

**THE CORPORATION OF THE MUNICIPALITY OF HASTINGS HIGHLANDS
BYLAW 2020-062**

A BYLAW TO PROHIBIT AND REGULATE NOISE AND THE USE OF FIREWORKS

WHEREAS Section 121 (a) of the *Municipal Act*, S.O. 2001, S.O. c.25 provides that the Council may prohibit and regulate the sale of fireworks and the setting off fireworks;

AND WHEREAS Section 129, of The *Municipal Act*, 2001, S.O. c. 25, provides authority for municipalities to prohibit and regulate noise;

AND WHEREAS Section 391 of the *Municipal Act*, S.O. 2001, c.25, authorizes Council to pass bylaws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of it, and for costs payable by it for services or activities provided or done by or on behalf of any other municipality, or local board;

AND WHEREAS Section 429, subject to subsection (4) of the *Municipal Act*, 2001, S.O. 2001, c.25 provides that a municipality may establish a system of fines for offences under a bylaw of the municipality passed under this *Act*;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF HASTINGS HIGHLANDS ENACTS AS FOLLOWS:

1.0 DEFINITIIONS:

1.1 In this Bylaw:

“Act” means the *Explosives Act*, Revised Statutes of Canada, 1985, Chapter E-17, and the Regulations enacted thereunder as amended from time to time or any Act and Regulations enacted in substitution, therefore.

“Agricultural Property” means a property that is zoned for agricultural use in the zoning bylaw and applies to the property;

“Commercial Area” means those areas of the Municipality zoned for commercial use in the Municipality’s Zoning Bylaw;

“Construction” means the 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 structural installation of construction components and materials in any form or for any purpose, and includes 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 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;

“Consumer Fireworks” means an outdoor, low hazard, firework that are designed for recreational use. They include items like Roman candles, sparklers, fountains, multi-shot cakes, volcanoes, mines, and snakes;

“Conveyance” means a vehicle and any other device employed to transport a person or persons or goods from place to place but does not include any such device or vehicle if operated only within the premises of a person;

“Council” means the Council of the Municipality of Hastings Highlands;

“Display Fireworks” means an outdoor, high hazard, firework that is designed for professional use only. They include items like aerial shells, cakes, Roman candles, waterfalls, lances, and wheels. Display fireworks are strictly regulated by federal law;

“Dusk” means the time just before night when the daylight has almost gone but when it is not completely dark.

“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;

“Emergency Vehicle” includes a land ambulance, an air ambulance, a fire department vehicle, and a motor vehicle being used to respond to an emergency;

“Fireworks” means display fireworks, pyrotechnic special effects fireworks and *consumer fireworks*;

“Highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

“Motor Vehicle” includes an automobile, bus, truck, motorcycle, motor assisted bicycle and any other vehicle propelled or driven other than by muscular power, but does not include a motorized snow vehicle, traction engine, farm tractor, other farm vehicle or road-building machine;

“Municipal Clerk” means the Clerk for the Municipality of Hastings Highlands;

“Municipality” means the Corporation of the Municipality of Hastings Highlands;

“Noise” means sound that is unusual or excessive, or that is unwanted by or disturbing to any person;

“Officer” includes members of the Ontario Provincial Police, the Municipality of Hastings Highlands Fire Department, the Bylaw Enforcement Officer, or any person authorized by the Municipality of Hastings Highlands to regulate or to enforce the provisions of this Bylaw;

“Owner” includes:

(a) The person who, for the time being, receives the rent of, or manages or pays the municipal taxes on the property in question whether on their own account or as an agent or trustee of any other person, or who would so receive the rent for the property; or

(b) A purchaser of such land under an agreement for sale who has paid any municipal taxes thereon after the date of execution of the agreement by both the vendor and purchaser; or

(c) A lessee or occupant of the property who, under the terms of a lease, is required to maintain the property in accordance with the standards for the maintenance and occupancy of property.

