

THE CORPORATION OF THE TOWN OF DESERONTO

BY-LAW NO. 51 -17

A BY-LAW TO CONTROL NOISE

WHEREAS the Municipal Act R.S.O. 2001, c.M.25, Section 128 provides that a municipality may prohibit and regulate with respect to public nuisances that are or cause public nuisances;

AND WHEREAS the Municipal Act R.S.O. 2001, c.M.25, section 129, provides that a municipality may prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination;

AND WHEREAS the Council of The Corporation of The Town of Deseronto deems it expedient to regulate noise;

NOW THEREFORE the Council of The Corporation of The Town of Deseronto enacts as follows:

1. **DEFINITIONS**

In this by-law,

- (a) "Clerk" means the Clerk for The Town of Deseronto;
- (b) "Construction" includes erecting, altering, repairing, maintaining, painting, dismantling or demolishing any building or structure, and moving, land clearing, grubbing, tree removal, earth moving, grading, excavating, operating an construction equipment, blasting and detonation of explosive devices other than fireworks, the laying of pipe and conduit whether above or below ground level, street and highway building, concreting, equipment installation and alteration and the structural installation of construction components and materials in any form or for any purpose, and includes any associated or related work;
- (c) "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, trucks, ditchers, compactors and rollers, pumps, concrete mixers, or graders;
- (d) "Council" means the Council of The Corporation of the Town of Deseronto;
- (e) "Emergency" means a situation or an 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.
- (f) "Emergency Vehicle" includes a land ambulance, an air ambulance, a fire department vehicle, a police vehicle, and any motor vehicle being used to respond to an emergency;
- (g) "Firearms" shall include any type of firearm and other weapon as defined under the Firearms Act, Part III of the Criminal Code and the related regulations;
- (h) "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 and includes the un-

travelled portion of the highway;

- (i) "Holiday" means a day that is declared a public holiday as defined in the Retail Business Holidays Act, R.S.O. 1990, Chapter. R.30;
- (j) "Motor Vehicle" includes a vehicle or other device employed to transport a person or goods from place to place propelled or driven by any means other than by muscular power, including but not limited to an automobile, bus, truck, motorcycle, motor assisted bicycle or trailer but does not include a motorized snow vehicle, traction engine, farm tractor, other farm vehicle or road-building machine;
- (k) "Motorized Conveyance" means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- (l) "Municipality" means the land within the geographic limit of The Town of Deseronto;
- (m) "Municipal Service Vehicle" means a vehicle operated by or on behalf of The Town of Deseronto 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;
- (n) "Noise" means sound that is likely to disturb any person, or that is likely to interfere with the reasonable use and enjoyment of a premise or residence;
- (o) "Person" includes a corporation as well as an individual;
- (p) "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;
- (q) "Provincial Offences Officer" means an individual appointed by by-law or other agencies designated by Council who are responsible for the administration of this by-law;
- (r) "Residence" means a room, suite of rooms, or dwelling, including a mobile trailer, operated as a housekeeping unit that is used or intended to be used as a separate domicile by one or more persons, and that normally contains cooking, eating, living, sleeping and sanitary facilities;
- (s) "Town" means The Corporation of The Town of Deseronto; and
- (t) "Vehicle" includes a motor vehicle and any motorized conveyance.

2. GENERAL PROHIBITIONS

2.1 No person shall, at any time, make, cause or permit the making of noise within the Municipality, which is audible to:

- i) A person in a premises or a vehicle other than the premises or vehicle from which the noise is originating; or
- ii) A person in a residence other than the residence from which the noise is originating; or
- iii) Is an activity in Schedule 1 of this by-law.

3. PROHIBITIONS BY TIME AND PLACE

3.1 No person shall emit, cause or permit the making of noise by engaging in an activity or cause and permit an activity listed in column one of Schedule 2 to this by-law to occur:

- i) during the hours specified in column two.

4. EXEMPTIONS FOR PUBLIC SAFETY

4.1 The prohibitions described in Sections 2 and 3 do not apply if the noise is the result of measures undertaken in an emergency for the:

- i) immediate health, safety or welfare of the inhabitants of the Municipality or other persons; or,
 - ii) preservation or restoration of property;
- unless the noise is of a longer duration or of a more disturbing nature than is reasonably necessary to deal with the emergency.

5. ADMINISTRATION

5.1 The Clerk or his or her designate, is responsible for the administration of this by-law.

5.2 All Provincial Offences Officers with authority to enforce the by-laws of the Town are responsible for enforcing the provisions of this by-law.

