this by-law, any person may, no later than sixty (60) days prior to the date of which an exemption is being requested, make application to the Council for an exemption from any of the provisions of this by-law.
- (3) The application in subsection 5(2) of this by-law shall be made in writing, accompanied with the required fee and shall contain:
 - (a) the name and address of the applicant;
 - (b) the location of the event or activity for which the exemption is sought;
 - (c) a description of the source of sound for which the exemption is sought;
 - (d) a statement of the particular provision or provisions of the by-law from which exemption is sought;
 - (e) the period of time, of a duration not in excess of six (6) months, for which the exemption is sought;
 - (f) the reasons why the exemption should be granted; and
 - (g) a statement of the steps, if any, planned or presently being taken to bring about compliance with this by-law.
- (4) The Clerk Administrator of the municipality shall, at the applicant's expense, cause a notice of the application to be published in a newsletter of general circulation within the municipality at least ten (10) days prior to the meeting of the Council at which the application will be considered.

(5) The notice referred to in subsection 5(4) of this by-law shall contain the information required by subsection 5(3) of this by-law and shall indicate the date upon which it is intended that the application will be considered by the Council.

(6) The Council may, by resolution, refuse to grant the exemption or may grant the exemption applied for or any exemption of lesser effect. Any exemption granted shall specify the time period, not in excess of 180 days, during which it is effective and may contain such terms and conditions as the Council sees fit.

6. Breach

A breach by the applicant of any of the terms or conditions of an exemption granted by the Council or the failure of the applicant to pay any required fee shall render the exemption null and void.

7. Offence

Every person who contravenes any provision of this by-law is guilty of an offence and, on conviction, is liable to a fine of not less than \$100.00 nor more than \$1,000.00 for a first offence and not less than \$200.00 nor more than \$1,000.00 for a second offence and not less than \$300.00 nor more than \$1,000.00 for a third or subsequent offence, exclusive of costs and every such fine is recoverable under the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

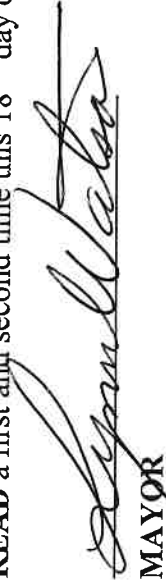
8. Severability

Each clause of this by-law is an independent clause and the holding of any clause or part of any clause to be void or ineffective for any cause shall not be deemed to affect the validity of any other clause of parts of any clause.

9. Rescission of By-Law No. 695A

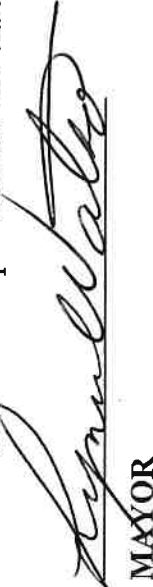
The enactment of this By-Law rescinds By-Law #695A.

