

THE CORPORATION OF THE TOWNSHIP OF MANITOUWADGE

BY-LAW NO. 2021 - 27

Being a By-Law to Regulate Noise within the Municipality of Manitouwadge.

**WHEREAS** Section 8(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, (the "*Municipal Act, 2001*") as amended, provides that the powers of a municipality shall be interpreted broadly to enable it 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, 2001*, as amended, provides that a municipality has the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

**AND WHEREAS** Section 10 of the *Municipal Act, 2001*, as amended, provides that a Municipality may provide any service or thing that the municipality considers necessary or desirable for the public, and in particular paragraphs 5, 6, and 8 of subsection 10(2), authorize by-laws respecting the economic, social, and environmental well-being of the municipality; the health, safety and well-being of persons; and the protection of persons and property;

**AND WHEREAS** Section 128 of the *Municipal Act, 2001*, as amended, 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 or cause public nuisances;

**AND WHEREAS** Section 129 of the *Municipal Act, 2001*, as amended, authorizes municipalities to pass by-laws to regulate and prohibit with respect to noise, vibration and odour.

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

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

**AND WHEREAS** Section 436(1) of the *Municipal Act, 2001*, as amended, provides that a municipality may enter on land at any reasonable time for the purpose of carrying out inspections to determine compliance with the by-law;

**AND WHEREAS** Section 444(1) of the *Municipal Act, 2001*, as amended, provides that where a municipality is satisfied that a contravention of a by-law of the municipality passed under the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, has occurred, the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

**AND WHEREAS** Section 444(3) of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, provides that any person who contravenes an order under Section 444(1) of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, is guilty of an offence as per Section 425 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended;

**AND WHEREAS** Section 15 of the *Police Services Act, R.S.O 1990, c. P.15* as amended, authorized municipalities to appoint persons to enforce the by-laws of a municipality and that Municipal Law Enforcement Officers are Peace Officers for the purpose of enforcing municipal by-laws;

**AND WHEREAS** the Council of the Corporation of the Township of Manitouwadge deems it advisable to enact a by-law providing for the reduction of noise so as to preserve and promote public health, safety, welfare, peace and quiet of the inhabitants of the Municipality;

**NOW THEREFORE**, the Council of the Corporation of the Township of Manitouwadge enacts as follows:

## **PART 1 GENERAL PROVISIONS**

### **SECTION**

#### **1.1 Short Title**

This By-law shall be cited as the "Noise Control By-Law".

#### **1.2 Scope**

The provision of this By-law shall apply to all property within the geographical limits of the Municipality, except where otherwise provided;

#### **1.3 Enforcement**

This By-law may be enforced by a Municipal Law Enforcement Officer or a Police Officer.

#### **1.4 Entry Upon Land**

Except as provided in Section 1.4(1) and pursuant to Section 435 and 436 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, a Municipal Law Enforcement Officer may enter upon any land or property at any reasonable time for the purpose of carrying out inspections of or on such land or property to determine whether or not the following are being complied with:

- a) this By-law;
- b) a direction or order made under this By-law; or
- c) a prohibition or order made under Section 431 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended.

**1.4(1)** A Municipal Law Enforcement Officer shall not enter an occupied dwelling unit without first obtaining the informed consent of the occupant(s) who must be of legal age to provide the said consent.

#### **1.5 Inspection**

A Municipal Law Enforcement Officer may, for the purpose of an inspection under Section 1.4:

- 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 or extracts;
- c) require information in writing or otherwise as required by the Municipal Law Enforcement Officer from any person concerning a matter related to the inspection;

- 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.

#### **1.6 Obstruction**

No person shall hinder or obstruct or attempt to obstruct any person exercising a power or performing a duty under this By-law. *Municipal Act, 2001, S.O. 2001, c.25, s. 426(1)*, as amended.

- 1.6(1)** Any person who has been alleged to have contravened any of the provisions of the By-law, shall identify themselves 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.

#### **1.6(2) False Statement**

The making of a false or intentionally misleading statement or representation in any agreement or request for permission provided for by this By-law shall be deemed to be a violation of the provisions of this By-law.

- 1.6(3)** A person shall not knowingly make a false or misleading statement to an administrator or any person who is acting under the authority of this By-law.

#### **1.7 Administration/Delegation**

The Clerk's Office shall be responsible for the administration of this By-law.

- 1.7(1)** The Clerk's Office may delegate the performance of any one or more of his or her functions under this By-law to one or more persons and may impose conditions upon such delegation and may revoke any such delegation at any time.

The Clerk's Office may continue to exercise any function delegated during the delegation.

- 1.7(2)** Any person may apply to the Clerk's Office for a temporary noise permit to authorize the making of sound arising from one of the following activities:

- a) construction; or
- b) the use of sound Reproduction Equipment as part of a Special Event;

#### **1.8 Severability / Conflicts**

If any section, subsection, clause, sentence, word, part or parts of this By-law is declared by any court of law to be invalid, illegal or beyond one's legal authority, such section, subsection, clause, sentence, word, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

- 1.8(1)** Nothing in this By-law relieves any person from complying with any provision of any Federal or Provincial Legislation or any other By-law of the Municipality.