5.3 Any person may submit an application to the Clerk requesting an exemption from any of the prohibitions described in Sections 2 and 3 and Council hereby delegates to the Clerk or his or her designate, the authority to process any such application and to approve, reject or approve with conditions an exemption.

5.4 Grant of Exemption

Upon receipt of a written application for Grant of Exemption to this by-law, the Clerk may refuse to grant any exemption or may grant the exemption applied for. 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 the Clerk determines to be appropriate.

5.5 The Clerk shall consider all applications for exemption and shall only grant an exemption, or an exemption on conditions, where:

- i) the request is necessary and in the public interest;
- ii) the proposed mitigation measures are appropriate;
- iii) the duration of the requested exemption is reasonable.

5.6 Details of Application of Exemption

The application mentioned in subsection 5.4 shall contain:

- (i) the name and address of the applicant;
- (ii) a description of the source of sound or vibration in respect of which exemption is sought;
- (iii) a statement of the particular provision or provisions of the by-law from which exemption is sought;
- (iv) the period of time, of a duration not in excess of six months, for which the exemption is sought;
- (v) the reasons why the exemption should be granted; and

(vi) a statement of the steps, if any, planned or presently being taken to bring about compliance with the by-law.

5.7 Breach

Breach by the applicant of any of the terms or conditions of the exemption shall render the exemption null and void and is an offence under this by-law.

6. EXEMPTION – NORMAL FARM PRACTICES

This by-law shall not apply to a person who emits or causes or permits the emission of noise in connection with normal farming practices within the meaning of the *Farming and Food Production Protection Act, 1998, S.O. 1998, c.1* as amended, and the *Livestock, Poultry and Honey Bee Protection Act, R.S.O. 1990, c.L.24*, as amended.

7. VALIDITY

If a court of competent jurisdiction declares any provision, or part of a provision, of this by-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this by-law that each and every provision of this by-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

8. PENALTY

Every person who contravenes any of the provisions of this by-law is guilty of an offence and, upon conviction, is subject to a fine as provided in the *Provincial Offences Act* and to any other applicable penalties.

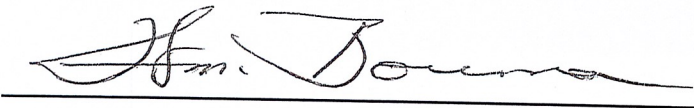
9. Schedules "1", "2" and "3" are attached to and form part of this by-law.

10. By-law 21-07 and any other by-law or portion thereof conflicting with this by-law is hereby repealed.

11. This by-law shall come into force and take effect upon approval of set fines by the Ministry of the Attorney General.

ENACTED AND PASSED THIS 28TH DAY OF NOVEMBER, 2017

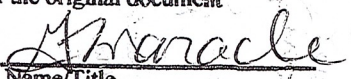

MAYOR


CLERK



I certify this to be a true and accurate copy of the original document

Dec 19, 2017
Date


Name/Title
G. Maracle
Deputy Clerk

SCHEDULE I TO BY-LAW 51-17

GENERAL PROHIBITIONS

1. Racing of any motorized conveyance other than in a racing event regulated by law.
2. The operation of a motorized conveyance in such a way that the tires squeal.
3. The operation of any combustion engine or pneumatic device without an effective exhaust muffling device that is in good working order and in constant operation.
4. The operation of a vehicle in a manner that results in banging, clanking, squealing or similar sounds because of inadequate maintenance or an improperly secured load.
5. The operation of an engine or motor in, or on, any vehicle or item of attached auxiliary equipment for a continuous period exceeding five minutes while such vehicle is stationary in a designated area, unless:
 - (i) The vehicle is in an enclosed structure constructed so as to effectively prevent the emission of noise;
 - (ii) 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
 - (iii) continuous operation of the 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 platform or refuse compactors and heat exchange systems during normal operation; or
 - (iv) weather conditions justify the use of heating or refrigeration systems powered by the motor or engine for the safety and welfare of the operator, passengers, animals, or the preservation of perishable cargo, and the vehicle is stationary for purposes of delivery or loading; or
 - (v) prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or
 - (vi) the idling is for the purpose of cleaning and flushing radiator and associated circulation system for seasonal change of antifreeze, cleaning of the fuel system, carburetor or similar work, when such work is performed other than for profit.
6. The operation of any item of construction equipment in a designated area without an effective muffling device in good working order and in constant operation.
7. The operation of an air conditioner, pool pump or filter, heat pump, ventilation or exhaust fan or similar equipment that is not in proper working order.

