

THE CORPORATION OF THE CITY OF ELLIOT LAKE

***B*Y-LAW NO. 21-48**

Being a by-law to
prohibit and regulate
noise in the Municipality
and to repeal by-law 96-66

WHEREAS, pursuant to Section 8(1) of the *Municipal Act S.O. 2001 c.25*, :The powers of a municipality under this or any other Act shall be interpreted broadly so as to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues. 2006, c. 32, Sched. A, s. 8.

AND WHEREAS, pursuant to Sections 11(2), and 11(3), of the *Municipal Act, S.O. 2001, c.25*: A lower-tier municipality may pass by-laws, respecting the social and environmental well-being of the municipality, including the health, safety and well-being of persons; and, protection of persons and property, including consumer protection. 2006, c. 32, Sched. A, s. 9; 2017, c. 10, Sched. 1, s. 2.

AND WHEREAS pursuant to Section 129 (a) and (b), of the *Municipal Act, S.O. 2001, c 25*, a municipality may prohibit and regulate matters with respect to noise, including a stipulation that compels the application for a permit, subject to municipal guidelines;

AND WHEREAS, pursuant to Chapter 4, Section 4.3.1 *Dwellings*, from *Guidelines for Community Noise - World Health Organization Expert Task Force April 1999, London U.K.* -- As a result of the collaboration of certain expert parties, decibel level limits have been established to protect the well-being and guard against the serious annoyance of citizens. Hereby, measured and expressed as dB(A), dB(C) and LAeq.

AS SUCH, The Council of The Corporation of the City of Elliot Lake ENACTS AS FOLLOWS:

DEFINITIONS

1.1 -In this by law,

“AMBIENT SOUND LEVEL” - The sound level that is present in the environment produced by sound sources other than the source under assessment.

“AMPLIFIED SOUND” - 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.

“MUNICIPAL ENFORCEMENT OFFICER” means any person designated as Municipal Law Enforcement, appointed by the Council of the Corporation of the City of Elliot Lake, for the enforcement of municipal by-laws including this By-law.

“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 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 these activities. loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, and any other material-handling equipment.

“CONSTRUCTION EQUIPMENT” - Any equipment or device designed and intended for use in construction, or material handling, including hand tools, power tools, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks.

“DEPARTMENT HEAD” means the Director of Clerks and Planning or their designate.

“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 within the premises of a person.

“dB(A)” - The sound level in decibels obtained when using a sound level meter with the A-weighting.

“dB(C)” - The sound level in decibels obtained when using a sound level meter with the C-weighting.

“GOVERNMENT WORK” - Construction, rehabilitation or maintenance work conducted by the City, the Province of Ontario, the Government of Canada and any of its agencies or agents including the operation of motor vehicles and equipment actually engaged in the work.

“HIGHWAY” means a common and public highway, street, avenue, parkway, laneway, driveway, square, place, and includes any bridge, trestle, or other structure forming part of the highway, designed and intended for, or used by, the general public for the passage of vehicles and includes a portion of a highway; and, includes the area between the lateral property lines thereof.

“HOLIDAY” - has the same meaning as in subsection 1 (1) of the *Retail Business Holidays Act, R.S.O. 1990, CHAPTER R.30*;

“LARGE CRANE WORK” - The erection and dismantling of a crane or any other crane work that requires a road closure for the work to be started and finished.

“LAeq.” - The energy equivalent sound level or the continuous sound level that would result in the same total sound energy being produced over a given period of time.

“LIVING AREA” - Any area that includes the premises of a dwelling or a workplace.

“MOTORCYCLE” - Means a motor-propelled vehicle having a seat or saddle for the use of the driver and designed to travel on not more than three wheels in contact with the ground, and includes a motor scooter, but does not include a motor assisted bicycle.

“MOTOR VEHICLE” - Includes an automobile, a motorcycle, a motor assisted bicycle and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car or other motor vehicle running only upon rails, a power-assisted bicycle, a motorized snow vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry or a roadbuilding machine.

