

THE CORPORATION OF THE TOWNSHIP OF MALAHIDE

By-Law No. 10-65

being a by-law to regulate noise in
The Corporation of the Township of Malahide.

WHEREAS s. 129 of the *Municipal Act*, 2001, as amended, authorizes the Council of every local municipality to prohibit and regulate with respect to noise;

AND WHEREAS the people have a right to and should be ensured an environment free from unusual, unnecessary excessive sound or noise which may degrade the quality and tranquillity of their life or cause nuisance;

NOW THEREFORE the Council of the Corporation of the Township of Malahide hereby enacts as follows:

1. Definitions

1.1 In this by-law,

- (a) “**Agricultural Operation**” means an agricultural, aquacultural, horticultural, or silvicultural operation that is carried on in the expectation of gain or monetary reward;
- (b) “**Agricultural Processing**” includes sawing, cleaning, treating, grading and packaging to the extent that these activities relate to products primarily from and are conducted as a part of an agricultural operation;
- (c) “**Agricultural Property**” means a property that is zoned for agricultural use in the zoning by-law that applies to the property;
- (d) “**By-law Officer**” means a person appointed by the Council of The Corporation of the Township of Malahide as a municipal by-law enforcement officer to enforce the provisions of this and other by-laws;
- (d) “**Construction**” includes erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground, 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 therewith;
- (e) “**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, bull dozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders and other materials handling equipment;

- (f) “**Conveyance**” includes a vehicle and any other device employed to transport a person or persons or goods from place to place but does not include any such device or vehicle if operated only within the premises of a person;
- (g) “**Council**” means the Council of The Corporation of the Township of Malahide;
- (h) “**Emergency**” means a situation or 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;
- (i) “**Emergency Vehicle**” includes a land ambulance, air ambulance, a fire department vehicle and a motor vehicle being used to respond to an emergency;
- (j) “**Highway**” means a common and public highway that includes any bridge, trestle, viaduct or other structure forming part of the highway and, except as otherwise provided, includes a portion of the highway;
- (k) “**Motorized Conveyance**” means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- (l) “**Motor Vehicle**” includes an automobile, bus, truck, motorcycle, motor assisted bicycle and any other vehicle propelled or driven other than by muscular power, but does not include a motorized snow vehicle, traction engine, the cars of electric or steam railways, or other motor vehicles running only on rails, farm tractor,

other farm vehicles or road-building machines;

- (m) “**Municipality**” means the lands within the geographic limits of The Corporation of the Township of Malahide;
- (n) “**Municipal Service Vehicle**” means a vehicle operated by or on behalf of the Municipality or a local board of the Municipality while the vehicle is being used for the construction, repair or maintenance of a highway, including the clearing and removal of snow, the construction, repair or maintenance of a utility, the collection or transportation of waste, or other municipal purpose;
- (o) “**Noise**” means a sound that is unusual or excessive, or that is unwanted by or disturbing to persons;
- (p) “**Person**” includes a corporation as well as an individual;
- (q) “**Point of Reception**” means any point of the premises of a person where sound or vibration originating from other than those premises as Perceived Person;
- (r) “**Premises**” means a piece of land and any buildings and structures on it, and includes a place of business, road, and any other location or place;
- (s) “**Refuse Compacting Equipment**” means a vehicle fitted in order to compact and transport refuse;
- (t) “**Solid Waste Build Lift Equipment**” means a vehicle designed to load, unload and transport containers for handling refuse;
- (u) “**Sound Amplifying System**” means any system of loud speakers, amplifiers,

microphones or reproducers or any combination of such equipment, including electronic devices or electromechanical transducers, used in the reproduction or amplification of music, speech or other sounds;

- (v) **“Sound Reproduction Device”** means 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, phonographer, sound amplifying system;
- (w) **“Special Event”** includes a demonstration, parade, sports event, fireworks display, festival, carnival, circus, donation station, street dance, residential block party, sidewalk sale, outdoor mass and other like events;
- (x) **“Vehicle”** includes a motor vehicle, trailer, traction engine, farm tractor, road building machine, and any vehicle drawn, propelled or driven by any kind of power other than muscular power;
- (y) **“Zones”** in this by-law:
 - (i) **“Residential Zones”** means those areas of the municipality zoned as follows:
 - (a) Hamlet Residential;
 - (b) Village Residential;
 - (c) Mobile Home;
 - (d) Recreational Residential;
 - (e) such other non-agricultural residential as shall be created by the Municipality from time to time.
 - (ii) **“Other Zones”** means those areas of the municipality zoned as follows:
 - (a) agricultural residential;

- (b) open space;
- (c) agricultural;
- (d) commercial;
- (b) industrial;
- (c) highway commercial; or
- (d) business zones.

