

THE CORPORATION OF THE TOWN OF WASAGA BEACH

BY-LAW NO 2016-97

A BY-LAW TO CONTROL NOISE AND NUISANCE WITHIN THE MUNICIPALITY

WHEREAS Section 8 of the *Municipal Act, 2001*, as amended provides 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 municipality's ability to respond to municipal issues;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, as amended, grants municipalities the capacity, rights, power and privileges of a natural person for the purpose of exercising its authority under the Act;

WHEREAS Section 11(2) of the Municipal Act permits a municipality to pass by-laws respecting the public assets of the municipality, the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property;

AND WHEREAS Section 128 of the Municipal Act permits a municipality to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances;

AND WHEREAS the purposes of this by-law include managing the public assets of the Town, protecting the economic, social and environmental well-being of the Town, supporting the health, safety and well-being of persons in the Town, protecting persons and property in the Town and prohibiting and regulating with respect to public nuisances in the Town;

AND WHEREAS it is recognized that the tourist visitors' enjoyment, along with the lifestyle choices of its residents are key to the economic, social and environmental well-being of this municipality;

AND WHEREAS the Town wishes to ensure that the use of lands within the Town has a minimal adverse impact on the quiet enjoyment of surrounding lands;

AND WHEREAS, in the opinion of Council, the matters addressed in this by-law are, or could become or cause, public nuisances;

NOW THEREFORE, the Council of the Corporation of the Town of Wasaga Beach HEREBY ENACTS as follows:

1. Short Title

This by-law shall be known as the “Noise and Nuisance By-law”.

2. Definitions

2.1 Approved Fireworks Days shall mean those days of the year that are designated by Council where the discharge of fireworks is permissible by residents, including any hours restrictions that may be imposed from time to time; more specifically as set out in Appendix B of the By-law;

2.2 ATV/Off-Road Vehicle shall mean the following types of off-road vehicles:

“**Off-Road Vehicle**” shall mean an off-road vehicle intended for off-road and within the meaning of the *Off-Road Vehicles Act*, and as defined by the *Highway Traffic Act* and or the regulations thereto and includes off road vehicles as defined as follows:

“**all-terrain vehicle**” means an off-road vehicle that,

- a) has four wheels, the tires of which are all in contact with the ground,
- b) has steering handlebars,
- c) has a seat that is designed to be straddled by the driver, and
- d) is designed to carry,
 - (i) a driver only and no passengers, or
 - (ii) a driver and only one passenger, if the vehicle,
 - (A) has one passenger seat that is designed to be straddled by the passenger while sitting facing forward behind the driver, and
 - (B) is equipped with foot rests for the passenger that is separate from the foot rests for the driver;

“**multi-purpose off-highway utility vehicle**” means an off-road vehicle that,

- a) has four or more wheels, the tires of which are all in contact with the ground,
- b) has a steering wheel for steering control,
- c) has seats that are not designed to be straddled, and
- d) has a minimum cargo capacity of 159 kilograms;

“**recreational off-highway vehicle**” means an off-road vehicle that,

- a) has four or more wheels, the tires of which are all in contact with the ground,
- b) has a steering wheel for steering control,
- c) has seats that are not designed to be straddled, and
- d) has an engine displacement equal to or less than 1,000 cubic centimeters;

- 2.3 C.A.O.** shall mean the Chief Administrative Officer of the Town of Wasaga Beach, or his/her designate;
- 2.4 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;
- 2.5 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;
- 2.6 Construction Prohibited Hours** means construction activities, including the use of constructive equipment, must cease from the time set out, in the evening (pm) hours of one day, until the morning (am) hours of the following day. Where a day of the week is “named” (i.e. Sunday) the prohibition refers to the prohibited evening hours (pm) of the previous day (i.e. Saturday) until the morning hours (am) of the “named” day.
- 2.7 Construction Site** means the area or portion of land used for construction or any other area used for any purpose related to the construction or for any related purpose;
- 2.8 Conveyance** includes a vehicle and any other device employed to transport a person or goods from place to place, but does not include any such device or vehicle if operated only within the premises of a person;
- 2.9 Council** shall mean the Council of the Town of Wasaga Beach, at the times relevant;
- 2.10 County** shall mean the County of Simcoe, Ontario Canada;
- 2.11 Drone or Similar Vehicle** shall include any vehicle required to be licensed, whether or not it is licensed, that is capable of aerial flight for any purpose.
- 2.12 Dumping** includes throwing, scattering, dropping, placing or otherwise depositing garbage, rubbish, refuse, yard waste, leaves or debris, except for in a garbage or recycling container intended for such use or placed in

an area for waste collection, and “**Dump**” shall have a corresponding meaning;

- 2.13 Dwelling** shall mean the actual room or rooms of a building that are used as residential accommodations;
- 2.14 Effective Muffler** means an original approved muffler that was installed at the time of manufacture or an equivalent approved replacement muffler in good working order and when in constant operation that prevents excessive or unusual noise or excessive smoke, but it does not include a cut-out muffler, straight exhaust gutted muffler, Hollywood muffler, by-pass or similar device;
- 2.15 General Nuisance** shall include, but not limited to, any public display, words or vocalizations or actions or activities that have the effect of displeasing or offending the average resident, visitor, or by-stander at the specific moment or in the viewing of property and the environment after the nuisance has occurred, whether or not the nuisance action occurred on public lands or from a private land(s) that are clearly visible by persons or the adjacent private or public lands;
- 2.16 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;
- 2.17 Littering** includes throwing, scattering, dropping, placing or otherwise depositing garbage, rubbish, refuse or debris, except in a garbage or recycling container intended for such use and, “**Litter**” shall have a corresponding meaning;
- 2.18 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, farm tractors, self-propelled implement of husbandry or road-building machine within the meaning of the Highway Traffic Act;
- 2.19 Motorized Conveyance** means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- 2.20 Municipality** shall be all lands and waters contained within the boundaries set-out in regulation that constitute the Municipality of the Corporation of the Town of Wasaga Beach, and include any additions or annexations that may occur from time to time;