“NOISE” - A sound that a person finds disturbing to their peace, rest, enjoyment, comfort, or convenience.

“NOISE MITIGATION PLAN” - A plan as required and approved by the Municipal Enforcement Department that addresses the mitigation of sound, not in compliance with the requirements of this by law, from planned events or activities.

“OWNER” includes the person holding registered title to land or the person managing or receiving the rent or paying the municipal taxes on the land in question, whether on their own account or as an agent or trustee of any other person. Or, who would so receive the rent if such were let, and shall also include lessee or occupant of the land. Where the person

holding registered title to the land is a condominium corporation, the owner is the corporation and not its members.

“PERSON” includes any individual, firm, partnership, association, corporation, company or organization of any kind;

“PERSISTENT NOISE” - Any noise that is continuously heard for a period of ten (10) minutes or more, or intermittently over a period of one hour or more.

“PLACE OF WORSHIP” - A building dedicated to religious worship, including a church, synagogue, temple, mosque, monastery or convent.

“POINT OF RECEPTION” - Any location on the premises of a person where sound, originating from other than those premises, is received. The following locations are points of reception:

(1) An outdoor area that is:

(a) near the façade of a building, at a height of 1.5 meters above ground, typically in backyards, front yards, terraces or patios; or,

(b) on a balcony or elevated terrace (for example, a rooftop) provided it is not enclosed; or

(2) An indoor area that is inside a building with windows and/or doors open or closed.

“POWER DEVICE” - Any equipment operated otherwise than by muscular power used in the servicing, maintenance or repair of lawns, including chainsaws, lawn mowers, leaf blowers, grass trimmers or any other similar equipment. A power device excludes equipment used to remove snow or ice.

“PROPERTY” - A building or structure or part of a building or structure, including the lands appurtenant thereto and all mobile homes, mobile buildings or mobile structures and vacant land.

“SOUND LEVEL METER” - An instrument that measures levels of sound as approved for use by the Department Head.

“STATIONARY SOURCE” - A source of sound which does not normally move from place to place, including the premises of a person as one stationary source, unless the dominant source of sound on those premises is construction or a conveyance.

“UNREASONABLE NOISE” - Any noise that would disturb the peace, rest, enjoyment, comfort or convenience of a reasonable person in the circumstances. Unreasonable noise does not include commonplace household or workplace sounds such as sound from furniture being moved, children playing or people engaging in conversation.

INTERPRETATION

2.1-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.

PROHIBITIONS

Amplified sound

3.1-No person shall emit or cause or permit the emission of continuous amplified sound, measured with a sound level meter at a point of reception in an outdoor living area:

- i. That has a sound level (expressed in terms of LAeq for a ten-minute period) exceeding 50 dB(A) or 65 dB(C) from 11 p.m. to 7 a.m. or 55 dB(A) or 70 dB(C) from 7 a.m. to 11 p.m.; or
- ii. Where the ambient sound level at a point of reception exceeds the maximum sound level permitted under Subsection (i), that has a sound level (expressed in terms of LAeq for a ten-minute period) equal to or exceeding the ambient sound level.

3.2-If, during the course of an investigation, a Municipal Enforcement Officer determines it is not reasonable to measure from a point of reception in an outdoor living area then, no person shall cause or permit the emission of continuous amplified sound, measured with a sound level meter at a point of reception in an indoor living area:

- i. That has a sound level (expressed in terms of LAeq for a ten-minute period), exceeding 45 dB(A) or 60 dB(C) from 11 p.m. to 7 a.m. or 50 dB(A) or 65 dB(C) from 7 a.m. to 11 p.m.; or
- ii. Where the ambient sound level at a point of reception exceeds the maximum sound level permitted under Subsection (i), that has a sound level (expressed in terms of LAeq for a ten-minute period) equal to or exceeding the ambient sound level.

Animals

3.3-No person shall cause or permit persistent noise, including barking, calling or whining or other similar persistent noise, to be made by any animal kept or used for any purpose.