- 1.8(2)** Where a provision of this By-law conflicts with a provision of another By-law in force in the Municipality or any Provincial or Federal Legislation, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

**1.8(3)** The Clerk of the Corporation of the Township of Manitouwadge is authorized to make minor modifications or corrections of a grammatical or typographical nature to the By-law and schedules after the passage of this By-law where such modifications or corrections do not alter the intent of the By-law.

**1.9 Interpretation**

In this By-law:

**1.9(1)** Unless specifically modified or changed herein, words or expressions used by this By-law have the same meaning as given or used in the *Municipal Act, 2001, S.O. 2001, c.25*, as amended;

**1.9(2)** “may” shall be constructed as permissive;

**1.9(3)** “shall” shall be construed as imperative;

**1.9(4)** The words “include”, “includes”, “including”, and “included” are not to be interpreted as restricting or modifying the words or phrases which precede them;

**1.9(5)** Whenever this By-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances;

**1.9(6)** The captions articles and section names and numbers appearing in this By-law for convenience of reference only and have no effect on its interpretation;

**1.9(7)** Specific references to laws in the By-law are printed in italic font and are meant to refer to the current laws applicable with the Province of Ontario at the time the By-law was enacted, as they are amended or replaced from time to time;

**1.9(8)** Reference to time of the day in this By-law are references to time in effect in the Municipality.

**1.9(9)** The obligations imposed by this By-law are in addition to obligations otherwise imposed by law or contract.

**PART 2  
DEFINITIONS**

Definitions of words, phrases and terms used in this By-law that are not included in the list of definitions in this section shall have the meaning which are commonly assigned to them in the context in which they are used in this By-law. The words, phrases and terms used in this section have the following meaning for the purpose of this By-law.

**SECTION**

**2.1 “All-Terrain Vehicle”** shall mean an off-road vehicle that:

- a)** has four wheels, the tires of all of which are in contact with the ground;
- b)** has steering handlebars;
- c)** has a seat that is designed to be straddled by the driver; and
- d)** is designed to carry,

- (i) a driver and no passenger, or
  - (ii) a driver and only one passenger, if the vehicle,
    - (a) has one passenger seat that is designed to be straddled by the passenger while sitting facing forward behind the driver, and
    - (b) is equipped with footrests for the passenger that are separate from the footrests for the driver;
- 2.2 **“Animal”** shall mean any member of the animal kingdom, other than a human;
- 2.3 **“Aircraft”** shall mean aircraft movement at the Manitouwadge Airport and helicopter movement at Santé Manitouwadge Health;
- 2.4 **“By-Law”** shall mean this By-law, as it may be amended from time to time. The Recitals to, and the Schedules attached to this By-law are considered integral parts of it;
- 2.5 **“Clerk”** shall mean the Clerk for The Corporation of the Township of Manitouwadge;
- 2.6 **“Construction”** shall mean and includes but not limited to erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavation, blasting and detonation of explosive devices other than fireworks, 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 associated or related work;
- 2.7 **“Construction Equipment”** shall mean any equipment or device designed or 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;
- 2.8 **“Council”** shall mean the Council of the Corporation of the Township of Manitouwadge;
- 2.9 **“Dwelling Unit”** shall mean a building or part of a building consisting of at least a washroom, a room with cooking facilities, and a sleeping area meeting all appropriate municipal and other requirements to be a self-contained living quarters that provides or is capable of providing a residence for one or more persons;
- 2.10 **“Emergency”** shall mean a situation or an impending situation, often dangerous, caused by the force of nature, an accident, an intentional act or otherwise, which arises suddenly and calls for prompt action;
- 2.11 **“Emergency Vehicle”** shall mean and includes but not limited to, a land ambulance, an air ambulance, a fire department vehicle, and a motor vehicle being used to respond to an emergency;
- 2.12 **“Generator”** shall mean in electricity generation, an internal combustion engine that converts motive power into electrical power for use in an external circuit;

