

THE CORPORATION OF THE TOWN OF EAST GWILLIMBURY

BY-LAW NUMBER 2022-018

BEING A BY-LAW TO REGULATE NOISE IN THE TOWN OF EAST GWILLIMBURY

WHEREAS Section 128 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended authorizes a local municipality to prohibit and regulate matters that, in the opinion of Council, are or could become public nuisances;

AND WHEREAS Section 129 of the Municipal Act, 2001 authorizes municipalities to pass by-laws to prohibit and regulate noise;

AND WHEREAS Section 391 of the Municipal Act, 2001 authorizes Council to pass by-laws imposing fees and charges on any class of persons for services or activities provided or done by or on behalf of it;

AND WHEREAS Subsection 398(1) of the Municipal Act, 2001 states that fees and charges imposed by a municipality on a person constitute a debt of the person to the municipality;

AND WHEREAS Section 429 of the Municipal Act, 2001 provides that a municipality may establish a system of fines for an offence under a by-law passed under the Act;

AND WHEREAS Subsection 434.1 of the Municipal Act, 2001 provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that a person has failed to comply with a by-law of the municipality passed under the Municipal Act;

AND WHEREAS Subsection 434.2(1) of the Municipal Act, 2001 provides that an administrative penalty imposed by a municipality on a person constitutes a debt of the person to the municipality;

AND WHEREAS this by-law does not regulate traffic noise;

AND WHEREAS this by-law seeks to achieve an appropriate balance between the quality of life expectations of the residents of the Town of East Gwillimbury and the business operations that support a sustainable local economy;

AND WHEREAS the residents of the Town of East Gwillimbury expect, and have a right to an environment free from excessive sound levels relative to the sound level standards set by this by-law which may degrade to quality and tranquility of their life, disturb or likely to disturb the residents of the Town of East Gwillimbury;

NOW THEREFORE the Council of the Corporation of the Town of East Gwillimbury enacts as follows:

1.0 DEFINITIONS

1.1 In this by-law:

“Administrative Penalty” means a monetary penalty as set out in the Town’s Administrative Monetary Penalty System By-law for a contravention of a designated by-law;

“Aggregate Sites” means a place where sand, gravel, clay, earth, solid bedrock, such as limestone and granite is removed from a pit and/or quarry.

“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;

“Amplified Sound” means Sound made by any electronic device or a group of connected electronic devices incorporating one or more loudspeakers or other electromechanical transducers, and intended for the production, reproduction or amplification of Sounds;

“Appeal Committee” means a Committee that is appointed from time to time by Council.

“Applicant” means any Person who applies in writing to Council for a Permit for an exemption from the provisions and requirements of this by-law;

“Authorized Emergency Vehicle” means any ambulance or hearse, any vehicle of the fire department, or of the local, provincial or federal police, Canada Post, armoured cars carrying cash, and public utility company while actively engaged in the Construction, maintenance or repair of any Highway, or any equipment or facilities thereon, or a snow plough or other maintenance vehicle operated by or for the Ministry of Transportation, the Town or the Region of York;

“Commercial Area” means an area of the Municipality designed for commercial use in the Town’s Zoning By-law;

“Community Event” means a traditional, festive or cultural event which is open to the public, planned and sponsored by the Sharon Temple;

“Construction” means erection, alteration, repairing, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting or concreting, the laying of pipe and conduit whether above or below ground level, street and Highway, building, 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;

“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 drives, pneumatic or by hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, generators, pavers, off Highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;

“Council” means the Council of the Corporation of the Town of East Gwillimbury;

“dB(A)” means the Sound level in decibels obtained when using a Sound level meter with the A-weighting;

“Domestic Animal” means an animal that is housed and fed by a Person and which actually lives in physical proximity to humans, including but not limited to pets such as dogs, cats and birds, guard animals, food species such as chickens, etc.;

“Effective Muffler” means a muffler in good working order and in constant operation to prevent excessive or unusual Noise and excessive smoke, but it does not include a cut-out muffler, straight exhaust, gutted muffler, Hollywood muffler, by-pass or similar device;

“Emergency Situation” means a sudden, generally unexpected occurrence or set of circumstances demanding immediate attention and may include but not limited to, heat and electricity;

“Equivalent Sound Level”, sometimes denoted as Leq, means the value of the constant Sound level which would result in exposure to the same total A-weighted energy as would the specified time-varying Sound, if the constant Sound level persisted over an equal time interval and is measured in dB(A);

