



# BY-LAW

NO. 2008 –076

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## BEING A BY-LAW TO CONTROL NOISE WITHIN THE MUNICIPALITY OF KINCARDINE

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**WHEREAS** Section 129(1) of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, provides that a local municipality may prohibit and regulate with respect to noise;

**AND WHEREAS** noise by-laws enacted under section 129(1) of the Municipal Act, 2001 are no longer subject to Ministry of Environment approval;

**AND WHEREAS** pursuant to the said Municipal Act, Section 8 (1) and 9 provide that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipalities ability to respond to municipal issues and 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** the Council of The Corporation of the Municipality of Kincardine deems it necessary to repeal and consolidate noise by-laws passed by the former Town of Kincardine and Village of Tiverton, and to establish one noise by-law to be applied to the entire Municipality of Kincardine;

**NOW THEREFORE** the Council of The Corporation of the Municipality of Kincardine **ENACTS** as follows:

1. **INTERPRETATION:**

Definitions In this By-law:

- 1.1 **Commercial Area:** means any area designated as commercial in the existing Zoning By-laws of the Corporation of The Municipality of Kincardine and subsequent amendments thereto.
- 1.2 **Construction** includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, 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 work in connection therewith;
- 1.3 **Construction Equipment** means any equipment or device designed and intended for use in construction, or material handling, including but not limited to, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;
- 1.4 **Conveyance** includes a vehicle or 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;

- 1.5 **Council** means The Council of the Corporation of the Municipality of Kincardine;
- 1.6 **Highway** includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicles;
- 1.7 **Motor Vehicle** includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electric or steam railways, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road building machine within the meaning of the Highway Traffic Act;
- 1.8 **Motorized Conveyance** means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- 1.9 **Municipality** means the land within the geographic limits of The Corporation of the Municipality of Kincardine;
- 1.10 **Noise** means sound that is of such a volume or nature that is likely to disturb the inhabitants of the Municipality;
- 1.11 **Point of Reception** means any point where sound or vibration originating from a location other than that point is received;
- 1.12 **Quiet Zone** means the area within 300 meters of South Bruce Grey Health Centre – Kincardine Site
- 1.13 **Residential Area** means any area designated or complete structure used as residential in the existing Zoning By-laws of The Corporation of the Municipality of Kincardine and subsequent amendments thereto;
- 1.14 **Public Park** means any municipal park in the Municipality of Kincardine; excluding the Municipal Buildings within the park.
- 1.15 **Rural Area** means any area designated as rural or agricultural in the existing Zoning By-laws of The Corporation of the Municipality of Kincardine, and subsequent amendments thereto.

2. **PROHIBITIONS:**

No person shall emit or cause to permit the emission of sound resulting from an act at anytime night or day listed in Schedule A – General Prohibitions and which sound is clearly audible at the point of reception.

3. **PROHIBITIONS BY TIME AND PLACE:**

No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule B – 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. **EXEMPTION:**

4.1 **Public Safety**

Notwithstanding any other provision of this bylaw, it shall be lawful to emit or cause to permit the emission of sound or vibration on connection with emergency measures undertaken:

4.1.1 for the immediate health, safety or welfare of the inhabitants; or

4.1.2 for the sounds or any bell, horn siren or other signaling device associated with any emergency or law enforcement vehicle; or'

4.1.3 where the Municipality, its servants, employees, contractors or agents are carrying out Municipality operations or operating, maintaining, or installing municipally-owned infrastructure, facilities or the like, except for the detonation of explosives; or,

4.1.4 for the noise created by the operation of snow plowing or snow removal equipment or for the clearing of street or sidewalks; or,

4.1.5 for the preservation or restoration of property;

4.1.6 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 purposes.

**5. EXEMPTION OF TRADITIONAL, FESTIVE CULTURAL, RELIGIOUS OR OTHER ACTIVITIES**

5.1 any annual fairs, parades, events or Community Festival duly authorized by Council held on municipal property.

5.2 any sport or recreational events in parks where a permit has been issued by the Municipality authorizing such event and the event complies with all of the conditions of such permit.

5.3 for the ringing or sounding of church bells or chimes.

5.4 the lawful use and detonation of fireworks on the holidays referred to as Victoria Day, Canada and Independence Day (USA) as per existing bylaws within The Municipality of Kincardine, or any higher legislation thereto;

**6. GRANT OF EXEMPTION BY COUNCIL:**

**6.1 Application to Council:**

Despite the provisions of 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 sound or vibration for which he might be prosecuted and Council, by resolution, may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect and any exemption granted shall specify the time period, not in excess of six months during which it is effective and may contain such terms and conditions as Council sees fit.