- 2.13 “Highway”** shall mean a common and public highway and includes any bridges, trestle, viaduct, pathway, or other structure forming part of the highway, and except as otherwise provided, includes a portion of a highway and the area between the lateral property lines thereof;
- 2.14 “Motor Vehicle”** shall mean and includes but not limited to an automobile, bus, truck, motorcycle, motor assisted bicycle unless otherwise indicated in the *Highway Traffic Act, R.S.O. 1990, c. H.8*, as amended, and any other Vehicle propelled or driven otherwise by muscular power, but does not include a streetcar or other motor vehicles running upon rails, or a motorized snow vehicle, traction engine, farm tractor, self propelled implement of husbandry or road-building machine within the *Highway Traffic Act, R.S.O. 1990, c. H.8*, as amended;
- 2.15 “Motorcycle”** shall mean a self-propelled vehicle having a seat or saddle for the use of the driver and designed to travel on not more than three (3) wheels in contact with the ground, and includes a motor scooter and a dirt bike but does not include a motor assisted bicycle;
- 2.16 “Motorized Snow Vehicle”** shall mean a self-propelled vehicle designed to be driven primarily on snow;
- 2.17 “Multi-Purpose Off-Highway Utility Vehicle”** shall mean an off-road vehicle that:
- a) has four or more wheels, the tires of which are all in contact with the ground,
  - b) has a steering wheel for steering control,
  - c) has seats that are not designed to be straddled, and
  - d) has a minimum cargo capacity of 159 kilograms;
- 2.18 “Municipal Law Enforcement Officer”** shall mean a duly authorized person appointed by the Council of the Township of Manitouwadge to enforce the By-laws of the Municipality and that Municipal Law Enforcement Officers are Peace Officers for the purpose of enforcing Municipal By-laws;
- 2.19 “Municipal Service Vehicle”** shall mean a vehicle operated by or on behalf of the Municipality or a contractor retained by the Municipality while the vehicle is being used for the construction, repair or maintenance of the highway including the clearing and removal of snow; construction, repair, maintenance of a municipal utility, or the collection or transportation of waste or other municipal purpose;
- 2.20 “Municipality”** shall mean the same as Township of Manitouwadge;
- 2.21 “Noise”** shall mean sound that is unusual or excessive, or that is unwanted by or disturbing to persons;
- 2.22 “Officer”** shall mean a Municipal Law Enforcement Officer or a Police Officer;

- 2.23 “Off-Road-Motorcycle”** shall mean an off-road vehicle designed primarily for recreational use, that:
- (a) has steering handlebars,
  - (b) has two wheels, the tires of which are all in contact with the ground,
  - (c) has a minimum wheel rim diameter of 250 millimeters,
  - (d) has a minimum wheelbase of 1,016 millimeters,
  - (e) has a seat that is designed to be straddled by the driver,
  - (f) is designed to carry a driver only and no passengers, and
  - (g) does not have a sidecar;
- 2.24 “Person”** shall mean and includes an individual, a sole proprietorship, a partnership, an unincorporated association, a trust and a corporation;
- 2.25 “Premises”** shall mean and includes a piece of land and any buildings and structures on it, a place of business, road, and any other location or place;
- 2.26 “Point of Reception”** shall mean any point on the premises of a person where sound or vibration originating from other than those premises is received;
- 2.27 “Services and Charges By-law”** shall mean the Corporation of the Township of Manitouwadge Services and Charges By-law provided by the Municipality, as amended from time to time;
- 2.28 “Sound Amplifying System”** shall mean any system of loudspeakers, amplifiers, microphones or reproducers or any combination of such equipment, including electronic devices or electro-mechanical transducers, used in the reproduction or amplification of music, speech or other sounds;
- 2.29 “Sound Reproduction Device”** shall mean a device intended primarily for the production or reproduction of sound including, but not limited to, any musical instrument, radio receiver, television receiver, tape recorder, phonograph, or Sound Amplifying System;
- 2.30 “Special Event”** shall mean and includes an event of significant community profile which benefits the entire community; and a community celebration of special importance that will benefit the entire community; and an event where the public gather to participate in athletic, social, religious, cultural, recreational, educational or other activities with community objectives;
- 2.31 “Timber Industry Operations”** shall mean any work, including the equipment required to carry out such work;
- 2.32 “Vehicle”** shall mean and includes a motor vehicle, trailer, tractor engine, farm tractor, road building machine, motorcycle, bicycle, and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle, or the cars or electric or steam railways running only upon rails.

### **PART 3 REGULATIONS – NOISE**

#### **SECTION**

#### **3. Unusual Sound**

Except as otherwise specifically provided for in this By-law, no person shall cause or permit any unusual sound or authorize the making or causing of any unusual sound, or authorize or permit the continuation of any unusual sound, if the unusual sound, at the point of reception, is likely to disturb the inhabitants of the Township of Manitouwadge as outlined in Schedule "A" attached to this By-law and forms a part of this By-law.

#### **3.1 Sound Prohibited During Fixed Hours.**

Except as otherwise specifically provided for in this By-law, no person shall cause or permit any sound from any of the following activities, during the hours from 10:00 p.m. of one day and 7:00 a.m. of the next following day, if the sound, at the point of reception is of a type likely to disturb the inhabitants of the Township of Manitouwadge as outlined in Schedule "B" attached to this By-law and forms a part of this By-law.

#### **3.2 Application- Multiple Prohibitions**

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

### **PART 4 EXEMPTIONS**

#### **SECTION**

#### **4. Exemptions**

Despite any other provision in this By-law, Section 3 and Section 3.1 of this By-law shall not apply to the exemptions or circumstances outlined in Schedule "C" attached to this By-law and forms a part of this By-law.