- 2.21** **Municipal Act** means the *Municipal Act, 2001*, S.O. 2001, c. 25; as amended;
- 2.22** **Municipal Lands** shall be Town Lands;
- 2.23** **Musical Instrument** means any devices that are capable of producing sounds that are activated and controlled by a person;
- 2.24** **Noise** means unwanted sound that is clearly audible at the point of reception;
- 2.25** **Noise Nuisance** Notwithstanding certain sounds are permitted by Appendix "A", any use of sounds that is excessive, alarming, unusual or annoying to a substantial number of residents or visitors or to the community at large, based upon the cumulative considerations of all factors including the nature and frequency of complaints, its audibility at Point of Reception, environmental conditions and any extenuating or aggravated circumstances including any medical conditions;
- 2.26** **Nuisance** shall mean a General Nuisance or Noise Nuisance, Nuisance Event, Nuisance Dust or Nuisance Vibration.
- 2.27** **Nuisance Dust** shall mean the creation and dispersion of particular matter from one property to another that is created by an action or activity of an individual or business that has an adverse effect on the neighbourhood, but shall not include sand carried by winds.
- 2.28** **Nuisance Vibration** shall mean vibration that is likely to disturb the inhabitants at the point of reception.
- 2.29** **Nuisance Event** means a gathering on Premises which, by reason of the conduct of the persons in attendance, results in any one or more of the following activities occurring:
- a) Public disorderly conduct;
 - b) Public drunkenness or public intoxication;
 - c) The unlawful sale, furnishing or distribution of alcoholic beverages or controlled or illegal substances;
 - d) The deposit of refuse on public or private property;
 - e) Damage to or destruction of public or private property;
 - f) Pedestrian traffic, vehicular traffic or illegal parking that obstructs the free flow of traffic or could interfere with the ability to provide emergency services;
 - g) Unreasonable noise, including loud music or shouting, that is of such a volume or nature that it is likely to disturb many inhabitants of the Town;

- h) Unlawful open burning or fireworks discharge;
- i) Public disturbance, including a public brawl or violence; or
- j) Outdoor public urination or defecation;

- 2.30** **Officer(s)** shall mean a Municipal Law Enforcement Officer or an Ontario Provincial Police Officer, and anyone else appointed by Council to administer this By-law;
- 2.31** **Order to Discontinue Activity** shall mean the verbal or written Order of an Officer to stop the contravening activity(s), or to take such actions that will result in compliance with the By-law.
- 2.32** **Order to Perform Work** shall mean the verbal or written Order of an Officer to perform work or works necessary to comply with this by-law.
- 2.33** **Owner** includes the person(s) who own property and includes tenants and persons in control or apparent control of the property at the relevant time(s);
- 2.34** **Point of Reception** means any point on the premises of a person where sound or vibration originating from other than those premises, is received.
- 2.35** **Police Authority** shall mean the Ontario Provincial Police;
- 2.36** **Power Device** is any powered device used in the servicing, maintenance or repair of property except devices driven by muscular power only and snow blowers;
- 2.37** **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;
- 2.38** **Public Place** includes a Highway and any place to which the public has access as of right or by invitation, express or implied, which may include Public Property, and private property that is exposed to public view, but does not include a washroom facility;
- 2.39** **Public Service Box** includes Canada Post Mailboxes, or relay box, newspaper box, Blue Box, Recycle Bins/boxes, Garbage enclosures/bins;
- 2.40** **Residence** shall mean where someone resides;
- 2.41** **Residential Lands** shall mean those lands set out in the Town's Zoning By-law that are designated R1, R2, RE or RM, R4 including any "Holding" variations of same, but does not include lands designated as Tourist Commercial (CT) or Commercial Accommodation (CA);

- 2.42 Senior Municipal Law Enforcement Officer** shall mean the Senior Municipal Law Enforcement Officer of the Town of Wasaga Beach, or his/her designate;
- 2.43 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;
- 2.44 Sound Reproduction Device** means a device intended primarily for the production of reproduction of sound, including, but not limited to, any musical instrument, radio receiver, television receiver, tape recorder, phonograph or sound amplifying system;
- 2.45 Special Event** shall mean where a person has applied to the Town of Wasaga Beach to conduct a Special Event and Council has approved the event, with or without conditions;
- 2.46 Substantial Number of Residents/Visitors/Community at Large** shall mean more than 5 individual property locations and/or 10 or more individual complaints on at least 3 separate properties.
- 2.47 T.A.C.** shall mean a Tourist Accommodation Conversion Property that utilizes more than one unit as a residence on an annual basis or as identified in Appendix "C", and may include a business that is licensed by the Town as a Tourist Accommodation.
- 2.48 Tourist Accommodation** shall mean for the purpose of this By-law those lands set out in the Town's Zoning By-law that are designated CA or CT and are being used for the intended purpose, but does not include such CA or CT zoned lands that possess more than one unit that is utilized as a residence for more than 31 consecutive days;
- 2.49 Town** shall mean the Corporation of the Town of Wasaga Beach;
- 2.50 Town Lands** shall mean all lands owned, leased or under control of the Town and Municipal lands shall have the same meaning;
- 2.51 Unusual Noise** is any sound that is likely to disturb the inhabitants of the Town;
- 2.52 Vibration** shall mean a repetitive motion that causes a surface to transfer energy into another surface, person, or object that is detected by touch, visual or auditory senses.

2.53 Zoning By-law shall mean the Town's most current Zoning By-law, as amended, made pursuant to the Planning Act, R.S.O. Section 34.