SCHEDULE 2 TO BY-LAW 51-17

PROHIBITIONS BY TIME AND PLACE

ACTIVITY	PROHIBITED PERIOD OF TIME
<u>Column 1</u>	<u>Column 2</u>
1. The operation of any auditory signaling device, including but not limited to the ringing of bells or gongs or 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.	24 Hours
2. The operation of any electronic device or 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.	24 Hours
3. All selling or advertising by shouting or outcry or amplified sound.	24 Hours
4. Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials, or refuse whatsoever, unless necessary for the maintenance of essential services or the moving of private household effects.	9 PM – 6 AM daily and 24 Hours on Sunday and holidays
5. The operation of any equipment in connection with construction.	8 PM – 7 AM daily and 24 Hours on Sunday and holidays
6. The operation of any equipment in connection With detonation of explosive device	6 P.M. – 8 A.M.
7. The discharge of firearms	24 Hours
8. The operation of any powered rail car including but not limited to refrigeration cars, locomotives or self-propelled passenger cars, while stationary on property not owned or controlled by a railway.	9 PM to 6 AM Daily and 24 Hours on Sunday
9. The operation of any motorized conveyance other than on a highway or other place intended for its operation.	11 PM – 7 AM
10. 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	9 PM to 6 AM Daily and 24 Hours on Sunday

11. Barking, calling, whining or other similar noise made by any domestic pet or any other animals kept or used for any purpose other than agriculture.	24 Hours
12. The operation of any powered or non-powered tool for domestic purposes other than snow removal.	9 PM to 7 AM daily and 9 PM Saturday to 9 AM Sunday
13. The operation of a solid waste bulk lift or refuse compacting equipment.	9 PM to 7 AM daily and 24 hours Sunday.
14. The operation of a commercial car wash with air drying equipment.	9 PM to 7 AM daily
15. Persistent yelling, shouting, hooting, whistling or singing.	24 hours
16. The operation of a power assisted hang glider or parafoil.	24 hours

SCHEDULE 3 TO BY-LAW 51-17

EXEMPTIONS TO THE NOISE BY-LAW PROHIBITIONS

The following sources or activities are considered by Council to be exempt from the provisions of this By-law:

1. Any race, parade, procession or events for ceremonial, religious or traditional purposes that have been authorized by Council.
2. The use of bells or chimes normally associated with church activities.
3. Any midway, circus or fair when authorized by Council.
4. Any supervised activity, when authorized by Council.
5. Fireworks Displays on holidays.
6. Any sporting, recreational or entertainment event in public parks or buildings between 8 A.M. and 11 P.M.
7. The operation of emergency vehicles.
8. The operation of municipal service vehicles and related equipment.
9. Agricultural activities on agricultural properties.
10. This by-law shall not apply to a Provincial Offences Officer carrying out normal duties.

THE CORPORATION OF THE TOWN OF DESERONTO
PART 1 *Provincial Offences Act*

By-Law # 51-17, Noise Bylaw

Page # 1

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Emit/cause/permit noise by racing a motorized conveyance	Section #2.1 (iii) Schedule 1, paragraph 1	\$100.00
2	Emit/cause/permit noise by operating a motor vehicle in a way that the tires squeal	Section #2.1 (iii) Schedule 1, paragraph 2	\$100.00
3	Emit/cause/permit noise by operation of any combustion engine pneumatic device without and effective exhaust or intake muffling device	Section #2.1 (iii) Schedule 1, paragraph 3	\$100.00
4	Emit/cause/permit noise by operation of a vehicle resulting in banging clanking squealing or similar sounds due to improperly secured load	Section #2.1 (iii) Schedule 1, paragraph 4	\$100.00
5	Emit/cause/permit noise by operation of an engine or motor in, or on, any vehicle or item of attached auxiliary equipment exceeding five minutes when vehicle is stationary	Section #2.1 (iii) Schedule 1, paragraph 5	\$100.00

NOTE: Penalty provision for the offences indicated above is Section 8 of By-law No. 51-17, a certified copy which has been filed.

THE CORPORATION OF THE TOWN OF DESERONTO
PART 1 *Provincial Offences Act*

By-Law # 51-17, Noise Bylaw

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ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
6	Emit/cause/permit noise by operation of any construction equipment without an effective muffling device in good working order and in constant operation	Section #2.1 (iii) Schedule 1, paragraph 6	\$100.00
7	Emit/cause/permit noise by operation of an air conditioner, pool pump or filter, heat pump, ventilation or exhaust fan or similar equipment that is not in proper working order	Section #2.1 (iii) Schedule 1, paragraph 7	\$100.00
8	Emit/cause/permit noise by operation of any auditory signaling device at a prohibited time	Section #3.1(i) Schedule 2, paragraph 1	\$100.00
9	Emit/cause/permit the production, reproduction or amplification of sound by electronic means at a prohibited time	Section #3.1(i) Schedule 2, paragraph 1	\$100.00
10	Emit/cause/permit the operation of any electronic device incorporating one or more loudspeakers intended for the production, reproduction or amplification of sound at a prohibited time	Section #3.1(i) Schedule 2, paragraph 2	\$100.00