### **PART 5 PERMITS**

#### **SECTION**

#### **5. Temporary Noise Permit**

Any person may apply for a temporary noise permit to authorize the making of sound arising from one of the following activities:

**a)** Construction; or

**b)** The use of sound reproduction equipment as part of a special event.

#### **5.1** An applicant for a temporary noise permit under Section 5, shall submit to the Clerk's Office, at least twenty (20) days prior to the commencement of the activity for which the temporary noise permit is sought:

**a)** An application in writing, in the form determined by the Clerk's Office, from time to time, and including:

- i) the name and contact information of the applicant;
  - ii) a description of the source of the sound and resulting noise in respect of which the temporary noise permit is sought;
  - iii) the location of the special event or construction activity for which the temporary noise permit is sought;
  - iv) the provision or provisions of this By-law for which the temporary noise permit is sought and the terms being requested;
  - v) the rationale for the temporary noise permit;
  - vi) the days and hours for which the exemption is sought; and
  - vii) the name and contact information of the contact person or persons who will be supervising the activities for which the temporary noise permit is sought and who will be available to address concerns raised by persons within the area where the noise is heard;
- b) Other information or documentation requested by the Clerk's Office to assist him or her to assess the application; and
  - c) Any application fee established in accordance with the Services and Charges By-law, amended from time to time.

**5.1(1)** The application fee shall be non-refundable.

**5.1(2)** The Clerk's Office may circulate the application to other Municipal departments and the local Ontario Provincial Police for input.

## **5.2 Refusal of Permits**

The Clerk's Office may refuse to issue the temporary noise permit if:

- a) The application was not submitted in the time frame provided in Section 5.1;
- b) The application is not complete;
- c) In the opinion of the Clerk's Office, the event or activity for which the temporary noise permit is sought does not qualify for a temporary noise permit in accordance with Section 5; or,
- d) After due consideration of the factors in Section 5.3 (b), it is the opinion of the Clerk's Office that it is not appropriate to issue a temporary noise permit.

**5.2(1)** The Clerk's Office shall notify the applicant of:

- a) The decision and particulars of the reason for the refusal to issue or renew the temporary noise permit; and
- b) Any right to request a hearing to appeal before Council and process to do so.

**5.3 Issuance of Permit**

The Clerk's Office may issue a temporary noise permit:

- a) If there are no grounds to refuse the application pursuant to Section 5.2 (a), (b) or (c);
- b) In the opinion of the Clerk's Office it is appropriate to issue the temporary noise permit after a due consideration of:
  - i) any negative effects the issuance of the temporary noise permit may have on neighbouring properties or on the Municipality;
  - ii) any benefits the issuance of the temporary noise permit may have for neighbouring properties or for the Municipality;
  - iii) any previous violations of this By-law;
  - iv) any previous violations by the applicant of conditions of a temporary permit;
  - v) any input received pursuant to Section 5.1(2); and
  - vi) any other matter the Clerk's Office reasonably considers relevant;

**5.3(1)** In issuing a temporary noise permit, the Clerk's Office:

- a) Shall Identify:
  - i) the location and type of activity authorized;
  - ii) the type of sounds that are authorized;
  - iii) the days and times during which the sound is authorized; and
- b) May impose conditions suitable to the circumstances.

**5.4 Permit**

A temporary noise permit is issued by the Clerk's Office signing and dating the temporary noise permit.

**5.4(1)** The Clerk's Office shall deliver the temporary noise permit to the applicant and notify the applicant of any right to request a hearing before Council and the process to do so.

**5.4(2)** A temporary noise permit issued under this By-law, if not earlier revoked, shall expire on the date set out in the temporary noise permit.

**5.5 Revocation of a Permit**

The Clerk's Office may revoke a temporary noise permit issued under this By-law if, in the opinion of the Clerk's Office, there is a failure to comply with the terms and conditions of the temporary noise permit. Notice of the revocation may be given in writing, or may be given orally and followed by notice in writing. Written notice may be addressed to the applicant at the address in the application for the permit. Notice is deemed effective immediately, if given orally and deemed effective the fifth day after mailing, if the notice is given only by mail, whether or not the notice is actually received.

- 5.6** No person to whom a temporary noise permit has been issued permitting the making of sound contrary to this By-law, shall make, cause or permit the making of sound or the continuation of any sound contrary to the terms and conditions of the temporary noise permit.

## **PART 6 APPEAL TO COUNCIL**

### **SECTION**

**6. Appeal to Council**

The applicant for a temporary noise permit under this By-law may appeal to Council:

- a)** A refusal to issue a temporary noise permit where such refusal is based on the exercise of the Clerk's Office discretion under Section 5.2 (d); or
  - b)** Any condition imposed by the Clerk's Office as a condition of the temporary noise permit.
- 6.1** An applicant entitled to request a hearing before Council pursuant to Section 6, may apply in writing to the Clerk's Office for a hearing and shall submit with such application, an administrative fee in an amount determined in accordance with the Services and Charges By-law, amended from time to time.
- 6.2** On receipt of a request for a hearing, the Clerk's Office shall review the request to determine if the request is based on grounds provided for in this By-law and that the administrative fee in an amount determined in accordance with the Services and Charges By-law, amended from time to time, has been paid and if same is in order, shall set a date, time and place for a hearing of the appeal before the Council and give notice of the date, time and place of the hearing to the applicant for the hearing.
- 6.3** On the date and time scheduled for the hearing, or such later date as may be set or consented to by Council, Council may hear and view any evidence provided by the Clerk's Office and by the applicant for the hearing and may:
- a)** Uphold the decision to refuse to issue the temporary noise permit, based on any grounds open to the Clerk's Office or may authorize the issuance of the temporary noise permit and set any conditions for the issuance of the temporary noise permit in accordance with Section 5.3(1); or
  - b)** uphold, remove, alter or add any condition of the temporary noise permit based on any grounds open to the Clerk's Office.
- 6.4** Upon Council reaching a decision, the Clerk's Office shall give notice of the decision in writing to the applicant for the hearing, and shall where appropriate, issue the temporary noise permit as directed by Council or issue an amended temporary noise permit reflecting the conditions imposed by Council.
- 6.5** Any conditions of a temporary noise permit issued by the Clerk's Office remain in effect unless and until altered or removed by Council.

- 6.6** The onus is on the applicant for a temporary noise permit to provide evidence to the satisfaction of the Clerk's Office that the applicant is entitled to the issuance of the temporary noise permit or to have any condition of the temporary noise permit altered or removed.

## **PART 7 CONFIDENTIAL INFORMATION**

### **SECTION**

#### **7. Confidential Information**

- 7.1** All information submitted to and collected by the municipality, will, except as otherwise provided in this Section, be available for disclosure to the public in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56 (MFIPPA).
- 7.2** In the event that any person in submitting information to the Municipality, the Clerk's Office or to the Manager of the Protective Services Department in any form, as required under this By-law, where such information is confidential or proprietary or otherwise may be exempt from disclosure under the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56 (MFIPPA), the person submitting the information shall so identify that information upon its submission to Municipality, the Clerk's Office or to the Manager of the Protective Services Department and shall provide sufficient details as to the reason for its purported exemption from disclosure.

## **PART 8 ORDERS**

### **SECTION**

#### **8. Discontinue Activity Order**

- 8.1** If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make a 'Discontinue Activity Order' requiring the person who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the property on which the contravention occurred to discontinue the contravening activity.
- 8.2** Pursuant to Section 8.1, the 'Discontinue Activity Order' shall set out:
- a)** Reasonable particulars of the contravention adequate to identify the contraventions and the location of the property on which the contravention occurred; and
  - b)** The date and time by which there must be compliance with the order.
- 8.2** An order to discontinue contravening activity made under Section 8.1, may be served:
- a)** By regular, registered or certified mail to the last known address of, as the case may be, the person who contravened the By-law or who caused or permitted the contravention or the owner of the property on which the contravention occurred, in which case it shall be deemed to have been given on the fifth day after it was mailed;

- b) By an Officer placing a placard containing the order in a conspicuous place on the property where the contravention occurred, in which case it shall be deemed to have been given on the day of the placement of the placard on the property;
- c) Personally, as the case may be, on the person who contravened the By-law or who caused or permitted the contravention or the owner of the property on which the contravention occurred.

## **PART 9 PENALTIES**

### **SECTION**

#### **9. Penalties**

- a) 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*, as amended;
- b) Every person who contravenes any provision of this By-law and any director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence as provided for in subsection 429(1) of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, and all such offences are designated as continuing offences as provided for in subsection 429(2) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended;
- c) A person who is convicted of an offence under this By-law is liable, for each day or part of a day that the offence continues to a maximum fine of \$10,000.00 and the total of all daily fines for the offence is not limited to \$100,000.00 as provided for in subsection 429(3)2 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended;
- d) Any person who contravenes an order made under Section 444 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, is guilty of an offence;
- e) When a person has been convicted of an offence under this By-law, in any court of competent jurisdiction, the sitting Judge or Justice of the Peace may in addition to any penalty imposed on the person convicted, issue an order:
  - i) Prohibiting the continuation or the repetition of the offence by the person convicted; and
  - ii) Requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate; and
  - iii) Imposed any other discretionary conditions that the court desires.

**PART 10**  
**REPEALS - COMING INTO FORCE**

**SECTION****10. Repeals**

Be it further enacted that the following By-law and all amendments to the said By-law hereinafter set forth is hereby repealed: By-law No. 98-09.

**10.1 Coming into Force**

THAT this By-law shall come into force on the date of its final passing.

**READ A 1ST AND 2ND TIME** this 14th day of July, 2021 and  
**READ A 3rd TIME AND FINALLY ENACTED** this 11<sup>th</sup> day of August, 2021.