3. General Prohibitions- Noise/Sound

3.1 Clearly Audible – Sounds

No person shall within the boundary of the Municipality shall make, cause, emit or permit the emission of sound resulting from an act listed below, which sound is clearly audible at the point of reception.

3.1.1 Racing of any motorized conveyance other than in a racing event regulated by law;

3.1.2 The operation of a motor vehicle in such a way that tires squeal;

3.1.3 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;

3.1.4 The operation of a motorized conveyance or a motorized with a trailer resulting in banging, clanking, squealing or other like sounds, due to improperly secured load or equipment, or inadequate maintenance;

3.1.5 The operation of any horn or other warning device in or on a motorized conveyance except where required by law or in accordance with good safety practices;

3.1.6 The operation of any item of construction equipment without effective muffling devices in good working order and in constant operation;

3.1.7 Sounds- Place & Time Restricted - Appendix "A" attached

a) Notwithstanding the authorizations to make noise that is not a nuisance in Appendix "A" above, where any premises is convicted of two (2) or more violations of emitting or causing to be emitted noises that are likely to disturb the inhabitants or any violation of creating a nuisance, shall lose the right to claim exemptions as set out in Appendix "A" for a period of two (2) years from the date of conviction of the second offence.

b) Where a person or corporation has lost the right to claim an exemption in Appendix "A" above, they may apply to Council for

reinstatement of such exemptions pursuant to the process set out in Section 11 of this by-law, and Council may grant such a request with any conditions they deem appropriate.

4. General Limitations – Residential Air Conditioners

4.1 No person shall emit or cause or permit the emission of sound from the operation of a residential air-conditioning device of a type referred to in Publication NPC-216 – “Residential Air Conditioning Devices” resulting in a sound level at a point of reception located in a residential area in excess of the applicable sound level limit set out in Publication NPC- 216 – “Residential Air Conditioning Devices”.

4.2 No person shall emit or cause or permit the emission of any sound from any air-conditioning device of a type referred to in Publication NPC – 216 – “Residential Ai Conditioning Devices” unless one of the following applies:

4.2.1 The device was manufactured prior to January 1, 1979.

4.2.2 The device bears a label affixed by the manufacturer or distributor which states the year of manufacture and that the device when new complied with the sound emission standard set out in Publication MPC-216 – “Residential Air Conditioning Devices,” as applicable to that type of device and date of manufacture.

4.2.3 The owner, operator, manufacturer or distributor provides proof that the device when new complied with the sound emission standard set out in Publication NPC-216 – “Residential Air Conditioning Devices,” as applicable to that type of air conditioner and date of manufacturer.

5. Disturbing Religious Ceremony in a place of Worship

No person shall make, cause or permit the emission of sound that disturbs a religious ceremony in a place of worship.

6. Noise to Disturb

No person within the municipality shall make, cause, emit or permit the emission of noises likely to disturb the inhabitants except as otherwise permitted by this By-law.

7. Unusual Noises

No person within the municipality shall make, cause, emit or permit the emission of unusual noises except as otherwise permitted by this By-law.

8. Exemptions – General Noise

8.1 Public Safety

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

- a) for the immediate health, safety or welfare of the inhabitants or any of them; or
- b) for the preservation or restoration of property;

unless such sound or vibration is clearly of a longer duration or nature more disturbing, than I reasonably necessary for the accomplishment of such emergency purpose.

8.2 Snow Clearing and Maintenance Operations

Notwithstanding any other provision of this By-law, it shall be lawful to emit or cause or permit the emission of sound or vibration in connection with snow clearing and maintenance undertaken by the operation of vehicles, equipment and construction equipment for the clearing and removal of snow from public and private property.

8.3 Municipal Road Maintenance and Clearing Operations

Notwithstanding any other provision of this By-law, it shall be lawful to emit or cause or permit the emission of sound or vibration in connection with Municipal road maintenance and clearing operation required by the municipality.

8.4 Sounding or Ringing of Church Bells and Chimes

Notwithstanding any other provision of this By-law, it shall be lawful to emit or cause or permit the emission of sound or vibration in connection with

the sounding or ringing of church bells and chimes, except where it causes a Nuisance Event.

8.5 The Sound of Military or other Bands or Parades

Notwithstanding any other provision of this By-law, it shall be lawful to emit or cause or permit the emission of sound or vibration in connection with the sound of any military or other band, or of any parade for which written permission has been obtained from the municipality.

8.6 Discharging of Firearms

Notwithstanding any other provision of this By-law, it shall be lawful to emit or cause or permit the emission of sound or vibration in connection with a Municipal Law Enforcement Officer, Animal Control Officer or Police Officer discharging a firearm in the lawful performance of duty, or where otherwise an exemption has been approved in accordance with this by-law.

9. Delegation to Designated Official(s)/Minor Noise Exemptions

9.1 Pursuant to section 23.1 of the Act, Council hereby delegates to the Designated Official the power to issue permits granting an exemption from any of the provisions of this by-law.

9.2 The delegation of power in subsection (2) may be revoked by Council at any time without notice.

9.3 Council shall exercise all powers and authority for granting exemptions under this by-law where the Designated Official refers the matter to Council.

9.4 Notwithstanding anything contained in this By-law, any person may make application to the Senior Municipal Law Enforcement Officer of the Town, to be granted an exemption from any provision of the By-law, for special circumstances where the exemption is for less than six (6) hours in length and the following apply:

9.4.1 A one-time request and not for more than one date.

9.4.2 Has not been previously granted in the last year immediately preceding the application for the same premises.

9.4.3 It is for a family or religious celebration of less than 30 people.

9.4.4 Is not for profit or gain.

9.4.5 No admission fee or other money of valuable consideration is realized.

9.4.6 Is not open to the general public.

9.4.7 Is not held on public property.

9.4.8 Is conditional on not creating a nuisance noise or event.

9.5 Where the Senior Municipal Law Enforcement Officer has received a fully completed application in the required time, and when due consideration has been given to all factors surrounding the exemption request; the Senior Municipal Law Enforcement Officer may authorize an exemption that contains any conditions they feel are needed to properly regulate the activity.

