

# THE CORPORATION OF THE TOWNSHIP OF BONNECHERE VALLEY

## By-Law Number 2013 - 16

Being a by-law to regulate noise within the township of bonnechere valley

**WHEREAS** section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

**AND WHEREAS** section 129 of the *Municipal Act, 2001* provides that, without limiting sections 9 and 10 of the Act, a municipality may: (a) prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors; and (b) prohibit the matters described in clause (a) unless a permit is obtained from the municipality for those matters and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

**AND WHEREAS** section 128 of the *Municipal Act, 2001* provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances;

**AND WHEREAS** section 444 of the *Municipal Act, 2001* provides that the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity, and any person who contravenes such an order is guilty of an offence;

**Whereas** it is in the public interest to ensure and maintain moderate noise levels within the Township of Bonnechere Valley consistent with its character, so as to preserve, protect and promote the public health, safety, welfare and peace and quiet of the residents of the said Township and to regulate and control public nuisances:

**NOW THEREFORE**, the Council of the Corporation of the Township of Bonnechere Valley hereby enacts as follows:

### 1.0 Definitions In this by-law,

- a) "Agricultural Operation" means an agricultural, aqua cultural, horticultural or silvi culture operation that is carried on in the expectation of gain or monetary reward.
- b) "Construction" includes, but is not limited to, erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, the laying of pipe and conduit, whether above or below ground level, street and highway building, application of concrete, 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 with construction.
- c) "Construction Equipment" means any equipment or device designed and intended for use in construction or material handling, including, but not limited to, hand tools, power tools, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers or tracks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment;
- d) "Emergency" means an urgent matter relating to the immediate health, safety or welfare of the residents of the Township or the operator of the Vehicle.
- e) "Engine Brake" Jake Brake or Jacobs Brake may be used interchangeably and mean any device commonly used in motor vehicle powered by a diesel engine unit to slow or brake the vehicle by using the engine compression.
- f) "Motor Vehicle" means any vehicle propelled or driven other than by muscular power and as defined within the meaning of the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended;
- g) "Municipality" means the Township of Bonnechere Valley;
- h) "Noise" Means sound or a sound that is loud, unpleasant, unexpected, or undesired.
- i) "Point of Reception" means any point on the premises of a person where noise originating from other than those premises is received.

- j) “Power Device” Means any power device used in the servicing, maintenance or repair of any premises including but not limited to, chain saws, power tools, lawnmowers, leaf blowers, edge trimmers, line trimmers, roto tillers, and pressure washers specifically excluding devices driven by muscular power.
- k) “Public Nuisance” Means an activity or activities, intentional or negligent in origin, which have a detrimental impact on the use and enjoyment of properties in the vicinity of the premises such as but not limited to: fighting, obstructing a sidewalk, distributing handbills, annoying others, interfering with others’ lawful activities, disobeying signs, knocking over waste containers, damaging municipal property, applying graffiti, littering, dumping snow on municipal property, dumping waste on municipal property or unnecessary shining of vehicle, spotlight or fixed lights towards houses.
- l) “Premises” Means any parcel of land and the improvements on it, a building, store, shop, apartment, or other designated structure.
- m) “Residential” means any property or premises within the municipality which is zoned for residential use by an applicable zoning bylaw or which is used in whole or in part for human habitation.
- n) Any word or term not defined in this By-law, that is defined in the Ontario Ministry of the Environment Publication Noise Pollution Control NPC-101, 102, 103, 104, 115, 205, 206, 215 or 232 (as set out in Part 3 of this By-law) shall have the meaning ascribed to it in such NPC Publication.

## **2.0 Prohibitions**

No person shall emit, cause or permit the emission of noise resulting from any act listed in the table set out in schedule “A” of this bylaw if clearly audible at a point of reception between the hours of 11:00 PM of one day and 7:00 AM of the following day.

