

**THE CORPORATION OF THE TOWN OF GREATER NAPANEE  
BY-LAW NO. 2023-0043**

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**A By-law to Regulate Noise within the Town of Greater Napanee**

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**WHEREAS** Section 128 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes a local 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** excessive sound and inadequately controlled noise may impair public health, safety and welfare, and may become a nuisance;

**AND WHEREAS** Section 129 of The Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides authority for municipalities to prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination;

**AND WHEREAS** Section 425 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes a municipality to pass by-laws providing that a Person who contravenes a by- law of the municipality passed under that *Act* is guilty of an offence;

**AND WHEREAS** Section 436 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes a municipality to pass by-laws providing that the municipality may enter on land for the purpose of carrying out inspections, to determine compliance with a by-law, direction, order or condition of a license passed or made under that *Act*;

**NOW THEREFORE** the Council of the Corporation of the Town of Greater Napanee enacts as follows:

**DEFINITIONS**

1. In this By-law, unless the context otherwise requires:
  - a) "Agricultural Operation" has the same meaning as contained in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, C.1 as amended, or any successor legislation;
  - b) "Amplified Sound" means any sound made by any electronic device or a group of connected electronic devices incorporating one or more loudspeakers or other electromechanical transducers, and intended for the production, reproduction or amplification of sound.
  - c) "Construction" means the erection, alteration, repair, painting, maintenance, relocation, demolition or removal of a building or other structure and includes all land clearing, landscaping, earth moving,

grading, excavating, all public works activities, the erection or laying of lines, cable, pipes and conduit (whether above or below ground level), street building, paving, concreting and similar activities on a site and the installation, alteration or removal of construction equipment, components and materials in any form or for any purpose, and any work being done in connection therewith;

- d) "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, graders or other material handling equipment;
- e) "Council" means the Council of the Corporation of the Town of Greater Napanee;
- f) "Town" means the Corporation of the Town of Greater Napanee;
- g) "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;
- h) "Motor Vehicle" means any motorized conveyance and includes any automobile, motorcycle and any other vehicle propelled or driven otherwise than by muscular power;
- i) "Normal Farm Practice" has the same meaning as contained in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, C.1 as amended, or any successor legislation;
- j) "Officer" means a person appointed by Council as a Municipal By-law Enforcement Officer, a Police Officer, or any other individual duly appointed to enforce this By-law;
- k) "Persistent" means any noise that is continuously heard for a period of ten minutes or more or intermittently over a period of one hour or more.
- l) "Person" includes a person, firm, association, co-partnership, joint venture, corporation or any entity, public or private;
- m) "Point of Reception" means:
  - i. any premises or location where sound is received, other than the premises from which the sound originates; or
  - ii. any place on a highway where sound is received;

- n) "Pit" and or "Quarry" means land from which unconsolidated aggregate is being or has been excavated and or stored, and that has not been finally rehabilitated.
- o) "Premises" means a parcel of land and includes any buildings and structures on the land;
- p) "Residential Area" shall include any area of the Town where residential use is permitted under the provisions of the Town of Greater Napanee Comprehensive Zoning By-law No. 02-22 as amended or replaced.

## **OPINION OF COUNCIL**

- 2. Without limiting the generality of Section 3 of this By-law, the noises which Council hereby deems to be noises likely to disturb the inhabitants of the Town include the noises from the sources and at the times described in Schedule "A".

## **GENERAL PROHIBITION**

- 3. No person shall at any time ring any bell, blow any horn, shout or make any unusual noise or noise likely to disturb the inhabitants of the Town, if audible at a point of reception.

## **NOISE FROM INDUSTRIAL SOURCES**

- 4. Nothing in this by-law shall be interpreted to authorize the making of any noise where the same would be a contravention of the *Environmental Protection Act*, R.S.O. 1990, c. E.19, as amended.