Construction

3.4-No person shall cause or permit the emission of sound resulting from any operation of construction equipment or any construction that is clearly audible at a point of reception:

- i. from 7 p.m. to 7 a.m. the next day, or until 9 a.m. on Saturday, Sundays and holidays.

Motor Vehicles

3.5- No person shall emit or cause to permit the emission of sound resulting from:

- i. unnecessary motor vehicle noise, such as the sounding of a horn, revving of an engine, squealing of tires, banging, clanking or any like sound that is clearly audible at a point of reception;
- ii. the repairing, rebuilding, modifying or testing of a vehicle if the sound is clearly audible at a point of reception from 9 p.m. until 7 a.m. the next day, or until 9 a.m. on Saturdays, Sundays and holidays;
- iii. a motorcycle, if the motorcycle emits any sound exceeding 92 dB(A) from the exhaust outlet as measured at 50 cm, while the motorcycle engine is at idle.

Power devices

3.6-No person shall cause or permit the emission of sound from a power device from 9 p.m. until 7 a.m. the next day, or until 9 a.m. on Saturdays, Sundays and holidays

Unreasonable and persistent noise

3.7-No person shall make, cause or permit noise, at any time, that is unreasonable noise and persistent noise.

3.8- Section 3.7 only applies to sound or noise that is not described in 3.1 through 3.6.

3.9- Despite Section 3.6, an exemption permit may be required under Section 4.2., at the discretion of the Municipal Enforcement Department, if the Municipal Enforcement Department determines that there is unreasonable and persistent noise during otherwise permitted hours as described in sections 3.1 through 3.6.

EXEMPTIONS

Safety and government work

4.1 -Despite any other provision of this by law, it shall be lawful to emit or cause or permit the emission of sound from:

- i. Bells or sirens required for the purposes of public safety including sirens when operated by Police Services, Fire and Paramedic Services, or bells or whistles operated by rail or transit services;
- ii. Measures undertaken for the immediate health, safety or welfare of persons under emergency circumstances;
- iii. Measures undertaken as a result of an emergency requiring immediate action for the construction, preservation, restoration or demolition of any highway; or
- iv. Government work.

SEVERABILITY / CONFLICT

If any section, subsection, part or parts of this By-law is declared by any court of law to be illegal or ultra vires, such section, subsection, paragraph, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such:

- i. 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 City.
- ii. Where a provision of this By-law conflicts with the provisions of another By-law in force in the City, the provision that establishes the higher standard to protect the health, safety and welfare of Persons or the environmental well-being of the municipality shall prevail.

Exemption permits

4.2-Any person may apply for an exemption permit from a noise prohibition or noise limitation provision in this by law, in connection with one or more events or activities, by filing with the Municipal Enforcement Department the following:

- i. An application in the form prescribed by the Municipal Enforcement Department;
- ii. The non-refundable application fee set out in Schedule A, Exemption Permit Fees; and,
- iii. Any information relevant to the application as requested by, and to the satisfaction of, the Municipal Enforcement Department including:
 - a) Reasons supporting an exemption permit;
 - b) A noise mitigation plan;
 - c) A statement certified by a professional engineer or acoustical consultant for any sounds that are not technically or operationally feasible to control.

4.3. The Municipal Enforcement Department may issue an exemption permit if all of the following conditions have been met:

- i. The applicant has complied with the last exemption permit, if any, issued to them, to the satisfaction of the Municipal Enforcement Department;
- ii. The applicant has provided the following:
 - a) The applicant's name, address, and telephone number;
 - b) The date, time and location of each event or activity for which the exemption permit is sought and, where applicable, the number of people expected to attend;
 - c) The purpose for which the exemption permit is required;
 - d) The description of any sound equipment or construction equipment to be used;

e) The name, address and telephone number of at least one contact person who will supervise each event or activity; and

f) A written undertaking that one or more contact persons responsible for supervising each event or activity will be on-site during the entire event or activity to ensure compliance with the terms and conditions of the exemption permit.

iii. The applicant has paid all required fees.