9.6 Where such authorization is given; the application must adhere to the conditions, or the permit is VOID.

9.7 The Senior Municipal Law Enforcement Officer may revoke the permit at any time after issuance if they believe that false, inaccurate or outdated information was contained in the application.

9.8 The Senior Municipal Law Enforcement Officer may revoke the permit where he believes the event constitutes a nuisance or where other by-law infractions are alleged.

9.9 The Senior Municipal Law Enforcement Officer may refuse to issue an exemption permit and the aggrieved party may then appeal to the C.A.O, and failing approval, then Council, utilizing the same procedure set out in the Town's Business Licensing By-law for refusals of a business licence application.

9.10 Where someone does not qualify to apply to the Senior Municipal Law Enforcement Officer under 9.4 above, or they were refused or revoked, they may apply to Council, through the appropriate standing committee as the C.A.O. designates, to hear any such application or appeal (upon refusal/revocation under 9.7/9.8 above).

10. Exemptions – Special Event Approval

Notwithstanding the provisions of this By-law; where any person has applied for approval, of a Town sanctioned Special Event, and has requested in that approval:

- a) An activity or event that may directly or indirectly, create sounds that would otherwise contravene this by-law; or
- b) An activity or events specifically request exemptions to general prohibition for clearly audible sounds (section 3.1),

the approval obtained will be deemed to have also granted exemption to the applicable provisions of this By-law, unless specifically stated that it does not approve certain sounds or certain activities likely to create such sounds., nuisances, or a nuisance event.

11. Exemptions – Council

11.1 Application to Council

Notwithstanding anything contained in this By-law, any person may make application a minimum of 60 days prior to the date(s) requiring an exemption, to Council through the appropriate committee of Council as specified by the C.A.O., 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 of a duration not in excess of six months, during which it is effective, and may contain such items and conditions as Council sees fit.

11.2 Expedited Application

11.2.1 Where the event, for which exemptions is sought, is within 60 days or less, the application, after paying the prescribed fee set out in the Fees & Charges By-law, may submit an “expedited request for exemption for the Noise & Nuisance By-law” to the Municipal Law Enforcement Department for expedited processing.

11.2.2 Where such a fully completed application is received, the Senior Municipal Law Enforcement Officer shall immediately notify the C.A.O. of the application.

11.2.3 Where the C.A.O approves of the expedited process, the application shall be forwarded to Council members for review and response.

11.2.4 The C.A.O. shall issue a permit, with any additional conditions he/she deems appropriate, where all the following conditions have been met:

- (1) All of the Councillors notified under Subsection B have either:
 - (a) Not responded within 14 days of the notice; or
 - (b) Responded indicating that they have no objection to the application being approved.
- (2) The applicant has complied with all terms and conditions of approval of the last permit issued to them under this section, if any.
- (3) The applicant has provided the following:
 - (a) The applicant's name, address, and telephone number;
 - (b) The date, time and location of the event or activity for which the permit is sought and, where applicable, the number of people expected to attend;
 - (c) The purpose for which the permit is required;
 - (d) The description of any sound or construction equipment to be used;
 - (e) The name, address and telephone number of at least one contact person who will supervise the event or activity; and
 - (f) A written undertaking that one or more contact persons responsible for supervising the event or activity will be on -site during the entire event or activity to ensure compliance with the terms and conditions of the permit.
- (4) The applicant enters into a written agreement satisfactory to the C.A.O. concerning compliance with the terms and conditions of the permit.
- (5) The applicant has paid all required fees.

11.2.5 A permit issued under Subsection 11.2.4 shall be subject to the following terms and conditions:

- (1) The sound emitted from any equipment shall not create a noise nuisance, or nuisance event;
- (2) Where the sound does create a noise nuisance or nuisance event, the applicant shall comply with any request of an officer with respect to the volume of sound from the equipment to ensure compliance with this by-law;

- (3) No sound or construction equipment other than the equipment approved under the permit shall be used by the applicant;
- (4) The event or activity shall be restricted to the approved location; and
- (5) The permission granted is for the date and times for the event or activity as set out in the permit.

11.2.6 Where the C.A.O. refuses to grant a permit under this section, the applicant shall be notified in writing and advised that they may appeal the C.A.O.'s decision to Council and may avail of the appeal process set out in 9.10 above.

12. Nuisance Control

12.1 Prohibitions – Nuisance – General

No person without lawful authority, within the town boundary of the Municipality shall make, cause, be a party to the act, or permit any act or action that includes, but not limited to the following prohibited nuisances:

- a) Disorderly conduct;
- b) Public Drunkenness or Public Intoxication;
- c) The unlawful sale, furnishing or distribution of alcoholic beverages or controlled substances;
- d) The deposit of refuse on public property;
- e) Damage, defacement or destruction of public property;
- f) Actions to impede pedestrian traffic, vehicular traffic or, illegal parking that obstructs the free flow of traffic or could interfere with the ability to provide emergency services;
- g) Unreasonable noise for the circumstances, regardless if it would otherwise be in “permitted hours” of the Appendix “A” (Time & Place Sounds);
- h) Unlawful open burning or fireworks in a public area;
- i) Public disturbances, including public brawls or public fights;
- j) Emitting an excessive amount of smoke, dust or airborne particulate matter in a public place;
- k) Knock over, or attempt to knock over, a portable toilet, a public service box, including a Canada Post mail box or relay box, newspaper box or a garbage or recycling container, lawfully located on a Highway;
- l) Block, interfere, obstruct or otherwise impede the passage of any pedestrian on a Highway or Municipal and other Property, including sidewalks, parks, pedestrian mall, splash pad, bus shelters or public benches;

- m) Be within 3 meters of a street, sidewalk or pedestrian area and discharge or release fire, water, vapours or noise by any means whatsoever;
- n) Outdoor public urination, defecation or vomiting or spitting.

