

THE CORPORATION OF LOYALIST TOWNSHIP

BY-LAW NO. 2011-6

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 Loyalist Township deems it expedient to regulate noise;

NOW THEREFORE the Council of The Corporation of Loyalist Township enacts as follows:

1. DEFINITIONS

In this by-law,

- (a) "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;
- (b) "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;
- (c) "Council" means the Council of The Corporation of Loyalist Township;
- (d) "Designated Area" means any area of the municipality that is designated by shading on Schedule 4, and further described on Schedule 5;
- (e) "Director" means the Director of Administrative Services for The Corporation of Loyalist Township;

- (f) "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;
- (g) "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;
- (h) "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;
- (i) "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 untravelled portion of the highway;
- (j) "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;
- (k) "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;
- (l) "Motorized Conveyance" means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- (m) "Municipality" means the land within the geographic limit of Loyalist Township;
- (n) "Municipal Service Vehicle" means a vehicle operated by or on behalf of Loyalist Township 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;
- (o) "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;

- (p) "Other Areas" shall mean any area of the municipality other than is designated by shading on Schedule 4 and further described on Scheduled 5;
- (q) "Person" includes a corporation as well as an individual;
- (r) "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;
- (s) "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;
- (t) "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;
- (u) "Township" means The Corporation of Loyalist Township; and
- (v) "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 in a designated area; or
- ii) during the hours specified in column three in other areas.

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 Director 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 Township are responsible for enforcing the provisions of this by-law.
- 5.3 Any person may submit an application to the Director requesting an exemption from any of the prohibitions described in Sections 2 and 3 and Council hereby delegates to the Director 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 Director 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 Director determines to be appropriate.
- 5.5 The Director 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 for 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", "3", "4" and "5" are attached to and form part of this by-law.
10. By-law 99-35 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 14th DAY OF MARCH, 2011



MAYOR



CLERK

SCHEDULE I TO BY-LAW 2011-6

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



SCHEDULE 2 TO BY-LAW 2011-6

PROHIBITIONS BY TIME AND PLACE

ACTIVITY Column 1	PROHIBITED PERIOD OF TIME	
	Column 2 Designated Areas	Column 3 Other Areas
1. The operation of any auditory signalling 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	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	24 Hours
3. All selling or advertising by shouting or outcry or amplified sound.	24 Hours	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	No restrictions
5. The operation of any equipment in connection with construction.	8 PM – 7 AM daily and 24 Hours on Sunday and holidays	8 PM – 7 AM daily and 24 Hours on Sunday and holidays

PROHIBITIONS BY TIME AND PLACE

ACTIVITY <u>Column 1</u>	PROHIBITED PERIOD OF TIME	
	<u>Column 2</u> <u>Designated Areas</u>	<u>Column 3</u> <u>Other Areas</u>
6. The operation of any equipment in connection With detonation of explosive devices	6 P.M. – 8 A.M.	6 P.M. – 8 A.M.
7. The discharge of firearms.	24 Hours except as outlined on Schedule 5 paragraph 10	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	No Restrictions
9. The operation of any motorized conveyance other than on a highway or other place intended for its operation.	11 PM – 7 AM	No Restrictions
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	No Restrictions
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	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 9AM Sunday	9 PM to 7 AM daily and 9 PM Saturday to 9 AM Sunday

PROHIBITIONS BY TIME AND PLACE

<u>ACTIVITY</u> <u>Column 1</u>	<u>PROHIBITED PERIOD OF TIME</u>	
	<u>Column 2</u> <u>Designated Areas</u>	<u>Column 3</u> <u>Other Areas</u>
13. The operation of a solid waste bulk lift or refuse compacting equipment.	9 PM to 7 AM daily and 24 hours Sunday.	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	9 PM to 7 AM daily
15. Persistent yelling, shouting, hooting, whistling or singing.	24 hours	24 hours
16. The operation of a power assisted hang glider or parafoil.	24 hours	No Restrictions
17. The operation of a pit or quarry	24 hours	7 PM to 7 AM Monday –Friday Midnight – 8 AM 2 PM –10:59 PM on Saturdays 24 hours on Sundays and Holidays