“Event” an event open to the public, including a public fair, public exhibition, public celebration, sports event, parade, public concert, festival, carnival, donation station, street dance, residential block party, sidewalk sale, a school board event; or an event not open to the public or an event held at a private residence;

“Farmer” means a Person who is engaged in agrarian business by using land which includes the production or raising of crops, poultry, or livestock;

“Heavy Equipment” means heavy duty vehicles, specially designed for executing Construction tasks associated with works development, including but not limited to earthwork operations or other large Construction tasks;

“Highway” means 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;

“Holiday” means:

- i. New Year’s Day
- ii. Family Day
- iii. Good Friday
- iv. Easter Sunday
- v. Victoria Day
- vi. Canada Day
- vii. Labour Day
- viii. Thanksgiving Day
- ix. Christmas Day

any other public holiday set out in the Retail Business Holidays Act, R.S.O. 1990, c. R30, as amended;

“Industrial Area” means an area of the Municipality designated for industrial use in the Town’s Zoning By-law;

“Inhabitants” means one or more Persons who reside in the Town;

“Leq” means 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;

“Manager” means the Manager, By-law Enforcement Services or his/her designate;

“Motor Vehicle” means an automobile, a motorcycle, a motor-assisted bicycle unless otherwise indicated in the Act, 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 motorized snow vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry or a road building machine within the meaning of the Highway Traffic Act, and yard maintenance equipment;

“Municipality” means the land within the geographic limit of The Corporation of the Town of East Gwillimbury;

“Noise” means any Sound or vibration that is of such a volume or nature that it is likely to disturb any Person in the Town;

“Noise Level in dB(A) Units” means the reading of any precision Sound level meter which meets the International Electrotechnical Commission Publication 651, or NPC Standards or the American National Standards Institute S1.4-1983 or any successor thereto;

“NPC Publication” means a specified publication of the Noise Pollution Control Section of the Pollution Control Branch of the Ministry named in Schedule “B” of this by-law;

“Officer” means a Person appointed by Council as a Municipal Law Enforcement Officer, a Police Officer, or other individual duly appointed to enforce this by-law;

“Operate” means actively engaged in loading, unloading or moving of material at an Aggregate Site;

“Order” means an order issued by the Town requiring a Person to remedy a contravention of this by-law;

“Owner” means the registered Owner of a property, Owner in trust, or a mortgagee in possession, a Person who is managing or receiving the rent of the property, a Person who has control over the property, or an occupant over the age of 18;

“Permit” means any Permit issued by Council for an exemption from the terms and conditions of this by-law, and includes any conditions imposed by Council on the holding of such a Permit;

“Persistent” means occurring intermittently for a total of fifteen (15) minutes over a sixty (60) minute period;

“Person” includes an individual, a corporation, organization, association, a partnership or other legal entity;

“Point of Reception” means any point on the Premises of a Person where Sound or vibration originating from other than those Premises are received;

“Premises” means land and includes the buildings and/or structures thereon;

“Property Maintenance Equipment” shall include but is not limited to lawn mowers, leaf blowers or vacuums, lawn trimmers, chain saws, garden tractors, power sprayers and washers and other equipment powered by gasoline internal combustion engines normally used for or associated to household, lawn and garden maintenance;

“Residential Area” means an area of the Municipality designated for residential use in the Town’s Zoning By-law, which includes land, buildings and structures intended for human habitation;

“Source” means an activity, matter, thing, or tangible personal property or real property, from which Sound or vibration is emitted;

“Sound” the sensation produced by stimulation of the organs of hearing by vibrations transmitted through the air or other medium;

“Sound Amplifying System” means 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;

“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, phonograph or Sound Amplifying System;

“Town” means The Corporation of the Town of East Gwillimbury.

2.0 GENERAL PROHIBITIONS

2.1 No Person shall, at any time, emit, cause or permit the emission of Noise, which Noise is clearly audible at Point of Reception which is likely to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the Inhabitants of the Town.

3.0 PROHIBITIONS BY TIME

3.1 No Person shall emit, cause or permit the emission of any Noise or unusual Sound that disturbs or is likely to disturb any Inhabitant of the Town, which Noise is clearly audible at Point of Reception as outlined in Schedule “A” attached.