## **EXCEPTIONS**

- 5. The provisions of this By-law shall not apply to any noise caused by:
  - a) measures undertaken in an emergency for the:
    - i. immediate health, safety or welfare of the inhabitants; or
    - ii. preservation or restoration of property, unless the noise is clearly of a longer duration or a more disturbing nature than is reasonably necessary to deal with the emergency.
  - b) the sound of a church bell or chime;
  - c) audible traffic signals;

- d) the noise created by the collection or disposal of garbage, waste or recyclable material;
- e) the noise caused by the erection, demolition, alteration or repair of a building or by construction or earth-moving equipment working upon a site or highway when such work is undertaken by forces of the Town, any other public utility, or their agents or servants;
- f) police officers, firefighters and operators of emergency vehicles in the conduct of their lawful duty;
- g) the operation of domestic power tools, chain saw, chipper or leaf blower power, and equipment used for lawn, garden, building or property maintenance, but excluding construction, on any day between 7:00 a.m. and 11:00 p.m.;
- h) the noise arising from the operation of construction or construction equipment on any day between the hours of 7:00 a.m. and 7:00 p.m. This exemption shall not apply to construction equipment being operated without the originally installed muffling devices or their equivalent in good working order and in constant operation;
- i) the reasonable noise arising from an industrial zone as defined in the Zoning By-law No. 02-22 that results from an essential part of the process or practice that is established on the property from which the noise originated. This exemption does not apply to the activities of a salvage yard as defined in the Zoning By-law No. 02-22, or to a pit or quarry, on any day between the hours of 7:00 p.m. of one day and 7:00 a.m. of the following day, except where a provincial approval provides otherwise;
- j) the reasonable noise arising from a commercial or business park zone as defined in the Zoning By-law No. 02-22 that results from an essential part of the process or practice that is established on the property from which the noise originated;
- k) the operation of a street sweeper, parks and public works maintenance machines and equipment by or on behalf of the Town, or other institutional uses within the Town of Greater Napanee limits;
- l) The use in a reasonable manner of vehicles and equipment when utilized for the clearing and the removal of snow from public or private property. This includes plowing, salting, and removing snowbanks;
- m) Operation of excavation equipment when used in a cemetery in conjunction with interment services;

- n) occasional cultural, recreational and other gatherings, public dances, shows, races, midways, fireworks, carnivals, parades, and sporting and entertainment events provided said events are conducted pursuant to a permit or licence or otherwise approved by the Town of Greater Napanee relative to the staging of said events;
- o) agricultural operations carried on in accordance with normal farm practices;
- p) activities or work specifically exempted from this By-law by Council provided such conditions or requirements as may be imposed by Council are observed or met.

### **TEMPORARY NOISE PERMIT**

6. Any person may make application to the Clerk or delegate to be granted an exemption from any of the noise prohibitions in this By-law by the issuance of a temporary noise permit. If the Clerk or delegate refuses the request for exemption, the applicant may apply to Council for such exemption. The application for the issuance of a temporary noise permit shall be made in writing at least 45 days prior to the commencement of the requested exemption and shall contain:
  - a) the name and address of the applicant;
  - b) a description of the source of noise in respect of which exemption is sought;
  - c) a statement of the particular provision or provisions of the By-law from which exemption is sought;
  - d) the period of time for which the exemption is sought;
  - e) the reason why the exemption should be granted; and
  - f) a non-refundable application fee of \$25.00.
7. Council maintains the discretion to waive the application fee for a temporary noise permit.
8. In determining whether to grant an exemption by way of a temporary noise permit or to waive any fees, Council shall:
  - a) determine whether the applicant has provided all the information required by subsection 5;

- b) determine whether the applicant has complied with all terms and conditions of approval of any previous permit issued to the applicant under this section, if any;
  - c) consider any negative effects the issuance of the temporary noise permit may have on neighbouring properties or the Town; and
  - d) consider any benefits the issuance of the temporary noise permit may have for neighbouring properties or the Town.
9. Council may impose conditions on temporary noise permits including but not limited to:
- a) the type and volume of noise that may be made;
  - b) the times during which may be made;
  - c) the date of expiry of the temporary noise permit;
  - d) requiring the posting of security prior to the activity; and
  - e) requiring that the applicant, Town staff or a professional engineer monitor the noise levels resulting from the event or activity and requiring a report of the findings to be filed with the Town of Greater Napanee within 30 days of the event or activity, all at the applicant's expense.
10. Any temporary noise permit issued under this By-law shall expire on the date set out on the temporary noise permit, or if no date is set out on the temporary noise permit, the permit shall expire forty-eight hours after its issuance.
11. Any breach by the holder of the temporary noise permit of any of its terms or conditions shall render the temporary noise permit null and void.
12. Every holder of a temporary noise permit shall comply with the terms and conditions of the temporary noise permit.