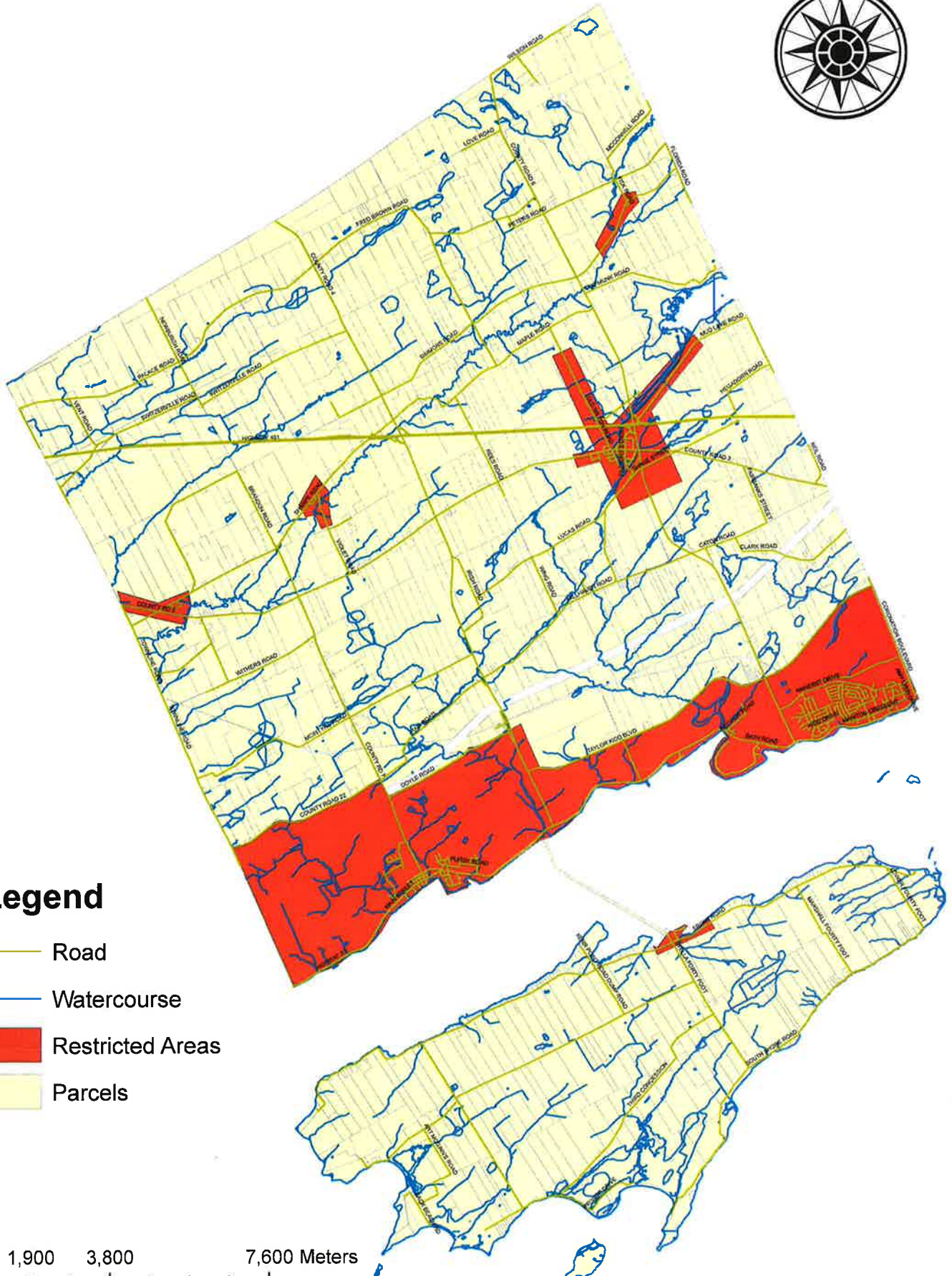
SCHEDULE 3 To BY-LAW 2011-6

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. The Odessa Fair.
5. Any supervised activity, authorized by Council, at the W.J. Henderson Recreation Centre
6. Fireworks Displays on holidays.
7. 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. The Back Beach on Amherst Island.
Loyalist Township has an agreement with Nut Island Farms Limited, the owner of the property identified as Part of Lots 66 and 67, Concession 3, designated as Part 2 on Reference Plan 29R7357, where the municipality has recreational use of the property from 12:01 A.M. on January 1st to Midnight on Labour Day.
Nut Island Farms Limited has the use of the property as a hunting club from 12:01 A.M. on Labour Day until Midnight on December 31st.
12. This by-law shall not apply to a Provincial Offences Officer carrying out normal duties.