4.0 BELLS, HORNS, SHOUTING

4.1 No Person shall ring any bell, Sound any horn, or shout in a manner likely to disturb the Inhabitants of the Town provided that nothing herein contained shall prevent:

- (a) the ringing of bells in connection with any church, chapel, meeting house or religious service;
- (b) the ringing of fire bells or fire alarms or the making of any other Noise for the purpose of giving notice of fire or any other danger or any unlawful act, other than a car alarm, for a continuous period of time of twenty (20) minutes or less; or
- (c) the sounding of a car alarm for a continuous period of time of five (5) minutes or less.

5.0 SOUND REPRODUCTION OR AMPLIFICATION DEVICES

5.1 No Person shall operate or use or cause to be operated any Sound Reproduction Device between 2300 hours of one day and 0700 hours of the next day so as to disturb the peace and comfort of:

- (a) any Person in any dwelling house, apartment house, hotel or other type of residence; or
- (b) any Owner or operator of a business in his or her place of business.

5.2 Despite subsection 5.1, no Person shall operate or use or cause to be operated or used any Sound Reproduction Device so as to disturb the peace and comfort of:

- (a) any Person in any dwelling house, apartment house, hotel or other type of residence before 0900 hours on any Saturday; or
 - (b) any Person in any dwelling house, apartment house, hotel or other type of residence before 1200 hours on any Sunday or a Holiday; or
 - (c) any Owner or operator of a business in his or her place of business before 0900 hours on any Saturday; or
 - (d) any Owner or operator of a business in his or her place of business before 1200 hours on any Sunday or a Holiday.
- 5.3 No Person shall operate or use or cause to be operated or use any Sound Reproduction Device in any dwelling house, apartment house, hotel or other residence between 0700 hours and 2300 hours of the same day, the Noise from which the Sound Reproduction Device:
- (a) is clearly audible in another dwelling within the said residence; and
 - (b) has an Equivalent Sound Level (Leq) greater than 45 dB(A) when measured in another dwelling within the said residence.
- 5.4 No Person shall operate or use or cause to be operated or use any Sound Reproduction Device on any Highway or other public place.
- 5.5 No Person shall operate or cause to be operated or use any Sound Reproduction Device between 0700 hours and 2300 hours of the same day, the Noise from which Sound Reproduction Device has an Equivalent Sound Level (Leq) greater than 55 dB(A) when measured outside of the business, dwelling house, apartment house, hotel or other residence, at or inside the property line of the business Owner or Person whose peace and comfort has been disturbed.
- 5.6 Subsections 5.4 and 5.5 do not apply to prevent:
- (a) the use of Sound Reproduction Devices in the Town's park provided that the user has a Permit from or the written permission of the Town to do so and the user otherwise complies with the provisions of this by-law;
 - (b) the amplification of Sound of the ringing of bells or the playing of chimes in connection with, a church, chapel, meeting house or religious service or the Civic Centre between 0900 hours and 2100 hours of the same day; and
 - (c) the use of musical instruments by street musicians on the Highway or other public place, provided that it does not disturb the peace, enjoyment and comfort or convenience of individuals or the public.
- 5.7 No Person shall operate or cause to be operated a vehicle radio, stereo, amplifier, speaker or other similar device on or in a vehicle that is clearly audible at least 8 m from the vehicle.
- 5.8 For the purposes of confirming a violation, an assessment of Noise complaints may be undertaken at the Point of Reception.

6.0 AIR CONDITIONERS, HEAT PUMPS, COMPRESSORS, CONDENSERS, CHILLERS, COOLING TOWERS AND SIMILAR DEVICES

6.1 No Person shall use or operate or cause to be used or operated any air conditioner, heat pump, compressor, condenser, chiller, cooling tower or similar device, the Noise from which has a level greater than 50 dB(A) when measured at the Point of Reception.

7.0 EXHAUST FAN, EXHAUST SYSTEM, INTAKE FAN, GENERATORS, COMMERCIAL DRYER OR SIMILAR DEVICE

7.1 No Person shall use or operate or cause to be used or operated any exhaust fan, exhaust system, intake fan, generators, a dryer in a commercial car wash or similar device which includes combustion exhaust of a high efficiency furnace, the Noise from which has a level great than 50 dB(A) when measured at the Point of Reception.

7.2 Subsection 7.1 does not apply to a Person using or operating a portable generator in a Residential Area in an Emergency Situation.