  
Mayor John MacEachern  
Joleen Keough, Clerk

**THE CORPORATION OF THE TOWNSHIP OF MANITOUWADGE****SCHEDULE "A"  
TO  
BY-LAW 2021-27****Section 3  
NOISE REGULATION**

Without limiting the generality of Section 3, the following are deemed to be noises that will disturb or are likely to disturb an inhabitant of Manitouwadge Township:

- a) The noise or sound made or created by any radio, phonograph, public address system, sound equipment, loud speaker, musical instrument or other sound-producing equipment, when the equipment is played or operated in such a manner that the sound or noise made or created thereby disturbs the peace, comfort or repose of any person;
- b) Persistent barking, calling, or whining or other similar persistent noisemaking by any domestic pet or any other animal kept or used for any purpose;
- c) Persistent yelling, shouting, screaming, whistling, hooting, or singing;
- d) The operation of a stereo or other electronic device designed to amplify sound in, or on, a motor vehicle in such a way that the sound can easily be heard outside of the motor vehicle;
- e) The operation of any pump, filtration system device for an outdoor swimming pool, hot tub, spa, fountain or water feature, which is not in good working order;
- f) The operation of any exhaust fan, exhaust system, intake fan, generator, including a combustion exhaust of a high efficiency furnace, which is not in good working order;
- g) The operation of any air conditioner, heat pump, compressor, condenser, chiller, cooling tower or similar device which is not in good working order;
- h) The noise made by air conditioning equipment which is likely to disturb the peace, comfort or repose of any person in a dwelling unit;
- i) The sounding of any alarm, bell, horn, siren or other warning device for an unnecessary or unreasonable period of time;
- j) The operation of the horn of a vehicle or other warning device except where required or authorized, or in accordance with good safety practice;
- k) The operation of a generator, if used other than during a power outage or emergency to supply electrical power to a dwelling except as otherwise specifically provided for in this By-law;
- l) The detonation of firecrackers or fireworks, except as provided in Section 2.3 of By-law 2009-08 of the Corporation of the Township of Manitouwadge;
- m) The operation of a combustion engine, motor or pneumatic device without an effective exhaust intake-muffling or other sound attenuation device, which device is in good working order and in constant operation;

- n) The operation of a motor vehicle in such a way that the tires squeal;
- o) The operation of a motor vehicle or motorized snow vehicle in a race;
- p) The operation of a vehicle in a manner that results in banging, clanking, squealing or similar sounds because of inadequate maintenance or an improperly secured load;
- q) The operation of a motor vehicle licensed under the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended, The *Motorized Snow Vehicle Act*, R.S.O. 1990, c. M.44, as amended or The *Off-Road Vehicles Act*, R.S.O. 1990, c. O.4, as amended, without the original manufacturer's muffler system, or an equivalent muffler system;
- r) The operation of an engine or motor in, or on, any motor vehicle or item of attached auxiliary equipment for a continuous period exceeding ten minutes, while such vehicle is stationary in a Residential Zone, unless:
  - i. 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
  - ii. 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, lift platforms and refuse compactors; or
  - iii. 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,
  - iv. prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or,
  - v. 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, carburetor or the like, when such work is performed other than for profit.
- s) The operation of a Motor Vehicle, All-Terrain Vehicle, Multi-Purpose Off-Highway Utility Vehicle or a Motorized snow Vehicle other than on a Highway;
- t) The operation of any item of construction equipment without an effective exhaust intake – muffling or other sound attenuation device, which device is in good working order in constant operation;
- u) Any unwanted or meaningless sound that in the opinion of the Officer is likely to disturb the inhabitants of the Township of Manitouwadge.
- v) Except in the case of an emergency, it is unlawful for the driver of any vehicle to use or operate, or cause to be used or operate, within the town limits of the Township of Manitouwadge, any compression brake, engine brake, dynamic brake or mechanical exhaust device designed to assist in the deceleration or braking of any motor vehicle, if such device or devices result in excessive, loud or otherwise unusual noise and thereby disturbs the peace, comfort or repose of any person.

**THE CORPORATION OF THE TOWNSHIP OF MANITOUWADGE**

**SCHEDULE "B"  
TO  
BY-LAW 2021-27**

**Section 3.1  
NOISE REGULATION**

- a)** The operation of any manufacturing business;
- b)** The operation of any repair shop;
- c)** Construction or the operation of construction equipment or a vehicle or other engine or machine used in connection with construction; or
- d)** The use or operation of a lawnmower, chainsaw, leaf-blower snow-blower or other such noise-generating tool or device.

**THE CORPORATION OF THE TOWNSHIP OF MANITOUWADGE****SCHEDULE "C"  
TO  
BY-LAW 2021-27****Section 4  
NOISE REGULATION**

The Following are Exemptions to Section 3 and 3.1 of this By-law:

- a)** The use of bells or chimes normally associated with religious building or uses;
- b)** The operation of vehicles, including the sounding of sirens, of the Provincial or Federal Police, the Manitouwadge Fire Department and Paramedic Services, while in the performance of their duty;
- c)** The operation of vehicles and equipment utilized for the clearing and removal of snow from public and private property;
- d)** A matter of public necessity or public emergency;
- e)** The use or operation of any equipment, machines or facilities associated with timber industry operations or the noise produced from or associated with timber industry operations.
- f)** Aircraft movement at the Manitouwadge Airport and helicopter movement at Santé Manitouwadge Health;
- g)** Any activity that is integral to the operation of any airport within the legislative authority of the federal or provincial government;
- h)** The discharge of fireworks if such discharge complies with the Corporation of the Township of Manitouwadge Fireworks By-law 2009-08 as amended or replaced from time to time;
- i)** Activity from industrial uses if sound is in accordance with the terms and conditions of a valid Certificate of Approval, provisional Certificate of Approval or other approval issued under the *Environmental Protection Act, R.S.O. 1990, c. E.19* as amended, where such approval addresses sound as a source of contamination;
- j)** The operation of machinery by or on behalf of a public utility where work needs to be done to minimize service interruptions;
- k)** The use of sound reproduction equipment:
  - i)** as part of a special event, provided a temporary noise permit has been issued pursuant to this By-law authorizing such sound is within the permitted hours and conditions of the temporary noise permit; or
  - ii)** within an enclosed structure that is licenced under the *Liquor Licence Act, R.S.O. 1990, c. L.19*, as amended or replaced, during the times that the Liquor Licence permits the sale of alcoholic beverages;

- l)** The operation of machines and equipment by or on behalf of the Municipality for municipal activities or purposes, including but not limited to the operation of machines and equipment for the purpose of: collection or disposal of garbage, waste, compostable or recyclable materials; highway clearing or maintenance; grass cutting or field maintenance equipment; tree or shrub pruning or mulching; painting of crosswalks and highways;
- m)** The operation of construction equipment associated with the rehabilitation, reconstruction, general maintenance or emergency maintenance of the Municipality highways;
- n)** Construction, the operation of construction equipment or a vehicle or other engine or machine being used in connection with construction conducted during the hours and in accordance with any conditions as set out in a temporary noise permit issued under this By-law; and
- o)** A snow-blower may be used, if the amount of snow is such that a person can't safely access/leave their place of abode;
- p)** Noise related to the delivery of goods to the following destinations, under the *Municipal Act, 2001*, S.O. 2001, c.25, Section 130, as amended:
  - 1. Retail business establishments;
  - 2. Restaurants, including cafes and bars;
  - 3. Hotels and motels; and
  - 4. Goods distribution facilities.



**THE CORPORATION OF THE TOWNSHIP OF MANITOUWADGE**

**August 11, 2021**

Session No. 2021-233

**Moved by:**

**Seconded by:**

**RESOLVED THAT:** Council is in receipt of Administration Report ADM2021-30 submitted by Florence MacLean, CAO regarding a Noise Bylaw, Third Reading;

**AND BE IT FURTHER RESOLVED THAT:** upon conclusion of Council's review and consideration:

- ☒ **01** THAT Council passes the final reading of the Noise Bylaw, as presented at the August 11, 2021 Council meeting, Being a Bylaw to Prohibit Noise within the Township of Manitouwadge; and further,

**THAT Council rescinds Bylaw 98-09, Being a Bylaw to Control Noise.**

| Recorded Vote              | FOR | AGAINST |
|----------------------------|-----|---------|
| Councillor David Arola     |     |         |
| Councillor Kathy Hudson    |     |         |
| Councillor Jim Moffat      |     |         |
| Councillor Mike Scapinello |     |         |
| Mayor John MacEachern      |     |         |

CARRIED      DEFEATED

Mayor John MacEachern

THE CORPORATION OF THE TOWNSHIP OF MANITOUWADGE

BY-LAW NO. 2021-27

Being a By-Law to Regulate Noise within the Municipality of Manitouwadge.

Part 1  
PROVINCIAL OFFENCES ACT  
SET FINE SCHEDULE

| ITEM | COLUMN 1<br>Short Form Wording                                                                                                                                                           | COLUMN 2<br>Provision Creating<br>or Defining Offence | COLUMN 3<br>Set Fine |
|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|----------------------|
| 1    | Attempt to obstruct /hinder a person performing a duty under this By-law                                                                                                                 | Section 1.6                                           | \$350.00             |
| 2    | Knowingly make false or misleading statement.                                                                                                                                            | Section 1.6(3)                                        | \$250.00             |
| 3    | Emit/Cause to emit noise likely to disturb from {radio}, {phonograph}, {pa system}, {sound equipment}, {loud speaker}, {musical instrument} or {other sound- producing equipment}.       | Section 3.<br>Schedule "A" a)                         | \$150.00             |
| 4    | Emit/Cause to emit noise likely to disturb from {persistent barking}, {calling}, or {whining} made by any domestic pet or any other animal.                                              | Section 3.<br>Schedule "A" b)                         | \$125.00             |
| 5    | Emit/Cause to emit noise likely to disturb by {yelling}, {shouting}, {screaming}, {whistling}, {hooting} or {singing}.                                                                   | Section 3.<br>Schedule "A" c)                         | \$150.00             |
| 6    | Emit/Cause to emit noise likely to disturb from a {stereo} or {other electronic device} designed to amplify sound associated with a motor vehicle                                        | Section 3.<br>Schedule "A" d)                         | \$125.00             |
| 7    | Emit/Cause to emit noise likely to disturb from the operation of any {pump}, {filtration system device} for an {outdoor swimming pool}, {hot tub}, {spa} {fountain} or {water feature}.  | Section 3.<br>Schedule "A" e)                         | \$125.00             |
| 8    | Emit/Cause to emit noise likely to disturb from the operation of any {exhaust fan}, {exhaust system}, {intake fan}, {generator} and a {combustion exhaust of a high efficiency furnace}. | Section 3.<br>Schedule "A" f)                         | \$125.00             |
| 9    | Emit/Cause to emit noise likely to disturb from the operation of any {air conditioner}, {heat pump}, {compressor}, {condenser}, {chiller}, {cooling tower} or {similar device}           | Section 3.<br>Schedule "A" g)                         | \$125.00             |
| 10   | Emit/Cause to emit noise likely to disturb made by air conditioning equipment in a dwelling unit                                                                                         | Section 3.<br>Schedule "A" h)                         | \$125.00             |
| 11   | Emit/Cause to emit noise likely to disturb from the sounding of any {alarm}, {bell}, {horn}, {siren} or other {warning device}                                                           | Section 3.<br>Schedule "A" i)                         | \$125.00             |
| 12   | Emit/Cause to emit noise likely to disturb from the operation of the horn of a vehicle or other warning device                                                                           | Section 3.<br>Schedule "A" j)                         | \$125.00             |