**BY-LAW 2011-6 SCHEDULE 4: PART A
THE CORPORATION OF LOYALIST TOWNSHIP**

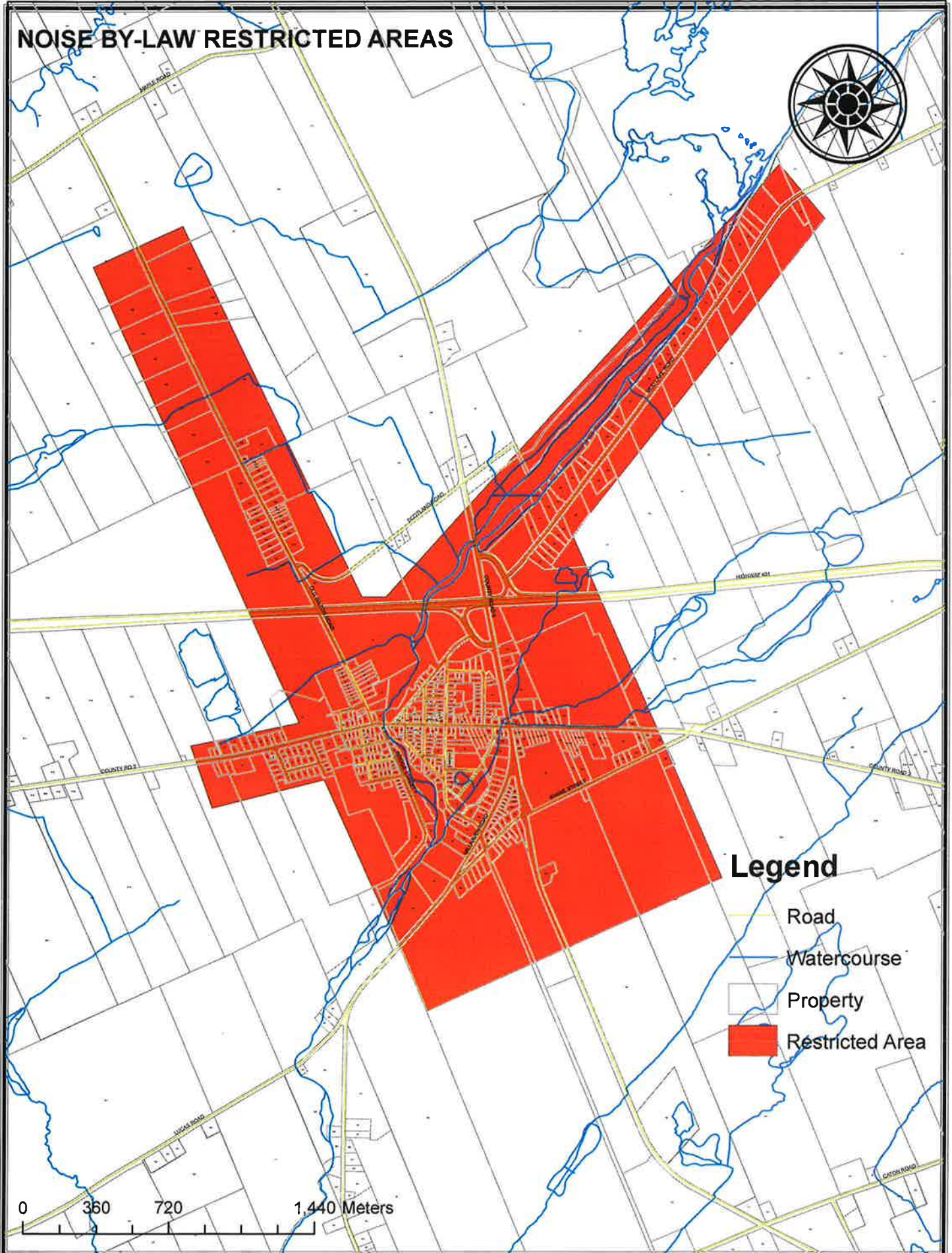