8.0 PUMP OR FILTRATION SYSTEMS

8.1 No Person shall use or operate or cause to be used or operated any pump, filtration system or similar device for an outdoor swimming pool, hot tub, swim spa, spa fountain or water feature, the Noise from which has a level greater than 50 dB(A) when measured at the Point of Reception.

9.0 POWER EQUIPMENT

9.1 No Person shall operate or cause to be operated any power equipment such as chainsaws, power lawnmowers, leaf blowers, power tools or other similar devices, between 2100 hours of one day and 0700 hours of the next day, the Noise from which disturbs or tends to disturb the Inhabitants of the neighbourhood, or Persons in the vicinity.

9.2 Despite subsection 9.1, no Person shall operate or cause to be operated any power equipment before 0900 hours on any Sunday or a Holiday.

9.3 Subsections 9.1 and 9.2 do not apply to a Person operating power equipment used for the purpose of maintaining a golf course.

10.0 HEAVY EQUIPMENT

10.1 No Person shall use or operate or cause to be used or operated high vacuum (H-Vac) devices, street sweeping equipment or other similar devices between 1900 hours of one day and 0700 hours of the next day, the Noise from which disturbs or tends to disturb the Inhabitants of the neighbourhood, or Persons in the vicinity, unless authorized by the Town.

10.2 Despite subsection 10.1, no Person shall operate Heavy Equipment associated with Construction on Saturday, Sunday, or a Holiday.

11.0 REFUSE COLLECTION

11.1 No Person shall cause or permit the operation of refuse compacting equipment or solid waste bulk lift equipment between 2300 hours of one day and 0700 hours of the next day, so as to make or cause Noises that disturb, or tend to disturb, the Inhabitants of the neighbourhood, or Persons in a Residential Area.

11.2 Despite subsection 11.1, no Person shall cause or permit the loading or unloading of containerized waste before 0900 hours on any Sunday or a Holiday.

11.3 The provisions of subsections 11.1 and 11.2 shall not apply to, municipal waste collection.

12.0 DELIVERIES

12.1 No Person shall cause or permit the delivery of any goods, wares, merchandise or commodities from any vehicle to the Owner, lessee, tenant or occupier of any Premises between 2300 hours of one day and 0700 hours of the next day and which delivery disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood in a Residential Area.

12.2 Despite subsection 12.1, no Person shall cause or permit the delivery of any goods, wares, merchandise or commodities before 0900 hours on any Sunday or a Holiday.

12.3 In line with the Municipal Act, subsection 12.1, does not apply to noise made in connection with deliveries of goods to any of the following:

- (a) retail business establishments;
- (b) restaurant, including bars and cafes;
- (c) hotels and motels;
- (d) good distribution facilities.

13.0 LOADING AND UNLOADING

13.1 No Person shall cause or permit the loading or unloading of any transport truck, commercial vehicle, moving van, or Motor Vehicle between 2300 hours of one day and 0700 hours of the next day so as to make or cause Noises that disturb, or tend to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood in a Residential Area.

13.2 Despite subsection 13.1, no Person shall cause or permit the loading or unloading before 0900 hours on any Sunday or a Holiday.

13.3 In line with the Municipal Act, subsection 13.1 does not apply to noise made in connection with deliveries of goods to any of the following:

- (a) retail business establishments;
- (b) restaurants, including bars and cafes;
- (c) hotels and motels;
- (d) good distribution facilities.

14.0 GENERAL CONSTRUCTION

14.1 No Person shall, between 1900 hours of one day and 0700 hours of the next day, operate or cause to be operated any Construction vehicle or Construction Equipment in connection with the Construction of any building or structure, Highway, motor car, steam boiler or other engine or machine.

14.2 Despite subsection 14.1, no Person shall operate or cause to be operated any Construction vehicle or Construction Equipment before 0900 hours on any Sunday or a Holiday.

15.0 AGGREGATE SITES – OPERATION TIMES NOT REGULATED BY MINISTRY OF NATURAL RESOURCES AND FORESTRY

15.1 No Person shall between 1900 hours of one day and 0700 hours of the next day, Operate or cause to be Operated an Aggregate Site where operations times are not regulated by the Ministry of Natural Resources and Forestry.

15.2 Despite subsection 15.1, no Person shall Operate or cause to be Operated an Aggregate Site not regulated by the Ministry of Natural Resources and Forestry before 0700 hours or after 1300 hours on a Saturday.

15.3 Despite subsection 15.1 and 15.2, no Person shall Operate or cause to be Operated an Aggregate Site on a Sunday or a Holiday.