(y) “**Zoning By-law**” means a by-law passed under the *Planning Act* that restricts the use of land within the Municipality.

2. General Prohibitions

2.1 No person shall emit or cause or permit the emission of noise or vibration resulting from an act listed in the Schedule 1-General Prohibitions and which sound is clearly audible at a point of reception anywhere within the Municipality, at any time.

3. Prohibitions by Time and Place

3.1 No person shall emit or cause or permit the emission of noise or vibration resulting from any act listed in Schedule 2-Prohibitions by Time and Place if clearly audible at a point of reception located in an area of the Municipality within a prohibited time shown for such an area.

4. Exemptions

4.1 Public Safety

Notwithstanding any other provision of the By-law, it shall be lawful during an emergency to emit or cause or permit the emission of noise or vibration in connection with emergency measures;

- (a) for the immediate health, safety or welfare of the inhabitants of the Municipality or any of them; or
- (b) for the preservation or restoration of property, unless such sound or vibration is clearly of a longer duration, or nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

4.2 **Agricultural Activity**

Notwithstanding any provision of this By-law, it shall be lawful to emit or cause or permit the emission of noise or vibration in connection with the operation of any equipment, apparatus or device used in an Agricultural Operation or in connection with Agricultural Processing.

4.3 **Exempted Activities**

(1) Firearms

The prohibitions in Schedule 2, Activity 16 regarding the discharge of firearms do not apply to a person who is:

- (a) Protecting his or her livestock or poultry from stray dogs in accordance with the *Dog Licensing, Poultry and Honey Bee Protection Act*, as amended;
- (b) Protecting his or her property from damage by wildlife in accordance with the *Ontario Fish and Wildlife Conservation Act*, as amended;
- (c) Protecting his or her property from damage by migratory bird in accordance with a permit issued under the *Canada Migratory Birds Regulations*, as amended;
- (d) Firing blank ammunition for the purposes of (i) a ceremonial event, historical display or educational program; (ii) a theatrical, film or television production; (iii) a sporting event; or (iv) the training of animals;
- (e) **Engaged in sport hunting, target shooting, trap shooting or other recreational use of a firearm on a property within the Municipality that is located in an agriculture, agricultural residential or open space zone.**

(2) Traditional, Festive or Religious Activities

Notwithstanding any other provision of this By-law, this By-law does not apply to a person who emits or causes or permits the emission of noise or vibration in connection with any of the following traditional, festive, religious or other listed activities:

- (a) Any Special Event duly authorized by Council;
- (b) The use of bells or chimes normally associated with church activities;
- (c) Any midway or circus duly authorized by Council;
- (d) Any sporting, recreational or entertainment event in Public Parks or municipally owned or operated Buildings;
- (e) Any musical or other performance in Public Parks or municipally owned or operated Buildings;
- (f) Any fireworks display safely detonated on private property within the Municipality on Victoria Day Weekend, Canada Day and New Year's Eve.

4.4 Exempted Properties

The regulations established Schedule 2, Activity 16 regarding the discharge of firearms do not apply to the lawful discharge of firearms on the following properties:

- (a) A facility operated or utilized by police officers for training purposes;
- (b) A facility or vehicle operated or utilized by or on behalf of the municipality in connection with the delivery of emergency services, road maintenance and waste/recycling collection including but not limited to snow removal, curb side waste pickup; or
- (c) A gun club, trap and skeet club, rifle range, archery range, paintball facility or other facility for the use of firearms that is in compliance with all applicable municipal, provincial and federal requirements.

5. Grant of Exemption by Council

(1) Application to Council

Notwithstanding anything contained in this By-law, any person may make application to Council to be granted an exemption from any of the provisions of this By-law with respect to any source of noise or vibration for which that person might be prosecuted and Council, by resolution, may grant or may refuse to grant the exemption applied for or any exemption of lesser effect and any exemption granted shall specify the time period, which in no case shall exceed a period of 12 months, during which such exemption is effective and may contain such terms and conditions as Council, in its sole discretion, sees fit.