13. Prohibition – Nuisance Event

- 13.1** No person shall sponsor, conduct, continue, host, create, cause, permit or attend a Nuisance Event.
- 13.2** No person shall cause, create or be a party to a nuisance, including a nuisance event, anywhere within the Municipality.
- 13.3** No person who, individually or jointly with others, is an owner, occupant, tenant or who otherwise has rightful possession of or is in possessory control of any Premises, shall cause or permit a Nuisance Event on said Premises.
- 13.4** Upon the order of the Senior Municipal Law Enforcement Officer, CAO or the Police Authority, every person who is sponsoring, conducting, continuing, hosting, creating, causing, permitting or attending a Nuisance Event on specified Premises shall cease such sponsoring, conducting, continuing, hosting, creating, causing, permitting or attending of such Nuisance Event, and every person not residing on such Premises shall leave such Premises.
- 13.5** An order under this section shall identify:
 - a) The location of the Premises on which the contravention is occurring;
 - b) The reasonable particulars of the contravention of this by-law; and
 - c) The date and time by which there must be compliance with the order.
- 13.6** An order under this section may be given orally or may be served personally on the person to whom it is directed.
- 13.7** No person shall fail to leave Premises after having been directed to leave by an order pursuant to this section.
- 13.8** An Officer, in the interest of public safety, may temporarily close any highway or portion thereof to public travel where a Nuisance Event is occurring on or adjacent to the highway.

- 13.9** Where a highway or portion of a highway has been temporarily closed under this by-law, the common law right of passage by the public and the common law right of access by an owner of land abutting the highway or portion of the highway are restricted, as directed by an Officer.
- 13.10** No person shall use a highway or portion of a highway that has been temporarily closed under this by-law except with lawful authority or in accordance with the direction of an Officer.

14. Fees- Nuisance Party

- 14.1** The Town may imposed a fee or charge upon any person sponsoring, conducting, continuing, hosting, creating, causing or permitting a Nuisance Party and/or the owner of Premises where the Nuisance Event is held who causes or permits the Nuisance Event.
- 14.2** The amount of the said fee or charge shall be the estimate amount of administrative costs, costs of enforcement and all other costs incurred by the Town in responding to and addressing the Nuisance Event pursuant to this by-law and shall include but not limited to the following:
- a) Police Response
 - b) Fire Response
 - c) Ambulance Response
 - d) Municipal Law Enforcement Response
 - e) Road Department Response
- 14.3** Fees or charges imposed on a person pursuant to this by-law constitute a debt of the person to the Town.
- 14.4** Where all the owners of certain Premises are responsible for paying certain fees and charges pursuant to this by-law, the Town may add such fees and charges to the tax roll for the Premises and collect them in the same manner as municipal taxes.

15. Enforcement

- 15.1** Council hereby authorizes all Officers to enforce this by-law.
- 15.2** Each Officer is hereby authorized to inform any person of the provisions of this by-law and to request compliance therewith.

- 15.3** No person shall willfully obstruct, hinder or otherwise interfere with an Officer in the performance of the Officer's duties, rights, functions, powers or authority under this by-law.
- 15.4** Where an Officer has reasonable grounds to believe that an offence under this by-law has been committed by a person, the Officer may require the name, address and proof of identity of that person, and the person shall supply the required information.
- 15.5** Where anyone fails or refuses to immediately identify themselves to an Officer or where the information is found to be false or misleading, they shall be deemed to have willfully obstructed an Officer in the discharge of their duties.
- 15.6** Upon conviction for an offence under this by-law, in addition to any other remedy and to any penalty imposed by this by-law, 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.

16. Entry and Inspection

Officers shall have the right to enter and inspect property pursuant to the *Municipal Act, 2001*, sections 444 and 445, and set out in the Municipal By-law.

17. Obstruction

No person shall obstruct or attempt to obstruct any Officer or other person, who is exercising a power or performing a duty under this By-law or any other Town of Wasaga Beach By-law or the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended or its predecessor.

18. Orders and Remedial Action

- 18.1** If an Officer is satisfied that a contravention of any By-law has occurred, the Officer may make an order requiring the person who contravened the By-law to discontinue the contravening activity, known as an Order to Discontinue Activity, requiring the person who contravened the By-law, or who caused or permitted the contravention, including the owner or occupier of the Land on which the contravention occurred, to discontinue the contravention.

18.1.1 An order under subsection 18.1 shall set out,

- a) reasonable particulars of the contravention adequate to identify the contravention and the municipal address on which the contravention occurred;
- b) the date by which there must be compliance with the order; and

18.2 If an Officer is satisfied that a contravention of any By-law has occurred, the Officer may make an order requiring the person who contravened the By-law to do work to correct the contravention, known as a Work Order to Perform Work.

18.2.1 An order under subsection 18.2 shall set out,

- a) reasonable particulars of the contravention adequate to identify the contravention and the municipal address of the property on which the contravention occurred;
- b) the work to be done and the date by which the work must be done; and

19. Offence

19.1 Every person who contravenes any of the provisions of this by-law is guilty of an offence and, pursuant to section 429 of the Act; all contraventions of this by-law are designated as continuing offences.

19.2 Every person, excluding a corporation, who is convicted of an offence, is liable to a minimum fine of \$500 dollars and a maximum fine of \$25,000 for a first offence and a maximum fine of \$50,000 for a subsequent offence.

19.3 Every corporation who is convicted of an offence is liable to a minimum fine of \$500 dollars to a maximum of \$50,000 for the first offence and to a maximum of \$100,000 for a subsequent offence.

19.4 In addition to the fine amounts set out in subsection 19.2 and 19.3, for each hour that an offence continues, it shall be deemed a continuing offence and the minimum fine shall be \$500 for every additional hour the offence continues to a maximum of \$10,000.