16.0 MUFFLERS

16.1 No Person shall discharge into the open air, on any property other than a Highway, the exhaust of any Motor Vehicle except through an Effective Muffler or other device which effectively prevents loud or explosive Noises.

17.0 UNNECESSARY MOTOR VEHICLE NOISE

17.1 No Person while on private property shall emit or cause or permit the emission of Noise resulting from the unnecessary operation of a Motor Vehicle such as the sounding of a horn, revving of an engine, squealing of tires, banging, clanging or any similar sound that is clearly audible at a Point of Reception in a Residential Area.

17.2 No Person while on private property shall emit or cause or permit the emission of Noise resulting from the operation of a vehicle with a trailer resulting in banging, clanking, squealing or other like Noises that is clearly audible at a Point of Reception in a Residential Area.

17.3 No Person shall emit or cause or permit the emission of Noise resulting from the repair, rebuilding, modifying or testing of a vehicle if the Noise is clearly audible at a Point of Reception in a Residential Area from 2100hrs until 700hrs.

18.0 IDLING MOTOR VEHICLES

18.1 No Person shall operate or permit the operation of an engine or motor in, or on, any Motor Vehicle or item of attached auxiliary equipment for a continuous period exceeding three (3) minutes while such vehicle is stationary, except:

- (a) the continuous operation of the engine or motor is essential to the basic function of the vehicle or equipment; or
- (b) 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 mix concrete trucks, lift platforms and refuse compactors; or
- (c) 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.

19.0 ANIMALS

19.1 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.

20.0 GENERAL EXEMPTIONS

20.1 Notwithstanding any other provisions of this by-law, this by-law does not apply to a Person who emits, causes or permits the emission Noise or vibration in connection with:

- (a) measures undertaken in an emergency for the immediate health, safety or welfare of persons and animals;
- (b) measures undertaken in an emergency for the preservation or restoration of property;
- (c) the operation of Authorized Emergency Vehicles;
- (d) the operation of bells utilized as traffic control devices including bells and other devices at traffic signal locations and bells at railway crossing;
- (e) the ringing or sounding of church bells or chimes;
- (f) the activities of snow plowing and/or snow removal;
- (g) measures undertaken where the Town, its servants, employees, contractors or agents are carrying out Town operations or operating,

- maintaining or installing Municipality-owned infrastructure, facilities or the like;
- (h) non-emergency Construction, reconstruction or repair of any regional, provincial or federal public works including the Construction, reconstruction or repair of a public Highway provided the Town has approved and been given advanced written notice of the hours to be worked if outside the permitted Construction hours;
 - (i) any Community Event sponsored by the Sharon Temple;
 - (j) the activities of road or bicycle races, parades, entertainment activities in public parks or neighbourhood social activities when such Events are approved by the Town and such activity or Event is in compliance with the conditions set by the Town in approving such activity or Event;
 - (k) sports or recreational activities or Events in public or private parks, playground, schoolyard, or recreational centre approved by the Town between 0800 hrs. and 2300 hrs.;
 - (l) the lawful detonation of fireworks or similar explosive devices, as per the Town's Fireworks By-law, as amended, or any successor legislation thereto;
 - (m) normal farm practices, including Agricultural Processing or other farm activity for food crop seeding, chemical spraying or harvesting, carried on by a Farmer but not including the use of sound bangers and other similar equipment or devices; and
 - (n) Construction or an Event for which a Permit has been issued, but only if the terms and conditions of the Permit are complied with.

20.2 Notwithstanding any other provision of this by-law, this by-law shall not apply where a Sound is from a facility that has been designed, developed, built, operated and maintained 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, where such approval addresses Sound as a Source of contamination or an order or permit has been issued under the Environmental Protection Act that addresses the Sound as a Source of contamination.

21.0 EXEMPTIONS BY APPLICATION

- 21.1 Notwithstanding any other provision of this by-law, any Person may make an application to Council for an exemption to any provision of this by-law with respect to any Noise to allow such Persons to emit, cause or permit such Noise for the period of time set out in such Application for exemption. Council may:
- (a) grant the request exemption, with or without conditions;
 - (b) refuse to grant the requested exemption; or
 - (c) grant the requested exemption to a greater or lesser extent with or without conditions.
- 21.2 Any exemption granted shall specify the period of time during which it is in effect and may contain such terms and conditions as Council deems fit.