“Person” includes an individual or a business name, sole proprietorship, corporation, partnership, or limited partnership, or an authorized representative thereof;

“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;

“Pyrotechnics” are high-hazard and designed for professional use. They include items like gerbs, mines, comets, and crossette fireworks, as well as special-purpose pyrotechnics made for live stage performances and the film and television industry. Pyrotechnics are strictly regulated by federal law.

“Residence” means a room, suite of rooms or dwelling, including a mobile trailer, and that normally contains cooking, eating, living, sleeping and sanitary facilities;

“Time” where any expression of time occurs or where any hour or other period of time is stated, the time referred to shall be Eastern Standard Time;

“Utility” means a system that is used to provide a utility service to the public, including water, sewage, electricity, gas, communications networks and cable services;

“Vehicle” includes a motor vehicle, trailer, traction engine, farm tractor, road building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power but does not include a motorized snow vehicle;

2.0 GENERAL PROHIBITIONS

- 2.1 No person shall emit, cause or permit to be made, either on a highway or elsewhere in the Municipality, commencing from 11:00 p.m. on any given evening to 6:00 a.m. on any given morning, any unnecessary noise or unnecessary sound which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of any other person or is the result of any activities described in Schedule “A” and that is audible to:
- (a) a person in a premises or vehicle other than the premises or vehicle from which the noise is originating; or
 - (b) a person in a residence other than the residence from which the noise is originating.
- 2.2 No *person* shall set off any Fireworks when there is a Fire Ban in effect or the Fire Danger Rating is “High” or “Extreme”, wherein no open-air burning is permitted.
- 2.3 No *person* shall set off any Fireworks except between dusk and 11:00 p.m. of the same day; unless permitted by the Municipality.
- 2.4 No *person* shall set off *Consumer Fireworks* on any day during the year, except on Fridays and Saturdays between dusk and 11:00 p.m. from June 20th to Thanksgiving Weekend Monday, and to include New Year's Eve, Victoria Day, Canada Day and Labour Day; unless permitted by the Municipality.
- 2.5 No *person* under the age of eighteen (18) years of age may discharge, fire, set off, or cause to be set off any Fireworks, except under the direct supervision of and control of a *person(s)* eighteen (18) years of age or over.
- 2.6 Minimum safety distances of 15 metres in diameter, unless otherwise indicated on the fireworks product, must be maintained from spectators, buildings and vehicles.

2.7 Setting off Fireworks must be in accordance with recognized safety procedures, including, but not limited to:

- (a) In compliance with Section 2.5;
- (b) Keeping spectators at a safe distance (in compliance with Section 2.6);
- (c) Protecting private and public property; and
- (d) Ensuring suitable fire extinguishing equipment is always available.

2.8 Only Fireworks authorized pursuant to the *Explosives Act* and the Explosives Regulations made under it may be displayed or set off.

2.9 Property damage or injury as a result of the discharge of Fireworks shall be the responsibility of the *person*, property owner and/or organization setting off the Fireworks.

3.0 EXEMPTIONS

Emergency Vehicles

3.1 The provisions of this bylaw shall not apply to police, fire, ambulance or any other emergency vehicle proceeding to an emergency.

Special Events

3.2 The provisions of this bylaw shall not apply to a person or organization that has received written permission for the event from the municipality.

3.3 The prohibitions described in Schedule "A" do not apply if the noise is the result of measures undertaken in an emergency for the:

- (a) Immediate health, safety or welfare of the inhabitants; or
- (b) Preservation or restoration of property, unless the noise is clearly of the longer duration or of a more disturbing in nature than is reasonably necessary to deal with the emergency.

3.4 The prohibitions described in Schedule "A" do not apply if the noise is the result of any other activities described in Schedule "B".

3.5 The prohibitions described in Schedule "A" do not apply if the noise is the result of an activity that has been granted an exemption under Section 3.0.

4.0 GRANT OF EXEMPTION BY COUNCIL

4.1 Any person may request to Council, notwithstanding anything contained in this bylaw, to be granted an exemption from any of the provisions of this bylaw with

respect to the use of fireworks and any source of noise or vibration for which they might be prosecuted and Council, by resolution, may deny or grant the exemption.