## **ENFORCEMENT AND RIGHT OF ENTRY**

13. This By-law may be enforced by an Officer or other individual authorized by Council from time to time.
14. An Officer may at all reasonable times enter upon any premises other than dwellings to ascertain whether the provisions of this By-law are being observed or to enforce this By-law.
15. No person shall obstruct or hinder or attempt to obstruct or hinder an Officer

or other authorized employee or agent of the Town in the exercise of a power or the performance of a duty under this by-law.

16. 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.

17. Every person shall provide proof of identification satisfactory to the Officer when requested to do so pursuant to this By-Law and failure to do so shall constitute obstruction of an Officer.

## **PENALTY**

18. Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable for a fine as provided for by the *Provincial Offences Act, R.S.O. 1990, c.P.33*, as amended.

19. Pursuant to the authority established in s. 429(2) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, every person who contravenes any provision of this by-law is guilty of an offence and upon conviction pursuant to Part III of the *Provincial Offences Act, R.S.O. 1990, c.P.33*, as amended, shall be subject to the following penalties:

- a) a person who is convicted of an offence is liable to a fine of not more than \$25,000 for a first offence and to a fine of not more than \$50,000 for a subsequent offence.
- b) a corporation who is convicted of an offence is liable to a fine of not more than \$50,000 for a first offence and to a fine of not more than \$100,000 for a subsequent offence.

## **SEVERABILITY**

19. If any section, clause or provision of this By-law is for any reason declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention of Council that the remaining sections, clauses or provisions of the by-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions of this by-law shall have been declared to be invalid.

## **REPEAL**

20. By-law 04-60 and amending By-law 05-49 are hereby repealed on the date this by-law comes into effect.

## **ENACTMENT**

21. That this By-law shall come into force and effect on the date that the Set Fines under Part I of the *Provincial Offences Act*, R.S.O. 1990. Chapter P.33 receive approval of the Regional Senior Justice, East Region, Ontario Court of Justice.

Read a first and second and finally passed this 23rd day of May, 2023.

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Terry Richardson, Mayor

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Jessica Walters, Clerk



**SCHEDULE "A"**  
**To By-law No. 2023-0043**

	<b>Particulars of Noise</b>	<b>Prohibited Period</b>
1	The operation of any construction equipment in connection with construction, unless otherwise exempt under the provisions of this by-law	7:00 pm of one day to 7:00 am of the next day
2	The operation of any construction equipment without the originally installed muffling devices or their equivalent in good working order and in constant operation	At any time
3	The detonation of fireworks or explosive devices	11:00 pm of one day to one hour before dusk of the next day, in accordance with Fireworks Discharge By-law 2006-0016.
4	The discharge of firearms in a manner contrary to the Discharge of Firearms By-law 2013-0048.	At any time
5	The operations of a combustion engine which is, or is used in, or is intended for use in, a toy or a model replica of a larger device, which model or replica has no function other than amusement and which is not a conveyance	9:00 pm of one day to 7:00 am of the next day
6	The operation of any motor vehicle other than on a highway or other place intended for its operations	11:00 pm of one day to 7:00 am of the next day
7	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	11:00 pm of one day to 7:00 am of the next day
8	The operations of any powered tool for domestic purposes other than snow removal	11:00 pm of one day to 7:00 am of the next day
9	The operations of solid waste bulk lift or refuse compacting equipment	11:00 pm of one day to 7:00 am of the next day
10	Persistent yelling, shouting, hooting, whistling or singing or similar sounds	At any time
11	Yelling, shouting, hooting, whistling or singing or similar sounds	11:00 pm of one day to 7:00 am of the next day
12	The operations of a sound-emitting pest control device	11:00 pm of one day to 7:00 am of the next day
13	Racing of any motor vehicle other than in a racing event regulated by law	At any time
14	The operations of a motor vehicle in such a way that the tires squeal	At any time
15	The operations of any combustion engine without an effective exhaust muffling device in good working order and in constant operation	At any time