- 21.3 The exemption application shall be filled out in the prescribed form as approved by the Town and shall be accompanied by the non-refundable application fee in the Fees and Charges By-law.
- 21.4 An application for an exemption from the provisions of this by-law shall be made in writing and shall include the following:
- (a) the Applicant's name, address, and other prescribed contact information;
 - (b) the description of the Source of Noise or vibration in respect of which exemption is sought;
 - (c) the date(s), time(s) and location(s) of the Event or other activity for which the exemption is being sought;
 - (d) the Applicant's reason for requesting the exemption;
 - (e) the name, address and other prescribed contact information for the Person(s) who will be supervising the Event or activity for which the exemption is being sought;
 - (f) a statement of steps, if any, planned or presently being taken to minimize the Noise;
 - (g) a non-refundable application fee, as set out in the Town's Fee and Charges By-law; and
 - (h) any other prescribed information on the application form.
- 21.5 Notwithstanding any other provision of this by-law, for an Event an exemption application shall be completed in accordance with the provisions of this by-law and submitted to the Manager at least sixty (60) days prior to the Event for which the exemption is being sought.
- 21.6 Any breach of the terms or conditions of the exemption granted by Council, or any error or omission in the information provided to the Town pursuant to subsection 21.4 of this by-law shall immediately render the exemption null and void.
- 21.7 The decision of Council to issue an exemption, to refuse to issue an exemption, or to set terms and conditions for an exemption, is final and binding.

22.0 AMBIENT SOUND LEVEL MEASUREMENT

- 22.1 When a standard sound equivalent level (dBA) test cannot be used because ambient noise exceeds the maximum noise limit established for the device, vehicle, or equipment to be measured, a differential reading may be used to isolate the level of noise contributed by the device, vehicle, or equipment in question as follows:
- (a) a noise level reading shall be taken when the device, vehicle or equipment is not in operation;
 - (b) a noise level reading shall be taken when the device, vehicle or equipment is in operation; and

- (c) where the noise level reading calculated in paragraph (b) exceeds the noise level reading calculated in paragraph (a) by 5 dB(A) or more, a noise violation exists.

22.2 No Person shall use or operate or cause to be used or operated any device, vehicle or equipment, the noise from which has a level greater than 5 dB(A) above ambient noise levels, provided that the ambient noise levels are greater than the specified maximum level for the device, vehicle or equipment in question.

23.0 POWERS OF ENTRY

23.1 An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether the following are being complied with:

- (a) this by-law;
- (b) a direction or order made under the Act or this by-law; or
- (c) a condition of a Noise exemption granted under this by-law.

24.0 ORDER TO DISCONTINUE ACTIVITY

24.1 An Officer may issue an Order requiring any Person to discontinue a contravention of the by-law.

24.2 An Order under this section shall identify:

- (a) the location of the Property on which the contravention occurred;
- (b) the reasonable particulars of the contravention of the by-law; and
- (c) the date and time by which there must be compliance with the Order.

24.3 An Order under this section may be given orally or in writing and if in writing, may be served personally on the Person to whom it is directed or sent by regular mail to the last known address of that Person. If the Order is delivered by regular mail to the last known address of that Person, it shall be deemed to have been received on the fifth day after it is mailed. An affidavit of service shall be admissible in evidence in any proceeding as proof of service of mailing of the Order.

24.4 A Person in receipt of an Order shall comply with the requirements of the Order.

25.0 REMEDIAL ACTION

25.1 If a Person fails to comply with an Order, the Manager, or Persons acting upon his or her instructions, may enter the lands at any reasonable time for the purposes of doing the things described in the order at the property Owner's expense.

25.2 The Town may recover the remedial action and enforcement cost incurred under subsection 25.1 of this by-law by legal action and/or by adding them to the tax

roll and collecting them in the same manner as property taxes in accordance with section 446 of the Municipal Act.

26.0 PENALTY PROVISIONS

- 26.1 Every Person who contravenes any of the provisions of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.
- 26.2 Upon conviction, any fine imposed under this by-law may be collected under the authority of the Provincial Offences Act, as amended.
- 26.3 Every Person who is guilty of an offence under this by-law shall be subject to the following penalties:
- (a) upon a first conviction, shall be liable to a fine of not less than \$350.00 and not more than \$50,000.00;
 - (b) upon a second or subsequent conviction for the same offence, to a fine of not less than \$500.00 and not more than \$100,000.00;
 - (c) upon conviction for a continuing offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00 for each day of part of a day that the offence continues;
 - (d) upon conviction for multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00.
- 26.4 For the purpose of this by-law, “multiple offences” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this by-law.
- 26.5 For the purpose of this by-law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.