|           |                                                                                                                                                                                                             |                                |          |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------|
| <b>13</b> | Emit/Cause to emit noise likely to disturb from the operation of a generator.                                                                                                                               | Section 3.<br>Schedule "A" k)  | \$150.00 |
| <b>14</b> | Emit/Cause to emit noise likely to disturb from the detonation of "firecrackers" or "fireworks"                                                                                                             | Section 3.<br>Schedule "A" l)  | \$300.00 |
| <b>15</b> | Emit/Cause to emit noise likely to disturb due to the operation of a {combustion engine}, {motor} or {pneumatic device}                                                                                     | Section 3.<br>Schedule "A" m)  | \$150.00 |
| <b>17</b> | Emit/Cause to emit noise likely to disturb from the squealing of tires while operating a motor vehicle                                                                                                      | Section 3.<br>Schedule "A" n)  | \$200.00 |
| <b>18</b> | Emit/Cause to emit noise likely to disturb from racing a {motor vehicle} or a {motorized snow vehicle}                                                                                                      | Section 3.<br>Schedule "A" o)  | \$200.00 |
| <b>19</b> | Emit/Cause to emit noise likely to disturb from the operation of a vehicle resulting in {banging}, {clanking}, {squealing}, or {similar sounds}.                                                            | Section 3.<br>Schedule "A" p)  | \$125.00 |
| <b>20</b> | Emit/Cause to emit noise likely to disturb from the operation of a motor vehicle without the original manufacturer's muffler system, or an equivalent muffler system.                                       | Section 3.<br>Schedule "A" q)  | \$250.00 |
| <b>21</b> | Emit/Cause to emit noise likely to disturb from prolonged idling of an engine                                                                                                                               | Section 3.<br>Schedule "A" r)  | \$125.00 |
| <b>22</b> | Emit/Cause to emit noise likely to disturb from the operation of a {motor vehicle}, {all terrain vehicle}, {multi-purpose off-highway utility vehicle}, {off-road motorcycle} or a {motorized snow vehicle} | Section 3.<br>Schedule "A" s)  | \$150.00 |
| <b>23</b> | Emit/Cause to emit noise likely to disturb the inhabitants of the Township of Manitouwadge                                                                                                                  | Section 3.<br>Schedule "A" u)  | \$125.00 |
| <b>24</b> | Emit/Cause to emit noise likely to disturb from the operation of any manufacturing business between 10:00 pm and 7:00 am.                                                                                   | Section 3.1<br>Schedule "B" a) | \$200.00 |
| <b>26</b> | Emit/Cause to emit noise likely to disturb from the operation of any repair shop, between 10:00 pm and 7:00 am                                                                                              | Section 3.1<br>Schedule "B" b) | \$200.00 |
| <b>27</b> | Emit/Cause to emit noise likely to disturb from construction, between 10:00 pm and 7:00 am                                                                                                                  | Section 3.1<br>Schedule "B" c) | \$200.00 |
| <b>28</b> | Emit/Cause to emit noise likely to disturb from the operation of a [lawnmower], [chainsaw], between 10:00 pm and 7:00 am                                                                                    | Section 3.1<br>Schedule "B" d) | \$150.00 |

**NOTE: The penalty provision for the offences indicated above is Section 9 a) of By-law No. 2021-27, a certified copy of which has been filed.**

## **PROVINCIAL OFFENCES ACT**

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite the offences in the attached schedules of offences under the Provincial Statutes and Regulations thereunder and By-law No. 2021-27, Part I, of the Township of Manitouwadge, Thunder Bay District, attached hereto are the set fines for these offences, to take effect September 8<sup>th</sup>, 2021.

Dated at Thunder Bay this 8<sup>th</sup> day of September, 2021.



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The Honourable David Gibson  
Regional Senior Justice  
Northwest Region