20. Schedules, Tables and Maps

The Appendix "A", Prohibitions by Time and Place, and three (3) associated aerial photographs, shall form part of this by-law.

21. Validity and Severability

Every provision of this By-law is declared to be severable from the remainder and if any provision of this By-law shall be declared invalid by a court of competent jurisdiction such declaration shall not affect the validity of the remainder.

22. Conflicts

22.1 This By-law shall apply in addition to the provisions of any other Town By-law and the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, provided that in the event of conflict with the provisions of any other Town By-law or the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, this By-law shall be paramount, provided such provisions are not contrary to law.

22.2 Nothing in this By-law shall limit any other statutory or common law rights or powers of the municipality or any Officer to enter on Land.

23. Repeal

Upon the coming to force of this By-law, the following By-laws are hereby repealed as well as all amending by-laws for sections of the named by-laws; these By-laws being: By-laws 81-7 (consolidated May 15, 2002), 89-58, 99-18 and 99-19, 2008-103.

24. Effective date

THAT this By-law shall come into force and take effect on the date of its final passing.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 24th DAY OF MAY, 2016.

Brian Smith, Mayor

Holly Bryce, Town Clerk

APPENDIX “A” – PROHIBITIONS BY TIME AND PLACE: NOISE & NUISANCE BY-LAW

| Prohibition | Property Zoned Residential (R1, R2, R3, RE, RM) Other Commercial, Rural or Industrial Property not otherwise specified & T.A.C Properties | Commercial Tourist Accommodations (Zoned CA & CT) Bars/Restaurants (that serve alcohol and provide musical entertainment from time to time) that are located within 225meters of R1 zoned Residential properties | Commercial Bars/Restaurants (that serve alcohol and provide musical entertainment from time to time) that are located more than 225meters from R1 zoned Residential properties |
|--|--|---|---|
| 1. The detonation of fireworks or explosive devices not used in construction | At all times (except approved fireworks days) | At all times (except approved fireworks days) | At all times (except approved fireworks days) |
| 2. The discharge of firearms | At all times | At all times | At all times |
| 3. The operation of a combustion engine which, a) Is, or b) Is used in, or c) Is intended for use in, a toy or model or replica of any device which model or replica has no function other than amusement and which is not a conveyance, d) Is a drone or similar vehicle when being lawfully operated | At all times | a-c) At all times d)11pm – 7am (or when creating a nuisance) | a-c) At all times d)12midnight-7am (or when creating a nuisance) |
| 4. 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. | 11pm – 7am (or when creating a nuisance) | 12midnight – 7am (or when creating a nuisance) | 2am – 7am (same day) (or when creating a nuisance) |

| | | | |
|--|--|--|--|
| <p>5. The sound from or created by audio or visual device, public address system, sound equipment, loud speaker, or any musical or sound producing instrument of whatever kind when the same is played or operated in such a manner or with such volume as to disturb the peace, quiet, comfort or repose of any individual in any office, dwelling house, apartment, hotel, hospital, or any other type of residence.</p> | <p>11pm – 7am (or when creating a nuisance)</p> | <p>11pm – 7am (or when creating a nuisance)</p> | <p>2am – 7am (same day) (or when creating a nuisance)</p> |
| <p>6. The operation of any auditory signalling device, including but not limited to the ringing of bells or gongs and the blowing of horns, 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.</p> | <p>11pm – 7am (or when creating a nuisance)</p> | <p>11pm – 7am (or when creating a nuisance)</p> | <p>11pm – 7am (or when creating a nuisance)</p> |
| <p>7. The operation of any motorized conveyance other than on a highway or other place intended for its operation.</p> | <p>11pm – 7am (or when creating a nuisance)</p> | <p>11pm – 7am (or when creating a nuisance)</p> | <p>11pm – 7am (or when creating a nuisance)</p> |
| <p>8. 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.</p> | <p>11pm – 7am (or when creating a nuisance)</p> | <p>11pm – 7am (or when creating a nuisance)</p> | <p>11pm – 7am (or when creating a nuisance)</p> |

| | | | |
|--|---|---|---|
| 9. Persistent barking, calling or whining or other similar persistent noise making by any domestic pet, or any other animal kept or used for any purpose other than agriculture. | At all times | At all times | At all times |
| 10. The operation of a commercial wash with air drying equipment. | At all times | When creating a nuisance | When creating a nuisance |
| 11. Yelling, shouting, hooting, whistling, singing, or other boisterous activity. | 11pm – 7am (or when creating a nuisance) | 12midnight – 7am (or when creating a nuisance) | 2am – 7am (same day) (or when creating a nuisance) |
| 12. The operation of a power assisted hang glider or parafoil. | At all times | When creating a nuisance | When creating a nuisance |
| 13. The operation of any item of snow making equipment. | 11pm – 7am (or when creating a nuisance) | N/A | N/A |
| 14. All selling or advertising by shouting or outcry or amplified sound. | 11pm – 7am (or when creating a nuisance) | 12midnight – 7am (or when creating a nuisance) | 2am – 7am (same day) (or when creating a nuisance) |
| 15. 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. | 11pm – 7am (or when creating a nuisance) | 12midnight – 7am (or when creating a nuisance) | 2am – 7am (same day) (or when creating a nuisance) |
| 16. Construction Activities Weekdays (June 1- August 31) | 9pm – 7am (or when creating a nuisance) | 9pm – 7am (or when creating a nuisance) | 9pm – 7am (or when creating a nuisance) |
| 17. Construction Activities Weekdays (September 1- May 30) | 7pm – 7am (or when creating a nuisance) | 7pm – 7am (or when creating a nuisance) | 7pm – 7am (or when creating a nuisance) |
| 18. Construction Activities Saturdays (Year round) | 7pm (Friday) – 7am Saturday (or when creating a nuisance) | 7pm (Friday) – 7am Saturday (or when creating a nuisance) | 7pm (Friday) – 7am Saturday (or when creating a nuisance) |
| 19. 20. Construction Activities Sundays (Year round) | 7pm (Saturday)- 10am (Sunday) (or when creating a nuisance) | 7pm (Saturday)- 10am (Sunday) (or when creating a nuisance) | 7pm (Saturday)- 10am (Sunday) (or when creating a nuisance) |