4.4. An exemption permit shall be subject to the following conditions:

- i. A notice of the exemption permit shall be posted in a visible location where each event or activity will occur, seven (7) days prior to the event or activity. This condition may be altered or waived by the Municipal Enforcement Department;
- ii. If required by the Municipal Enforcement Department, the event or activity shall comply with a noise mitigation plan;
- iii. The sound emitted from any equipment shall not exceed a sound level (expressed in terms of LAeq for a ten-minute period) of 85 dB(A) when measured 20 meters from the source;
- iv. Where the sound level exceeds 85 dB(A), the applicant shall comply with any request made by a Municipal Enforcement Officer or a police officer with respect to the volume of sound from the equipment to ensure compliance with Subsection (iii);
- v. No sound equipment or construction equipment other than the equipment approved under the exemption permit shall be used by the applicant;
- vi. Each event or activity shall be restricted to the approved location; and
- vii. The permission granted shall be for the date and times for each event or activity as set out in the exemption permit.

Appeal

4.5. Where the Municipal Enforcement Department refuses to grant an exemption permit under this section, the applicant shall be notified in writing and advised that they may appeal the Municipal Enforcement Department's decision to the Department Head by filing an appeal within 21 days of the date of the notice, along with the applicable fee as set out in Schedule A.

ENFORCEMENT

5.1- This By law may be enforced by a Municipal Enforcement Officer designated as such by the corporation of the City of Elliot Lake or police officer.

5.2 - No person shall hinder or obstruct, or attempt to hinder or obstruct any person exercising a power of performing a duty under this by law.

PENALTY

6.1-Every person who contravenes any of the provisions 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.*

6.2-For the purposes of Subsection 6.1, each day on which a person contravenes any of the provisions of this by law shall be deemed to constitute a separate offence under this by-law.

6.3-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.

7.1 By-Law No. 96-66 is hereby repealed.

8.1-THAT this by-law shall come into effect on the date it is passed by the Council of The Corporation of the City of Elliot Lake.

Dated this 28th day of June, 2021



MAYOR



CITY CLERK

**THE CORPORATION OF THE CITY OF ELLIOT LAKE
SCHEDULE "B"
NOISE BY-LAW NO. 21-48
PART 1 PROVINCIAL OFFENCES ACT
SET FINES**

| ITEM | SHORT FORM WORDING | PROVISION CREATING OR DEFINING OFFENCE | SET FINE |
|-------------|--|---|-----------------|
| 1 | Cause or permit amplified sound exceeding allowable level read outdoors. | 3.1 (i) | \$75.00 |
| 2 | Cause or permit amplified sound exceeding allowable level read indoors. | 3.2 (i) | \$75.00 |
| 3 | Cause or permit persistent noise. | 3.3 | \$75.00 |
| 4 | Cause or permit construction noise outside allowable hours. | 3.4 (i) | \$75.00 |
| 5 | Cause or permit construction noise outside allowable days. | 3.4 (ii) | \$75.00 |
| 6 | Cause or permit unnecessary motor vehicle noise. | 3.5 (i) | \$75.00 |
| 7 | Cause or permit sound of auto mechanic work outside allowable hours. | 3.5 (ii) | \$75.00 |
| 8 | Cause or permit sound exceeding allowable level from motorcycle at idle. | 3.5 (iii) | \$75.00 |
| 9 | Cause or permit sound from power device outside allowable hours. | 3.6 | \$75.00 |
| 10 | Cause or permit unreasonable persistent noise. | 3.7 | \$75.00 |
| 11 | Permit unreasonable noise from use of unauthorized equipment. | 4.4 (v) | \$75.00 |
| 12 | Hinder or obstruct enforcement. | 5.2 | 305.00 |
| 13 | Make false statement in request for permission | 6.3 | 205.00 |

Note: the general penalty provision for the offences listed above is section 6.1 of bylaw 21-48, a certified copy of which has been filed.

SCHEDULE "A"

BY LAW 21-48

Being a list of fees
associated with the noise
exemption permit process.

| Description | Fee |
|-------------------------------------|----------------|
| Exemption permit application | \$50.00 |
| Appeal application | \$60.00 |
| | |