(2) Details of Application for Exemption

The application mentioned in subsection (1), above, shall be made in writing, in duplicate, and shall contain the following:

- (a) The name and address of the applicant;
- (b) A description of the source of the noise or vibration in respect of which the exemption is sought;
- (c) A statement of the particular provision of this By-law from which the exemption is sought;
- (d) The period of time for which the exemption is sought;
- (e) The reasons why the exemption should be granted;
- (f) A statement of the steps, if any, planned or presently being taken to bring about compliance with this By-law;
- (g) Proof of publication with the preceding ten (10) days, in a newspaper of general circulation within the Municipality, of a notice of intention to apply for an exemption to this By-law, containing the information required by clauses (a) through (e), above, and further stating the date upon which it is intended that the application will be made to Council.

(3) By-Law Officer

Council shall cause one copy of the application for exemption to be delivered to the By-Law Officer and he/she shall prepare a report to Council forthwith stating his/her opinion on the merits of the application and his/her recommendations as to the terms and conditions which, in his/her opinion, should be imposed upon the applicant if the exemption is granted and Council will not consider the application until it has received the said report.

(4) Report

The By-Law Officer shall forward a copy of his/her report to the applicant at the address shown on the application by prepaid registered mail and shall, not sooner than two weeks after the said mailing, submit the report to Council and shall, on request, make his/her report available for public inspection.

(5) Decision

In deciding whether to grant the exemption, Council shall consider the application, the report of the By-Law Officer, and written submission received by council and made by the applicant following their receipt of the report of the By-Law Officer and such other submissions, whether written or oral, and other matters as it sees fit.

(6) Breach

Any breach by the applicant of any terms or conditions of any exemption shall immediately render the said exemption null and void.

6. Offence and Penalty Provisions

6.1 Any person who contravenes any provision(s) of this By-law is guilty of an offence and, upon conviction, is subject to a fine as provided for in the Ontario *Provincial Offences Act* and to any other applicable penalties.

By-law 10-65
Schedule 1 - General Prohibitions

1. Racing of any Motorized Vehicle.
2. The operation of a Motor Vehicle in such a way that the tires squeal.
3. The operation of any combustion engine or pneumatic device or construction equipment without an effective exhaust or intake muffling device in good working order and in constant operation.
4. The operation of a Motor Vehicle or a Motor Vehicle with a trailer resulting in banging, clanking, squealing, or other similar sounds due to improperly secured load or equipment or inadequate maintenance.
5. The operation of an engine or a motor in, or on, any motor vehicle or item of attached auxiliary equipment for continuous period exceeding five minutes or such other time limit specified in the by-law controlling the idling of vehicles and boats, anywhere within the Municipality, where the point of reception is in a Residential Zone or a Business Zone, unless:
 - (a) the original equipment manufacturer specifically recommends longer idling period for a normal and efficient operation of the motor vehicle in which this case recommended, shall not be exceeded;
 - (b) operation of such engine or motors is essential to a basic function of the motor vehicle or equipment, including but not limited to, operation of ready-mix concrete trucks, lift platforms, refuse compactors or heat exchange systems;
 - (c) weather conditions justify the use of heating or refrigerating systems powered by the motor or engine for the safety and welfare of the operations, passenger or animals, or the preservation of perishable cargo, and the vehicle is stationary for the purpose of delivery or loading; or
 - (d) the idling is for the purpose of cleaning and flushing the radiator and the 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; or
 - (e) the vehicle is in an enclosed structure constructed so as to effectively prevent the emission of the excessive noise.
6. The use of any mechanical equipment that is not operating or being maintained in accordance with the manufacturers' specifications resulting in noise other than that emitted in the normal operation of the equipment.

7. The operation of the horn of a vehicle or other warning device except for required or authorized by law, or in accordance with good safety practices.
8. The operation of any outdoor auditory signalling device, including but not limited to outdoor paging systems, the ringing of bells or gongs, the use of sirens, whistles or chimes, or the production, reproduction or amplification of any similar sounds by electronic means except where required or authorized by law in association with the operation of an emergency vehicle or in an emergency situation or in accordance with good safety practices.
9. The persistent barking, calling or whining or other similar persistent noise-making by animals and birds kept as household pets.
10. Selling or advertising by shouting, yelling or amplified sound.
11. The unauthorized setting off of fireworks.