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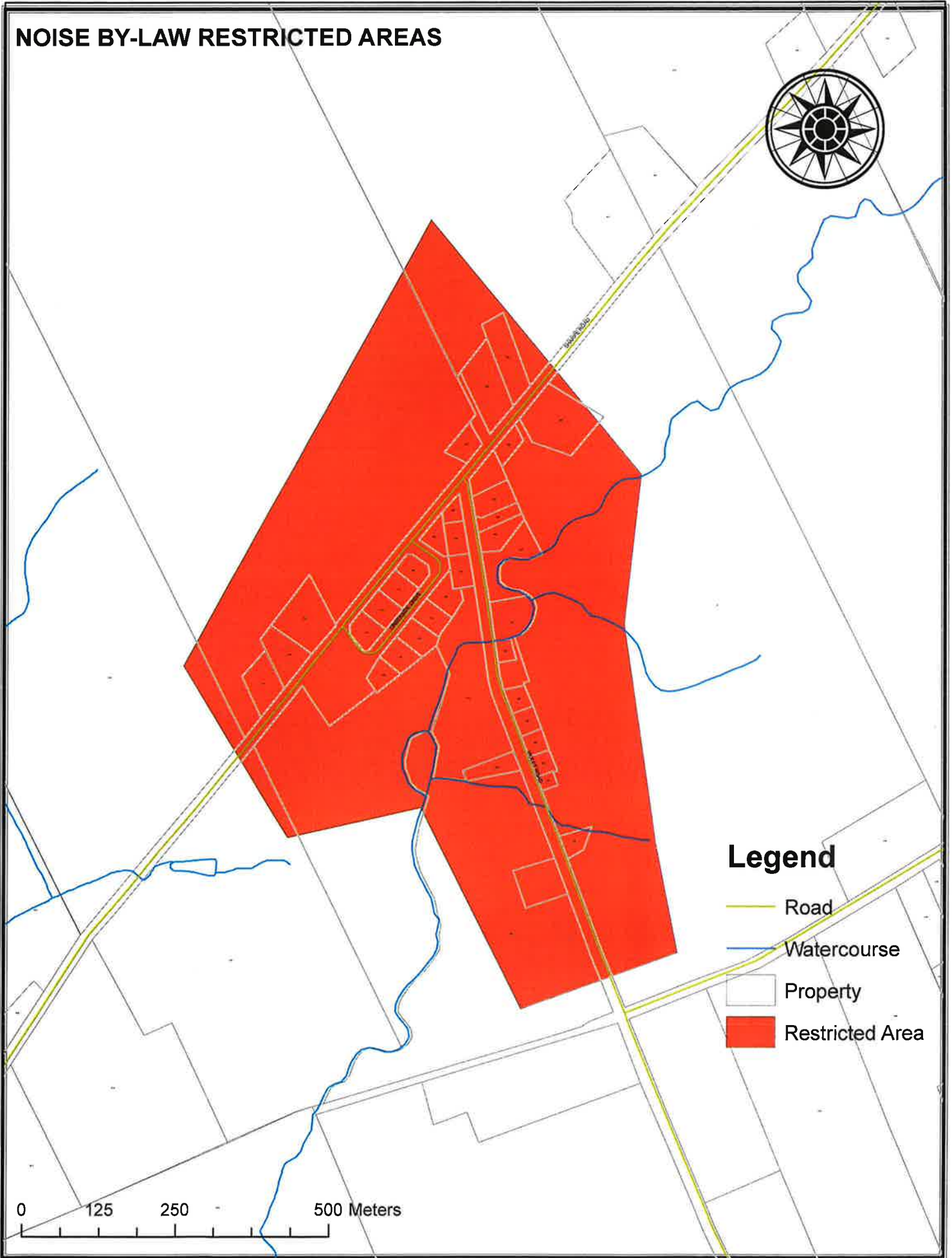
- Road
- Watercourse
- Restricted Areas
- Parcels