**6.2 Decision:**

In deciding whether to grant the exemption, Council shall give the applicant and any person opposed to the application an opportunity to be heard and may consider such other matters as it sees fit.

**6.3 Breach:**

Breach by the applicant of any of the terms or conditions of any exemption granted by Council shall render the exemption null and void.

6.4 No person shall breach any terms or conditions of any exemption granted by Council.

**7. SEVERABILITY:**

If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the By-law shall be valid and shall remain in force.

**8. PENALTY:**

Every person who contravenes any provision of this by-law is guilty of an offence and subject to penalty as provided for under the Provincial Offences Act.

9. **BY-LAWS REPEALED:**

Town of Kincardine By-law No. 1987-8 and No. 1991-84, Township of Kincardine By-law No. 86-18, and Village of Tiverton By-law No. 1988-6, be and the same are hereby repealed.

10. **GENERAL:**

- 10.1 That Schedules 'A' & 'B' are attached hereto and form part of this by-law.
- 10.2 That this by-law shall come into full force and effect upon its final passage.
- 10.3 That this by-law may be cited as the "Noise Control By-law"

READ a **FIRST** and **SECOND** time this 14<sup>th</sup> day of May, 2008.

[Redacted Signature]

Mayor

[Redacted Signature]

Deputy Clerk

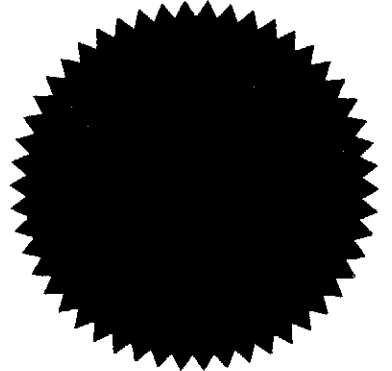
READ a **THIRD** time and **FINALLY PASSED** this 14<sup>th</sup> day of May, 2008.

[Redacted Signature]

Mayor

[Redacted Signature]

Deputy Clerk



**SCHEDULE A**  
**GENERAL PROHIBITIONS**

1. Racing of any motorized conveyance other than in a racing event regulated by law.
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 without an effective exhaust or intake muffling device in good working order and in constant operation.
4. The operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to improperly secured load or equipment, or inadequate maintenance.
5. The operation of an engine or motor in, or on, any motor vehicle or item of attached auxiliary equipment for a continuous period exceeding five minutes, while such vehicle is stationary in a Residential Area or Quiet Zone unless:
  - 5.1 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
  - 5.2 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 or refuse compactors; or
  - 5.3 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
  - 5.4 Prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or
  - 5.5 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.
6. The operation of a motor vehicle horn or other warning device except where required or authorized by law or in accordance with good safety practices.
7. The operation of any item of construction equipment in a Residential Area or Quiet Zone without effective muffling devices in good working order and in constant operation.
8. Persistent barking, whining or other similar persistent noise making by any domestic pet for a prolonged or excessive period of time.
9. The discharge of firearms.

**SCHEDULE B  
PROHIBITED PERIOD OF TIME**

NOISE CREATED FROM THE FOLLOWING ACTIVITIES IS PROHIBITED	PROHIBITED AREA	PROHIBITED TIME OF DAY
The operation of any auditory signaling device, including but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles or the production, reproduction or amplification by electronic means except where required or authorized by law or in accordance with good safety practices.	Quiet Zone ----- Residential ----- Commercial ----- Public Park	At all times ----- All Day Sunday 11:00pm to 7:00am Monday to Saturday ----- All Day Sunday 11:00pm to 7:00am Monday to Saturday ----- 11:00pm to 9:00am Sunday 11:00pm to 7:00am Monday to Saturday
That production of any sound or noise from or created by any radio, television, record player, tape player, CD player, DVD player, amplifier, loud speaker, public address system, musical instrument, which emits sound when the same is played or operated in such manner or with such volume to disturb the peace, quiet, comfort or repose of any person in any dwelling unit, hotel, or other type of residence	Quiet Zone ----- Residential ----- Commercial ----- Public Park	At all times ----- 11:00pm to 9:00am Sunday 11:00pm to 7:00am Monday to Saturday ----- 2:00am to 7:00 am Sunday to Saturday ----- 11:00pm to 9:00am Sunday 11:00pm to 7:00am Monday to Saturday
All selling or advertising by shouting or outcry or amplified sound.	Quiet Zone ----- Residential ----- Commercial ----- Public Park	At all times ----- All day Sunday 11:00pm to 7:00am Monday to Saturday ----- 11:00pm to 7:00am Sunday to Saturday ----- 11:00pm to 9:00am Sunday 11:00pm to 7:00am Monday to Saturday
Loading, unloading, delivering, packing, unpacking or otherwise handling of any containers, products, materials or refuse whatsoever, unless necessary for the maintenance of essential services or the moving of private household effects.	Quiet Zone ----- Residential ----- Commercial ----- Public Park	All day Sunday 7:00pm to 7:00am Monday to Saturday ----- All day Sunday 9:00pm to 7:00am Monday to Saturday ----- 11:00pm to 7:00am Sunday to Saturday ----- All day Sunday 9:00pm to 7:00am Monday to Saturday
The operation of any equipment in connection with construction.	Quiet Zone ----- Residential ----- Commercial ----- Public Park	All day Sunday 7:00pm to 7:00am Monday to Saturday ----- All day Sunday 9:00pm to 7:00am Monday to Saturday ----- All day Sunday 9:00pm to 7:00am Monday to Saturday ----- All day Sunday 7:00pm to 7:00am Monday to Saturday
The operation of a combustion engine which is, or used in , or is intended for use in a toy or model or replica of any device, which has no function other than amusement and which is not a conveyance	Quiet Zone ----- Residential ----- Commercial ----- Public Park	At all times ----- 9:00pm to 9:00am Sunday to Saturday ----- 11:00pm to 9:00am Saturday to Sunday ----- 9:00pm to 9:00am Sunday 9:00pm to 7:00am Monday to Saturday