- 4.2 Any person may request that Council grant an exemption of the provisions of this bylaw by submitting a letter/email to Council via the Municipal Clerk. This request will be prepared by the Clerk and brought to Council as a staff report for the next scheduled Council Meeting.
- 4.3 Before deciding whether to grant an exemption, Council shall give the applicant and any person opposed to the application an opportunity to be heard and may consider such other matters as it deems necessary.
- 4.4 Once an exemption has been granted the following groups or organizations shall be notified of the granted exemption:
 - 1) The Municipality of Hastings Highlands Staff and Council;
 - 2) The Hastings Highlands Fire Department;
 - 3) The Ontario Provincial Police; and if applicable
 - 4) The lake association(s).
- 4.5 A breach by the applicant of any of the terms or conditions of any exemption granted by Council shall render the exemption null and void and may result in penalties.

5.0 PENALTY PROVISIONS

- 5.1 Every person who contravenes any provision of this Bylaw is guilty of an offence and upon conviction shall be liable to a fine prescribed and recoverable under the provisions of the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended, for each offence committed.
- 5.2 The Administrative Monetary Penalty System Bylaw applies to each administrative penalty issued pursuant to this Bylaw.
- 5.3 Each person who contravenes any provision of this Bylaw shall, upon issuance of a penalty notice in accordance with the Administrative Monetary Penalty System Bylaw, be liable to pay to the Municipality an administrative penalty.
- 5.4 The property owner may be liable to pay any fines, fees and charges imposed by this bylaw, if the person who is found to be in violation of this bylaw is not the

owner of the property but occupies or is using the property with the owner's consent.

5.5 All fees and charges payable under this bylaw constitute a debt of the person liable for payment of them to the Municipality of Hastings Highlands and, in the case of owners of a property being responsible for payment of the fees and charges, the Municipality may add the amount owing to the tax roll for the owner(s) real property and collect them in like manner as Municipal taxes.

5.6 If any term or provision of this Bylaw or the application thereof to any person shall to any extent be held to be invalid or unenforceable, the remainder of this Bylaw or the application of such term or provision to all persons other than those to whom it was held to be invalid or unenforceable, shall not be affected thereby and each term and provision of this Bylaw shall be separately valid and enforceable to the fullest extent permitted by law.

6.0 INTERPRETATION

6.1 The provisions in Part VI of the *Legislation Act*, 2006, S.O. 2006, c.21, Sched. F, shall apply to this Bylaw.

6.2 Any reference in this bylaw to any statutes, regulations or bylaws shall be deemed a reference to such statutes, regulations or bylaws, as amended, restated or replaced from time to time.

7.0 GENDER

7.1 In this Agreement, words importing the masculine gender shall include the feminine gender and neuter gender and vice versa and words importing the singular shall include the plural where the context requires.

8.0 HEADING

8.1 The headings used in this Bylaw are included solely for the convenience of reference and are not to be considered part of this Bylaw and are not intended to be full or accurate descriptions of the contents of any section, clause or provision of this Bylaw.

9.0 EFFECT OF PRE-EXISTING BYLAWS

9.1 Any Bylaw which was in effect in the Municipality on the date of passage of this Bylaw, including Bylaw 2010-006, which covers the same subject matter as this Bylaw shall remain in effect only for the purposes of the completion of any procedure that was commenced under that.

10.0 SHORT TITLE

10.1 The short title of this bylaw is the “Noise and Fireworks Bylaw”.

11.0 EFFECTIVE DATE

11.1 **THAT** this Bylaw shall come into effect on the day it was passed.

AMENDED, ENACTED and **PASSED** in Council this 23rd day of September 2020.