27.0 CONTINUATION, REPETITION PROHIBITED BY ORDER

- 27.1 The court in which the conviction has been entered, and any court of competent jurisdiction, thereafter, may make an order prohibiting the continuation or repetition of the offence by the Person convicted, as such order shall be in addition to any other penalty imposed on the Person.

28.0 ADMINISTRATIVE PENALTIES

- 28.1 Instead of laying a charge under the Provincial Offences Act, as amended, for breach of any provision of this by-law, an Officer may issue an Administrative Penalty to the Person who has contravened this by-law.

- 28.2 The Officer has the discretion to either proceed by way of an Administrative Penalty or a charge laid under the Provincial Offences Act. If an Administrative Penalty is issued to a Person for the breach, no charge shall be laid against that same Person for the same breach.
- 28.3 The amount of the Administrative Penalty for a breach of a provision of this by-law, issued under this by-law, is fixed as set out in an Administrative Penalty By-law as amended, or any successor by-law.
- 28.4 A Person who is issued an Administrative Penalty shall be subject to the procedures as provided for in an Administrative Penalty By-law, as amended, or any successor by-law.
- 28.5 An administrative penalty imposed on a Person pursuant to this by-law that is not paid within 15 days after the day it becomes due and payable, constitutes a debt of the Person to the Municipality and may be added to a municipal tax roll and collected in the same manner as municipal taxes.

29.0 COLLECTION OF UNPAID FINES

- 29.1 Where a fine is in default, the Municipality may proceed with civil enforcement against the Person upon whom the fine has been imposed, pursuant to the Provincial Offences Act.
- 29.2 The Municipality may make a request to the treasurer of a local municipality to add any part of a fine that is in default to the tax roll for any Property in the local municipality for which all the Owners are responsible for paying the fine, and collect it in the same manner as municipal taxes.

30.0 ENFORCEMENT

- 30.1 The provisions of this by-law may be enforced by an Officer.
- 30.2 An Officer who has reasonable grounds to believe that a Person has contravened any provision of this by-law may require that Person to provide their identification to the Officer.
- 30.3 Every Person who is required by an Officer to provide identification under subsection 30.2 shall identify themselves to the Officer. Giving their correct name, date of birth, and address shall constitute sufficient identification. Failure to provide sufficient identification shall constitute obstruction of the Officer as set out in subsection 31.2.

31.0 OFFENCES

- 31.1 Any Person who contravenes or fails to comply with any provision of this by-law, an Order, Work Order, or any other order issued pursuant to this by-law is guilty of an offence.
- 31.2 No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under this by-law.
- 31.3 No Person shall fail to comply with any condition or term of any Order, Work Order, or any other order issued under this by-law. If there is a contravention of any provision of this by-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be continuing offence for each day or part of a day that the contravention remains uncorrected.

32.0 VALIDITY AND SEVERABILITY

- 32.1 If any provision or part of this by-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the by-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.
- 32.2 Where the provisions of this by-law conflict with the provisions of any other by-law or Act, the more restrictive provisions shall apply.
- 32.3 Schedule "A" and "B" and any NPC Publications annexed hereto are hereby declared to form part of this by-law.

33.0 APPLICABILITY AND SCOPE

- 33.1 The provisions of this by-law apply to all noise within the Town of East Gwillimbury.
- 33.2 Despite subsection 33.1, Schedule "B" list Ministry NPC Publications that inform of various provisions included in this by-law, as well as a detailed regulation of Noise that is outside of the Town's jurisdiction. This by-law does not apply to Noise that falls explicitly under provincial jurisdiction and for which regulation is prescribed by Ministry NPC Publications.
- 33.3 Despite 33.1, in line with the Municipal Act, this by-law does not apply to noise made in connection with deliveries of goods to any of the following:
- a) retail business establishments;
 - b) restaurant, including bars and cafes;
 - c) hotels and motels;
 - d) good distribution facilities.

34.0 SHORT TITLE

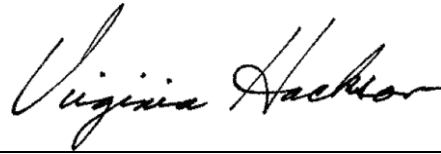
34.1 This by-law may be cited as the "Noise Control By-Law".