| | | | |
|---|---|---|---|
| 21. The operation of any equipment in connection with construction Weekdays (June 1 – August 31) | 9pm – 7am (or when creating a nuisance) | 9pm – 7am (or when creating a nuisance) | 9pm – 7am (or when creating a nuisance) |
| 22. The operation of any equipment in connection with construction Weekdays (September 1 – May 30) | 7pm – 7am (or when creating a nuisance) | 7pm – 7am (or when creating a nuisance) | 7pm – 7am (or when creating a nuisance) |
| 23. The operation of any equipment in connection with construction Saturdays (Year round) | 7pm (Friday) – 7am Saturday (or when creating a nuisance) | 7pm (Friday) – 7am Saturday (or when creating a nuisance) | 7pm (Friday) – 7am Saturday (or when creating a nuisance) |
| 24. The operation of any equipment in connection with construction Sundays (Year round) | At all times | At all times | At all times |
| 25. The operation or use of any powered lawnmowers (Monday – Saturday) Residential Lands | 9pm – 9am (or when creating a nuisance) | 9pm – 9am (or when creating a nuisance) | 9pm – 9am (or when creating a nuisance) |
| 26. The operation or use of any powered lawnmowers or landscape maintenance (Monday – Saturday) Non-Residential Lands | 9pm – 6am (or when creating a nuisance) | 9pm – 6am (or when creating a nuisance) | 9pm – 6am (or when creating a nuisance) |
| 27. The operation or use of any powered lawnmowers or landscape maintenance (Sundays) Residential Lands | 9pm (Saturday) – 9am (Sunday) (or when creating a nuisance) | 9pm (Saturday) – 9am (Sunday) (or when creating a nuisance) | 9pm (Saturday) – 9am (Sunday) (or when creating a nuisance) |
| 28. The operation or use of any powered lawnmowers or landscape maintenance (Sundays) Non-Residential Lands | 9pm (Saturday) – 9am (Sunday) (or when creating a nuisance) | 9pm (Saturday) – 9am (Sunday) (or when creating a nuisance) | 9pm (Saturday) – 9am (Sunday) (or when creating a nuisance) |
| 29. The operation of solid waste bulk lift or refuse compacting equipment (Monday-Saturday) | 10pm – 7am (or when creating a nuisance) | 10pm – 7am (or when creating a nuisance) | 10pm – 7am (or when creating a nuisance) |
| 30. The operation of solid waste bulk lift or refuse compacting equipment (Sundays) | 10pm – 9am (or when creating a nuisance) | 10pm – 9am (or when creating a nuisance) | 10pm – 9am (or when creating a nuisance) |