READ a first and second time this 18th day of May, 2010


MAYOR


CLERK ADMINISTRATOR

READ a third time in open Council and enacted this 1st day of June, 2010


MAYOR


CLERK ADMINISTRATOR

Part I - PROVINCIAL OFFENCES ACT

THE CORPORATION OF THE TOWNSHIP OF MACDONALD, MEREDITH & ABERDEEN ADDITIONAL - By-Law 10 -1690

TITLE: A BY-LAW TO CONTROL NOISES

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 Offence Creating Provision or Defining Offence	COLUMN 3 Set Fine (including costs)
	Cause Noise - racing a motorized conveyance	Sec. 2 (1) (a)	\$105.00
	Permit Noise - racing a motorized conveyance	Sec. 2 (1) (a)	\$105.00
	Cause Noise - squealing tires	Sec. 2 (1) (b)	\$105.00
	Permit Noise - squealing tires	Sec. 2 (1) (b)	\$105.00
	Cause Noise - operate motor vehicle without effective muffler	Sec. 2 (1) (c)	\$105.00
	Permit Noise - operate motor vehicle without effective muffler	Sec. 2 (1) (c)	\$105.00
	Cause Noise – operate motorized equipment without effective muffler	Sec. 2 (1) (c)	\$105.00
	Permit Noise – operate motorized equipment without effective muffler	Sec. 2 (1) (c)	\$105.00
	Cause Noise - operate construction equipment without effective muffler	Sec. 2 (1) (c)	\$105.00
	Permit Noise - operate construction equipment without effective muffler	Sec. 2 (1) (c)	\$105.00
	Cause Noise - operate pneumatic device without effective muffler	Sec. 2 (1) (c)	\$105.00
	Permit Noise - operate pneumatic device without effective muffler	Sec. 2 (1) (c)	\$105.00
	Cause Noise - operate vehicle causing noise	Sec. 2 (1) (d)	\$105.00
	Permit Noise - operate vehicle causing noise	Sec. 2 (1) (d)	\$105.00
	Cause Noise - operate vehicle and trailer causing noise	Sec. 2 (1) (d)	\$105.00
	Permit Noise - operate vehicle and trailer causing noise	Sec. 2 (1) (d)	\$105.00
	Cause Noise - operate horn unnecessarily	Sec. 2 (1) (e)	\$105.00
	Permit Noise - operate horn unnecessarily	Sec. 2 (1) (e)	\$105.00
	Cause Noise - operate warning device unnecessarily	Sec. 2 (1) (e)	\$105.00
	Permit Noise - operate warning device unnecessarily	Sec. 2 (1) (e)	\$105.00
	Cause Noise - operate loudspeaker	Sec. 2 (1) (f)	\$105.00

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TITLE: A BY-LAW TO CONTROL NOISES

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 Offence Creating Provision or Defining Offence	COLUMN 3 Set Fine (including costs)
2.	Permit Noise - operate loudspeaker	Sec. 2 (1) (f)	\$105.00
3.	Permit Noise - noise caused by domestic animal	Sec. 2 (1) (g)	\$105.00
4.	Cause Noise - detonation of fireworks	Sec. 2 (2) (a)	\$105.00
5.	Permit Noise - detonation of fireworks	Sec. 2 (2) (a)	\$105.00
6.	Cause Noise - detonation of explosives	Sec. 2 (2) (a)	\$105.00
7.	Permit Noise - detonation of explosives	Sec. 2 (2) (a)	\$105.00
8.	Cause Noise - operate a model combustion engine	Sec. 2 (2) (b)	\$105.00
9.	Permit Noise - operate a model combustion engine	Sec. 2 (2) (b)	\$105.00
0.	Cause Noise – operate auditory signaling device	Sec. 2 (2) (c)	\$105.00
1.	Permit Noise – operate auditory signaling device	Sec. 2 (2) (c)	\$105.00
2.	Cause Noise - yelling	Sec. 2 (2) (d)	\$105.00
3.	Permit Noise - yelling	Sec. 2 (2) (d)	\$105.00
4.	Cause Noise - shouting	Sec. 2 (2) (d)	\$105.00
5.	Permit Noise - shouting	Sec. 2 (2) (d)	\$105.00
6.	Cause Noise – hooting	Sec. 2 (2) (d)	\$105.00
7.	Permit Noise – hooting	Sec. 2 (2) (d)	\$105.00
8.	Cause Noise - whistling	Sec. 2 (2) (d)	\$105.00
9.	Permit Noise - whistling	Sec. 2 (2) (d)	\$105.00
0.	Cause Noise – handling of materials	Sec. 2 (2) (e)	\$105.00
1.	Permit Noise – handling of materials	Sec. 2 (2) (e)	\$105.00

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TITLE: A BY-LAW TO CONTROL NOISES

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 Offence Creating Provision or Defining Offence	COLUMN 3 Set Fine (including costs)
2.	Cause Noise – operate motorized equipment	Sec. 2 (2) (f)	\$105.00
3.	Permit Noise – operate motorized equipment	Sec. 2 (2) (f)	\$105.00
4.	Cause Noise - operate tool for domestic purpose	Sec. 2 (2) (g)	\$105.00
5.	Permit Noise - operate tool for domestic purpose	Sec. 2 (2) (g)	\$105.00
6.	Cause Noise – construction work	Sec. 2 (2) (h)	\$105.00
7.	Permit Noise – construction work	Sec. 2 (2) (h)	\$105.00
8.	Cause Noise – operate engine of motorized conveyance in excess of five minutes while stationary in Residential Area	Sec. 3 (1)	\$105.00
9.	Permit Noise – operate engine of motorized conveyance in excess of five minutes while stationary in a Residential Area	Sec. 3 (1)	\$105.00

The penalty provisions for the offences indicated above is section 7 of By-Law No. 10 -1690, a certified copy of which has been filed.