35.0 ENACTMENT

35.1 This by-law shall come into force and effect on the date of its passing and enactment.

35.2 That By-law #2004-80 and all amendments thereto are hereby repealed in their entirety.

ENACTED and PASSED this 8th day of March, 2022.



Virginia Hackson, Mayor



Tara Lajevardi, Municipal Clerk

SCHEDULE A**By-law 2022-018: Noise Prohibitions by Time**

Notwithstanding any other provisions of this by-law, the following Noises shall be deemed to be Noises likely to disturb any Person in the Town if clearly audible at a Point of Reception within a time period as shown:

Description of Sound	Restricted Time Period
A. The operation of a radio, television, stereo or other electronic device including any amplification device, or any musical or other Sound producing instrument.	23:00 hrs. of one day to 07:00 hrs. next day (9:00 hrs. on Saturdays and 12:00 hrs. on Sundays and Holidays)
B. Playing any musical instrument or group of musical instruments.	23:00 hrs. to 07:00 hrs. next day (09:00 hrs. on Saturdays and 12:00 hrs. on Sundays and Holidays)
C. Yelling, shouting, hooting, whistling, singing or the like.	19:00 hrs. to 07:00 hrs. next day (09:00 hrs. on Sundays and Holidays)
D. The operation of a dirt bike, all-terrain cycle, snowmobile, go-cart, dune buggy, trail bikes or like Conveyance.	23:00 hrs. to 07:00 hrs. next day (09:00 hrs. on Sundays and Holidays)
E. The operation of a commercial car wash with air drying equipment.	23:00 hrs. to 07:00 hrs. next day (09:00 hrs. on Sundays and Holidays)
F. The operation of commercial car wash without air drying equipment.	23:00 hrs. to 07:00 hrs. next day (09:00 hrs. on Sundays and Holidays)
G. Loading, unloading, packing, unpacking, delivering or otherwise handling any container, product or material unless necessary for the maintenance of essential services.	23:00 hrs. to 07:00 hrs. next day (09:00 hrs. on Sundays and Holidays)
H. The operation of any Construction Equipment in connection with Construction.	19:00 hrs. to 07:00 hrs. next day (09:00 a.m. on Sundays and all day on Holidays)
I. The operation of any Heavy Equipment in connection with Construction.	19:00 hrs. to 07:00 hrs. next day. all day Saturday, Sundays and Holidays
J. The operation of any Property Maintenance Equipment other than snow removal.	21:00 hrs. to 07:00 hrs. next day (09:00 hrs. on Sundays and Holidays)
K. The operation of a combustion engine for a toy or a replica of a larger device such as a remote-controlled toy airplane.	21:00 hrs. to 07:00 hrs. next days (09:00 hrs. on Sundays and Holidays)

L. The operation of waste collection machinery or refuse compacting equipment.	21:00 hrs. to 07:00 hrs. next day (09:00 hrs. on Sundays and Holidays)
M. All selling or advertising by shouting or outcry or Amplified Sound.	19:00 hrs. to 07:00 hrs. next day and all day Sundays and Holidays
N. Discharge of firearms in a permitted area.	19:00 hrs. to 07:00 hrs. next day (09:00 hrs. on Sundays) If legally hunting, firearms may be discharged half hour before sunrise to half hour after sunset as per the MNR hunting regulations.
O. 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; or unless required in accordance with good safety practices.	19:00 hrs. to 07:00 hrs. next day (09:00 hrs. on Sundays)
P. Discharge of fireworks contrary to Fireworks By-law.	at any time
Q. Persistent barking, calling or whining or other similar Persistent Noise making by any domestic pet.	at any time
R. The operation of snow making equipment.	at any time
S. The operation of a sound emitting pest control device.	at any time
T. The detonation of explosives.	at any time

SCHEDULE B**By-law 2022-018: Index of NPC Publications**

NPC Publication-101	Technical Definitions Publication
NPC Publication-102	Instrumentation
NPC Publication-103	Procedures
NPC Publication-104	Sound Level Adjustments
NPC Publication-115	Construction Equipment
NPC Publication-117	Domestic Outdoor Power Tools
NPC Publication-118	Motorized Conveyances
NPC Publication-119	Blasting
NPC Publication-206	Road Traffic
NPC Publication-216	Residential Air Conditioners
NPC Publication-300	Stationary and Transportation Sources