NOISE CREATED FROM THE FOLLOWING ACTIVITIES IS PROHIBITED	PROHIBITED AREA	PROHIBITED TIME OF DAY
The operation of any motorized conveyance other than on a highway or other place intended for its purpose.	Quiet Zone ----- Residential ----- Commercial ----- Public Park	At all times ----- 11:00pm to 9:00am Sunday 11:00pm to 7:00am Monday to Saturday ----- 11:00pm to 9:00am Sunday 11:00pm to 7:00am Monday to Saturday ----- 11:00pm to 9:00am Sunday 11:00pm to 7:00am Monday to Saturday
The venting, release or pressure relief of air, steam or other gaseous material, product or compound from any autoclave, boiler, pressure vessel, pipe, valve, machine, device or system	Quiet Zone ----- Residential ----- Commercial ----- Public Park	At all times ----- 11:00pm to 9:00 am Sunday 11:00pm to 7:00 am Monday to Saturday ----- 9:00pm to 9:00 am Sunday 9:00pm to 7:00 am Monday to Saturday ----- 9:00pm to 9:00 am Sunday 9:00pm to 7:00 am Monday to Saturday
The operation or use of any powered or non-powered tool for domestic purposes other than snow removal	Quiet Zone ----- Residential ----- Commercial ----- Public Park	11:00pm to 9:00 am Sunday 11:00pm to 7:00 am Monday to Saturday ----- 9:00pm to 9:00 am Sunday 9:00pm to 7:00 am Monday to Saturday ----- 9:00pm to 9:00 am Sunday 9:00pm to 7:00 am Monday to Saturday ----- 9:00pm to 9:00 am Sunday 9:00pm to 7:00 am Monday to Saturday
The operation of solid waste bulk lift or refuse compacting equipment	Quiet Zone ----- Residential ----- Commercial ----- Public Park	7:00pm to 9:00 am Sunday 7:00pm to 7:00 am Monday to Saturday ----- 11:00pm to 9:00 am Sunday 11:00pm to 7:00 am Monday to Saturday ----- 11:00pm to 9:00 am Sunday 11:00pm to 7:00 am Monday to Saturday ----- 11:00pm to 9:00 am Sunday 11:00pm to 7:00 am Monday to Saturday
The operation of any commercial or industrial enterprise not covered by the above items.	Quiet Zone ----- Residential ----- Commercial ----- Public Park	At all times ----- 11:00pm to 9:00 am Sunday 11:00pm to 7:00 am Monday to Saturday ----- 11:00pm to 9:00 am Sunday 11:00pm to 7:00 am Monday to Saturday ----- 11:00pm to 9:00 am Sunday 11:00pm to 7:00 am Monday to Saturday
Yelling, shouting, hooting, whistling or singing	Quiet Zone ----- Residential ----- Commercial ----- Public Park	At all times ----- 11:00pm to 9:00 am Sunday 11:00pm to 7:00 am Monday to Saturday ----- 11:00pm to 9:00am Sunday 11:00pm to 7:00am Monday to Saturday ----- 11:00pm to 9:00 am Sunday 11:00pm to 7:00 am Monday to Saturday