0 1,900 3,800 7,600 Meters

NOISE BY-LAW RESTRICTED AREAS



NOISE BY-LAW RESTRICTED AREAS

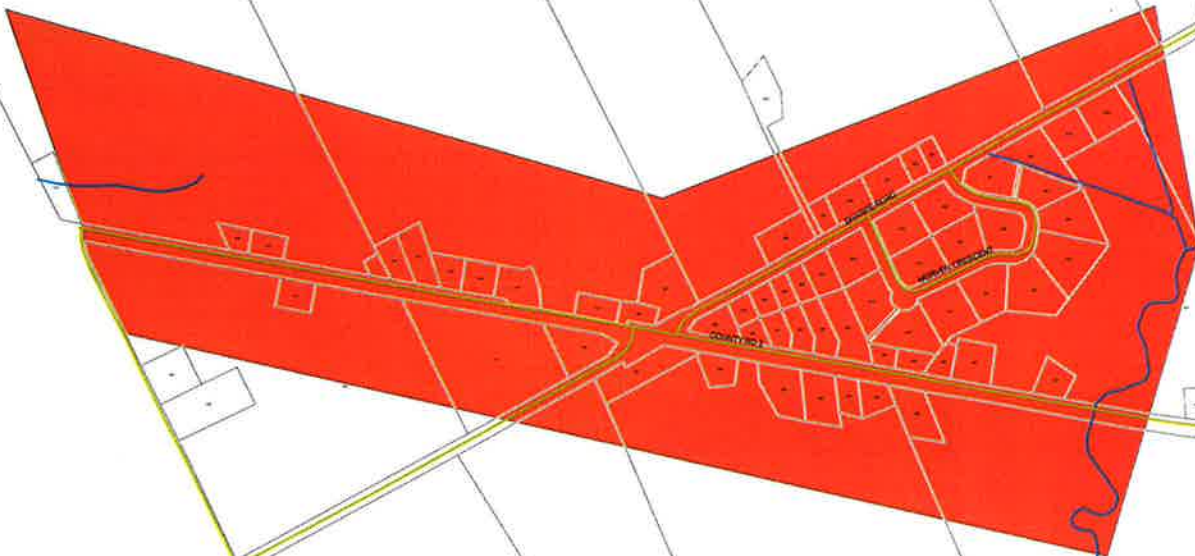


Legend

-  Road
-  Watercourse
-  Property
-  Restricted Area

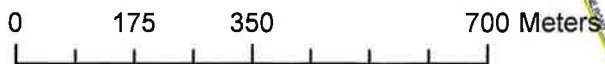
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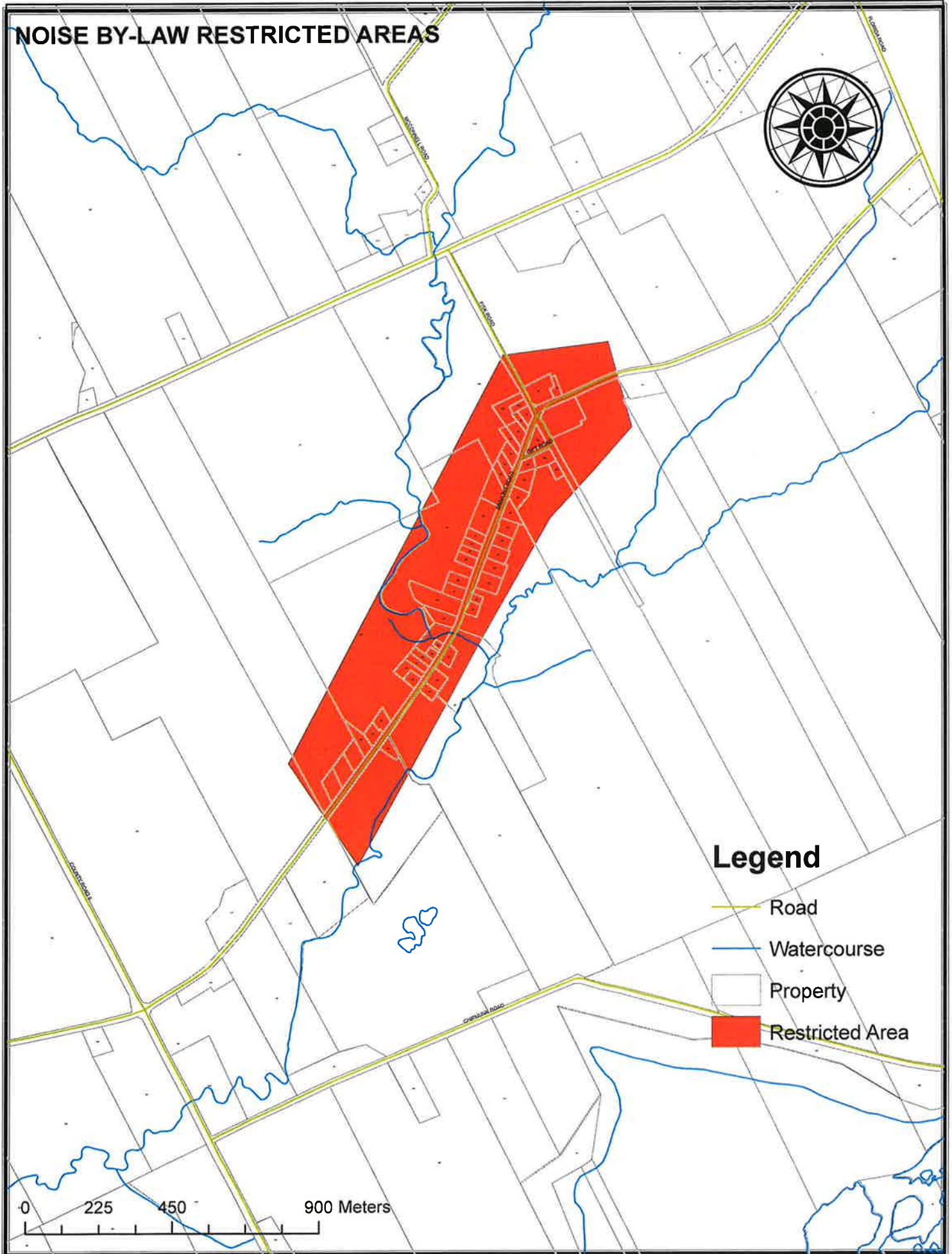
NOISE BY-LAW RESTRICTED AREAS



Legend

-  Road
-  Watercourse
-  Property
-  Restricted Area





SCHEDULE 5 TO BY-LAW 2011-6

Designated Area means any area of the municipality that is designated by shading on Schedule 4 (maps) and further described on Schedule 5 as follows:

1. All of Broken Front Concession;
2. All that portion of Concession 1 contained between Lots 1 to 19 inclusive, lying south of Doyle Road and including the area called "Bath";
3. All that portion of Concession 1 contained between Lots 20 - 42 inclusive, lying south of Taylor-Kidd Boulevard;
4. The built-up area known as "Morven" being described as lying between Part of Lots 1- 6 inclusive, Concessions 4 and 5;
5. The built-up area known as "Violet" being described as lying between Part of Lots 13 - 16 inclusive, Concession 5;
6. The built-up area known as "Odessa" being described as lying between Part of Lots 29 up to the south shoreline of Mud Lake (also known as Odessa Lake) in lots 38, 39 and 40, Concessions 3, 4 and 5;
7. The built-up area known as "Wilton" being described as lying between Part of Lots 37 - 42 , Concession 6;
8. The area known as "J. Earl Burt Memorial Park" being described as Part of Lot 40, Concession 6, lying south of County Road 20;
9. The built-up area known as "Stella" on Amherst Island and being described as Part of Lots 37 and 38, Concession 1 and Part of Lots 1, 2 and 3, North Shore Concession; and
10. The Back Beach on Amherst Island, described as Part of Lots 66 and 67, Concession 3, designated as Part 2 on Reference Plan 29R-7357.