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11	Emit/cause/permit noise by selling or advertising by shouting or outcry or amplified sound at a prohibited time	Section # 3.1(i) Schedule 2, paragraph 3	\$100.00
12	Emit/cause/permit noise by loading, unloading, deliver, packing or unpacking at a prohibited time	Section #3.1(i) Schedule 2, paragraph 4	\$100.00
13	Emit/cause/permit noise by operation of any equipment in connection with construction at a prohibited time	Section # 3.1(i) Schedule 2, paragraph 5	\$100.00
14	Emit/cause/permit noise by detonation of explosive devices at a prohibited time	Section # 3.1(i) Schedule 2, paragraph 6	\$100.00
15	Emit/cause/permit noise by discharge of a firearm at a prohibited time	Section # 3.1(i) Schedule 2, paragraph 7	\$100.00
16	Emit/cause/permit noise by the operation of any motorized conveyance other than on a highway or other place intended for its use	Section #3.1(i) Schedule 2, paragraph 9	\$100.00

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By-Law # 51-17, Noise Bylaw

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ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
17	Emit/cause/permit noise by venting, releasing of air of other gaseous material from any machine or system at a prohibited time	Section #3.1(i) Schedule 2, paragraph 10	\$100.00
18	Barking, calling, whining or other similar noise made by any domestic pet or other animal kept or used for any purpose other than for agriculture	Section #3.1(i) Schedule 2, paragraph 11	\$100.00
19	Emit/cause/permit noise by operation of a powered or non-powered tool at a prohibited time	Section #3.1(i) Schedule 2, paragraph 12	\$100.00
20	Emit/cause/permit noise by the operation of a solid waste bulk life or refuse compacting equipment	Section #3.1(i) Schedule 2, paragraph 13	\$100.00

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PART 1 *Provincial Offences Act*

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ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
21	Emit/cause/permit noise by operation of a commercial car wash with air drying equipment at a prohibited time	Section #3.1(i) Schedule 2, paragraph 14	\$100.00
22	Persistent yelling, shouting, hooting, whistling or singing at a prohibited time	Section #3.1(i) Schedule 2, paragraph 15	\$100.00

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3	Emit/cause/permit noise by operation of any combustion engine pneumatic device without and effective exhaust or intake muffling device	Section #2.1 (iii) Schedule 1, paragraph 3	
4	Emit/cause/permit noise by operation of a vehicle resulting in banging clanking squealing or similar sounds due to improperly secured load	Section #2.1 (iii) Schedule 1, paragraph 4	
5	Emit/cause/permit noise by operation of an engine or motor in, or on, any vehicle or item of attached auxiliary equipment exceeding five minutes when vehicle is stationary	Section #2.1 (iii) Schedule 1, paragraph 5	

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7	Emit/cause/permit noise by operation of an air conditioner, pool pump or filter, heat pump, ventilation or exhaust fan or similar equipment that is not in proper working order	Section #2.1 (iii) Schedule 1, paragraph 7	
8	Emit/cause/permit noise by operation of any auditory signaling device at a prohibited time	Section #3.1(i) Schedule 2, paragraph 1	
9	Emit/cause/permit the production, reproduction or amplification of sound by electronic means at a prohibited time	Section #3.1(i) Schedule 2, paragraph 1	
10	Emit/cause/permit the operation of any electronic device incorporating one or more loudspeakers intended for the production, reproduction or amplification of sound at a prohibited time	Section #3.1(i) Schedule 2, paragraph 2	

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14	Emit/cause/permit noise by detonation of explosive devices at a prohibited time	Section #3.1(i) Schedule 2, paragraph 6	
15	Emit/cause/permit noise by discharge of a firearm at a prohibited time	Section #3.1(i) Schedule 2, paragraph 7	
16	Emit/cause/permit noise by the operation of any motorized conveyance other than on a highway or other place intended for its use	Section #3.1(i) Schedule 2, paragraph 9	

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18	Barking, calling, whining or other similar noise made by any domestic pet or other animal kept or used for any purpose other than for agriculture	Section #3.1(i) Schedule 2, paragraph 11	
19	Emit/cause/permit noise by operation of a powered or non-powered tool at a prohibited time	Section #3.1(i) Schedule 2, paragraph 12	
20	Emit/cause/permit noise by the operation of a solid waste bulk life or refuse compacting equipment	Section #3.1(i) Schedule 2, paragraph 13	

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