Vic A. Bodnar, Mayor

Suzanne Huschilt, Municipal Clerk

SCHEDULE "A" to Bylaw 2020-062

General Noise Prohibitions

1. The playing of any radio, public address system, electronic sound equipment, loud speaker, musical instrument or other sound producing equipment when the equipment is played or operated in such a manner the sound or noise made by or created thereby disturbs the peace, comfort or repose of any person, or a police officer acting in accordance with their duties.
2. The use of an amplifier or loudspeaker carried in or attached to a motor vehicle being operated or standing on a public highway.
3. Operation of a combustion engine or pneumatic device without an effective exhaust-muffling device that is in good working order and in constant operation.
4. Operation of any item of construction equipment without an effective exhaust-muffling device that is in good working order and in constant operation.
5. 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.
6. The deliberate and unnecessary acceleration, rapid turning or rapid braking of a motor vehicle.
7. Operation of any outdoor auditory signaling device, including but not limited to outdoor paging systems, the ringing of bells or gongs, the use of sirens, whistles or chimes, 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 practice.
8. Persistent barking, calling or whining or other similar persistent noise making by animals and birds kept as household pets, which disturbs or prohibits the peace or repose of any person in another occupied dwelling.
9. Yelling, shouting, screaming or similar noise that disturbs or prohibits the peace and enjoyment of any person occupying a neighbouring property.
10. Setting off fireworks after 11:00 p.m. on any given evening and before 6:00 a.m. on any given morning.

11. Operation of an engine or motor in, or on, any vehicle or item of attached auxiliary equipment for a continuous period of more than five minutes, or such other time limit specified in this bylaw controlling the idling of vehicles and boats, while such vehicle is stationary in a residential area, unless:

- (a) The vehicle is in an enclosed structure constructed so as to effectively prevent the emission of excessive noise;
- (b) Continuous operation of the engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to the operation of ready-mixed concrete trucks, lift platforms, refuse compactors and heat exchange systems during normal operation;
- (c) 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 or animals, or the preservation of perishable cargo.

12. Any unwanted or meaningless sound that in the opinion of the Officer is likely to disturb the inhabitants of the Municipality.

SCHEDULE “B” to Bylaw 2020-062

Exemptions from the Noise Prohibitions

1. Operation of emergency vehicles.
2. Operation of municipal service vehicles and related equipment.
3. Operation of utility service vehicles and related equipment.
4. Authorized displays of fireworks.
5. Circuses and midways that have been authorized by the Municipality.
6. Races, parades, processions, concerts, events for ceremonial, religious or traditional purposes, cultural, recreational, educational and political events in parks and other public places that have been authorized by the Municipality.
7. Operation of bells, chimes, carillons and clocks in churches and public buildings.
8. Cultural, recreational, educational and political events in parks and other public places that have been authorized by the Municipality.
9. Neighbourhood events on municipal highways and other municipal property that have been authorized by the Municipality.
10. Agricultural activities on agricultural properties.



SCHEDULE “C” to Bylaw 2020-062

A BYLAW TO PROHIBIT AND REGULATE NOISE AND THE USE OF FIREWORKS

Part I – Provincial Offences Act Set Fines

| ITEM | COLUMN 1 SHORT FORM WORDING | COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE | COLUMN 3 SET FINE |
|-------------|--|--|------------------------------|
| 1 | Cause or permit to be made unnecessary noise or sound | Section 2.1 | \$100.00 |
| 2 | Set off fireworks during a Fire Ban or Extreme conditions | Section 2.2 | \$1000.00 |
| 3 | Set off fireworks during prohibited times | Section 2.3 | \$100.00 |
| 4 | Set off fireworks during prohibited days | Section 2.4 | \$100.00 |
| 5 | Set off fireworks in an unsafe manner | Section 2.7 | \$500.00 |
| 6 | Cause or permit damage or injury from the use of fireworks | Section 2.9 | \$1000.00 |

THE PENALTY PROVISION FOR THE OFFENCES CITED ABOVE IS SECTION 5 OF BYLAW NUMBER 2020-062, A CERTIFIED COPY OF WHICH HAS BEEN FILED.