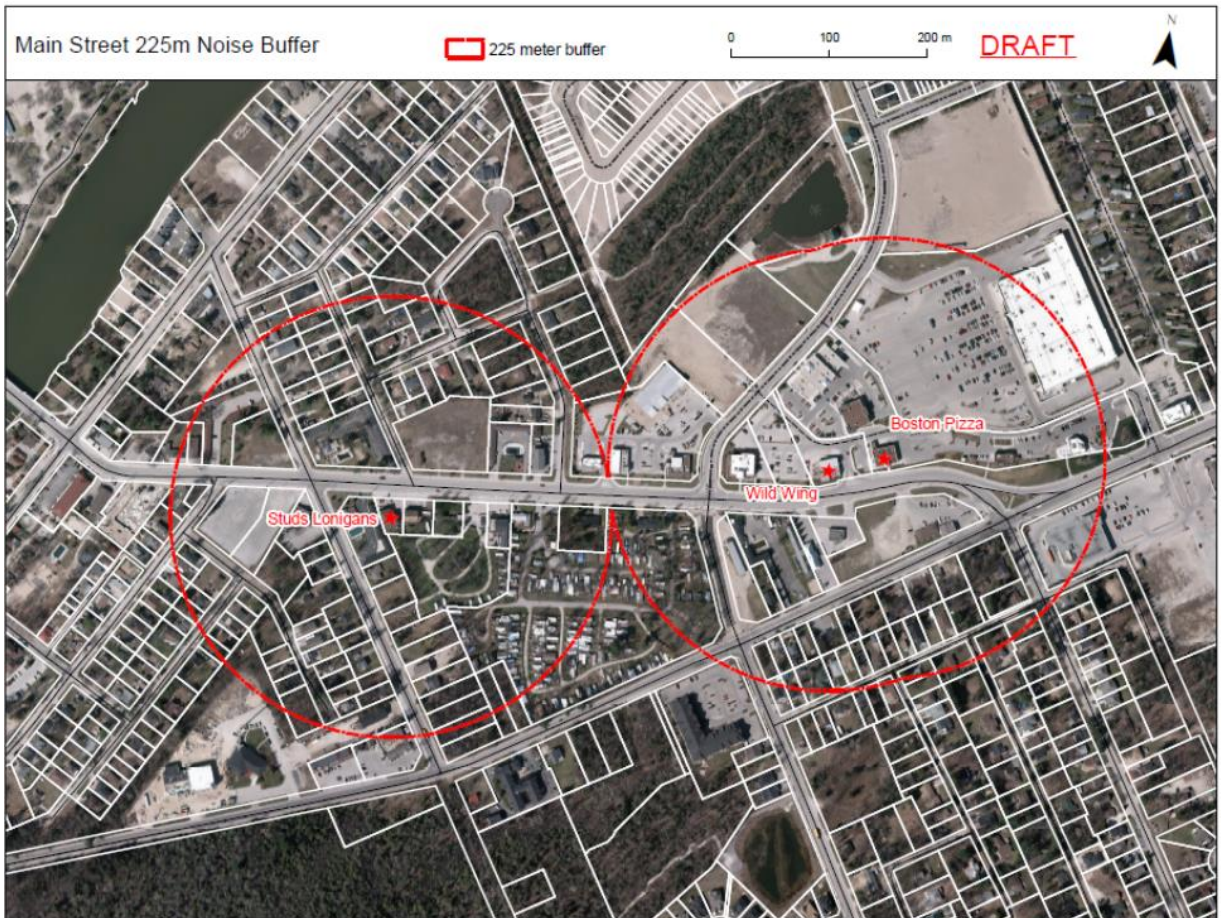
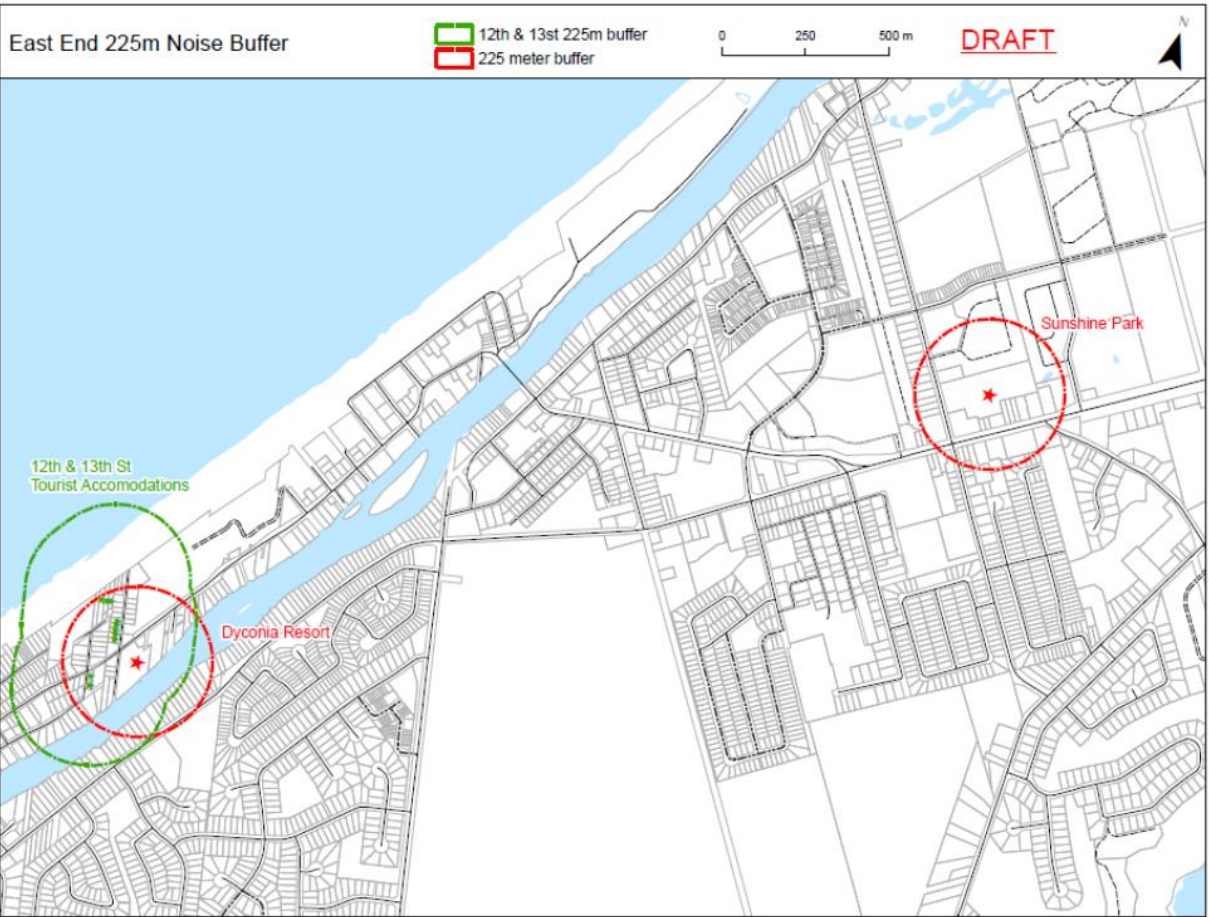
| | | | |
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| 31. The operation of a commercial car wash of a type other than mentioned in item 10. | At all times | At all times | At all times |
| 32. Property care, maintenance or recreational activity. | 11pm – 7am (or when creating a nuisance) | 11pm – 7am (or when creating a nuisance) | 11pm – 7am (or when creating a nuisance) |
| 33. Operation of an ATV/Off-Road Vehicle (April 1 – October 31) | 11pm – 7am (or when creating a nuisance) | 11pm – 7am (or when creating a nuisance) | 11pm – 7am (or when creating a nuisance) |
| 34. ATV Operation of an ATV/Off-Road Vehicle (Nov 1 – March 31) | At all times | At all times | At all times |

APPENDIX “B” – APPROVED FIREWORKS DAYS: NOISE & NUISANCE BY-LAW

1. Victoria Day – ALL DAY
2. Canada Day – ALL DAY

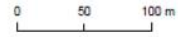
APPENDIX "C" – IDENTIFIED T.A.C. PROPERTIES: NOISE & NUISANCE BY-LAW

To be identified at a later date



Beach Areas 1 & 2 225 meter buffer

- 225 meter buffer, Villa Nova
- 225 meter buffer

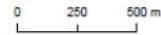


DRAFT



West End 225m Noise Buffer

- 225 meter buffer



DRAFT