16	The persistent barking, calling or whining or other similar persistent noisemaking by animals and birds kept as household pets.	At any time
17	The operating of any auditory signaling device, including but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles, or the production, reproduction or amplification of any similar sounds except where required or authorized in accordance with good safety practices or for accessibility purposes	9:00 pm of one day to 7:00 am of the next day
18	Amplified sound, including amplified music, entertainment, or advertising	11:00 pm of one day to 7:00 am of the next day
19	Amplified sound, including amplified music, entertainment, or advertising in conjunction with a special event which has not received a permit or licence or otherwise been approved by the Town of Greater Napanee	At any time
20	Operation of a pit or quarry or salvage yard, except where a Provincial approval provides otherwise	7:00 pm of one day to 6:30 am of the next day

## SCHEDULE "B"

### Set Fines for Infractions under Part I Provincial Offences Act

#### For Town of Greater Napanee By-law No. 2023-0043 Being a By-Law to Regulate Noise within The Town of Greater Napanee

<b>ITEM</b>	<b>COLUMN 1 Short Form Wording</b>	<b>COLUMN 2 Provision creating or defining offence</b>	<b>COLUMN 3 Set Fine</b>
1.	Ring bell	s.3	\$200.00
2.	Blow horn	s.3	\$200.00
3.	Shout	s.3	\$200.00
4.	Make unusual noise	s.3	\$200.00
5.	Make noise likely to disturb	s.3	\$200.00
6.	Noise, operate construction equipment at prohibited time	s.2, Schedule A(1)	\$200.00
7.	Noise, operate construction equipment without muffler	s.2, Schedule A(2)	\$200.00
8.	Noise, detonation of fireworks at prohibited time	s.2, Schedule A(3)	\$200.00
9.	Noise, detonation of explosive device at prohibited time	s.2, Schedule A(3)	\$200.00
10.	Noise, discharge of firearm at prohibited time	s.2, Schedule A(4)	\$200.00
11.	Noise, operation of model combustion engine at prohibited time	s.2, Schedule A(5)	\$200.00
12.	Noise, operate motorized vehicle at prohibited time	s.2, Schedule A(6)	\$200.00
13.	Noise, venting at prohibited time	s.2, Schedule A(7)	\$200.00
14.	Noise, operate power tool at prohibited time	s.2, Schedule A(8)	\$200.00
15.	Noise, operate bulk lift at prohibited time	s.2, Schedule A(9)	\$200.00

16.	Noise, operate refuse compacting equipment at prohibited time	s.2, Schedule A(9)	\$200.00
17.	Noise, persistent yelling, shouting or similar sounds	s.2, Schedule A(10)	\$200.00
18.	Noise, yelling, shouting, or similar sounds at prohibited time	s.2, Schedule A(11)	\$200.00
19.	Noise, operate pest control device at prohibited time	s.2, Schedule A(12)	\$200.00
20.	Noise, racing motorized vehicle	s.2, Schedule A(13)	\$200.00
21.	Noise, squeal tires	s.2, Schedule A(14)	\$200.00
22.	Noise, operate engine without muffler	s.2, Schedule A(15)	\$200.00
23.	Noise, persistent barking or noisemaking by a pet	s.2, Schedule A(16)	\$200.00
24.	Noise, operate signaling device at prohibited time	s.2, Schedule A(17)	\$200.00
25.	Noise, amplified sound at prohibited time	s.2, Schedule A(18)	\$200.00
26.	Noise, amplified sound from non-permitted special event	s.2, Schedule A(19)	\$200.00
27.	Noise, operation of a pit or quarry at prohibited time	s.2, Schedule A(20)	\$200.00
28.	Fail to comply with temporary noise permit	s.12	\$200.00
29.	Obstruct officer or authorized employee	s.15	\$200.00

NOTE: The penalty provision for the offences indicated above is contained in Section 18 of By-Law No. 2023-0043, a certified copy of which has been filed.