**Schedule 2 -
Noise Prohibitions by Time and Place**

Activity	Prohibited Times	
	Residential Zones	Other Zones
1. The operation of construction equipment in connection with construction.	8:00 p.m - 7:00 a.m.	8:00 p.m - 7:00 a.m.
2. Erection, alteration, repair, dismantling or any other activity related to construction	8:00 p.m - 7:00 a.m.	8:00 p.m - 7:00 a.m.
3. The operation of any device or group of connected devices intended for the production, reproduction or amplification of voices or sound	8:00 p.m.-7:00 a.m.	8:00 p.m.-7:00 a.m.
4. Operation of a combustion engine that (i) is, or (ii) is used in, or (iii) is intended for use in a toy or a model or replica of any device, which is not a conveyance and which has no purpose other than amusement.	8:00 p.m - 7:00 a.m.	8:00 p.m - 7:00 a.m.
5. 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.	8:00 p.m - 7:00 a.m.	8:00 p.m - 7:00 a.m.
6. Operation of solid waste bulk lift or refuse compacting equipment.	8:00 p.m - 7:00 a.m.	8:00 p.m - 7:00 a.m.
7. The operation of a commercial car wash with or without air drying equipment.	8:00 p.m - 7:00 a.m.	8:00 p.m - 7:00 a.m.
8. Operation of any powered rail car including but not limited to locomotives, refrigeration cars, self-propelled passenger cars, while stationary on property not owned or controlled by a railway company governed by the <i>Railway Safety Act</i> (Canada).	8:00 p.m - 7:00 a.m.	8:00 p.m - 7:00 a.m.
9. Operation of any motorized conveyance other than on a highway or other place intended for its operation.	8:00 p.m - 7:00 a.m.	8:00 p.m - 7:00 a.m.
10. Outdoor operation or use of any powered or non-powered tool for domestic purposes other than snow removal.	8:00 p.m - 7:00 a.m.	8:00 p.m - 7:00 a.m.
11. Loading, unloading, delivering, packing, unpacking or otherwise handling any containers, products, other materials or refuse, unless necessary for the maintenance of essential services or the moving of private household effects.	8:00 p.m - 7:00 a.m.	8:00 p.m - 7:00 a.m.
12. Operation of a pit or quarry.	8:00 p.m - 7:00 a.m.	8:00 p.m - 7:00 a.m.

13. Take-off or landing of a power-assisted hang glider, parafoil or aircraft of any type.	8:00 p.m. - 7:00 a.m.	8:00 p.m. - 7:00 a.m.
14. Yelling, shouting, hooting, whistling, singing or the playing of musical instruments, including percussion instruments.	8:00 p.m. - 7:00 a.m.	8:00 p.m. - 7:00 a.m.
15. The detonation of fireworks except as noted in Schedule 1, or explosive devices not used in construction	8:00 p.m. - 7:00 a.m.	8:00 p.m. - 7:00 a.m.
16. The discharge of firearms.	8:00 p.m. - 7:00 a.m.	8:00 p.m. - 7:00 a.m.
17. The operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electromechanical transducers and intended for the production, reproduction or amplification of sound	8:00 p.m. - 7:00 a.m.	8:00 p.m. - 7:00 a.m.
18. The operation of any auditory signalling devices, including but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles, or the production, reproduction or amplification of any similar sounds by electronic means except where required or authorized by law or in accordance with good safety practices.	8:00 p.m. - 7:00 a.m.	8:00 p.m. - 7:00 a.m.
19. Racing of any motorized conveyance at a racing facility.	8:00 p.m. - 7:00 a.m.	8:00 p.m. - 7:00 a.m.
20. Persistent barking, calling or whining or other similar persistent noise making by any domestic pet or any other animal kept or used for any purpose other than agriculture.	8:00 p.m. - 7:00 a.m.	8:00 p.m. - 7:00 a.m.
21. The operation of any item of snow making equipment.	8:00 p.m. - 7:00 a.m.	8:00 p.m. - 7:00 a.m.
22. All selling or advertising by shouting or outcry of amplified sound.	8:00 p.m. - 7:00 a.m.	8:00 p.m. - 7:00 a.m.