## **3.0 Determination of excessive noise**

Factors for determining whether a noise is unreasonably loud or excessive include, but are not limited to the following:

- a) The proximity of the noise to sleeping facilities,
- b) The land use, nature and zoning of the area from which the noise emanates and the area where it is received or perceived:
- c) The time of day or night that the noise occurs:
- d) The duration of the noise
- e) The volume of the noise
- f) The nature of the noise
- g) Whether the noise is recurrent, intermittent or constant; and
- h) The nature of the event or activity from which the noise emanates.

## **4.0 Operation of Engine Brakes**

No person shall use or permit the use of any “Engine brake” or any other similar device on any Motor Vehicle between the hours of 7:00 PM of one day and 7:00 AM of the following day in any location as detailed in Schedule “C” of this bylaw.

## **5.0 Public Nuisance**

No person shall at any time:

- a) Perform, permit or allow any act that is a public Nuisance
- b) ) Perform, permit or allow any activities on one Property which are obnoxious or which substantially reduce the enjoyment of another Property, including, without limiting the generality of this section, activities such as:
  - i. the creation of vibration; or objectionable odour.
  - ii. the emission of smoke, dust, airborne particulate matter or
- c) ) Perform, permit or allow light to be broadcast directly from that Property onto another Property from any source.

## **6.0 Application of strictest standard**

Where a source of noise is subject to more than one provision of this by-law, the most restrictive provision shall prevail.

## **7.0 Exemptions**

- (1) This by-law shall not bind the Township of Bonnechere Valley or any local board of the Township, the Province of Ontario, the Government of Canada or any of its respective agents.
- (2) Despite other provisions of this by-law, this by-law shall not apply to a person who emits or causes or permits the emission of noise, noise or vibration in connection with:
  - (i) Any activities listed in Schedule “B”; or
  - (ii) Any situation where it can be clearly shown that reasonable efforts to address, ameliorate, or otherwise deal with a situation have been taken and that the shutting off or termination of the source of the noise would cause a situation affecting the health or safety of an individual.

## **8.0 Extension of hours for Outdoor Public Events**

- (1) The Township may, upon written application, grant permission to extend the hours during which amplification equipment may be used at an outdoor public event.
- (2) The Township in exercising its authority pursuant to subsection (1), the Township may grant its permission with or without conditions.

## **9.0 Offence**

Every person who contravenes any provision of this by-law is guilty of an offence and, on conviction, is liable to payment of a fine or other penalty as provided for under the *Provincial Offences Act, R.S.O 1990, P.33*, as amended.

## **10.0 Enforcement**

This Bylaw may be enforced by any Provincial Offences Officer including but not limited to the Municipal Bylaw Enforcement Officer(s) of the Township of Bonnechere Valley, The Ontario provincial Police or Ministry of Transport.

## **11.0 Offences and Penalties**

1. Any person who contravenes any provision of this By-law is guilty of an offence.
2. A director or officer of a corporation who knowingly concurs in the contravention of this By-law is guilty of an offence.
3. Any person convicted under this By-law is liable:
  - (i) Upon a first conviction, to a minimum fine of \$250.00 and a maximum fine of \$5,000.00;
  - (ii) Upon a subsequent conviction, to a minimum fine of \$500.00 and a maximum fine of \$10,000.00.
4. Where the person convicted is a corporation, the corporation is liable,
  - (i) Upon a first conviction, to a minimum fine of \$250.00 and a maximum fine of not more than Ten Thousand Dollars (\$10,000.); and
  - (ii) Upon any subsequent conviction, to a minimum fine \$1000 and a maximum fine of not more than Twenty Five Thousand Dollars (\$25,000).
5. If this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the 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 or Corporation convicted.

## **12.0 Severability**

Each clause of this bylaw is an independent clause and the holding of any clause or part of any clause to be void or ineffective for any cause shall not be deemed to affect the validity of any other clause of parts of any clause.

### **13.0 Repeals**

By-Law Number 2005-12 is hereby repealed effective as of the date of passing this Bylaw upon the passing thereof by the council of the Corporation of the Township of Bonnechere Valley.

### **14.0 Effective Date**

This by-law shall come into force and take effect immediately upon the passing thereof by the Council of the Corporation of The Township of Bonnechere Valley

Read the first and second time this 5<sup>TH</sup> day of March 2013

Read a third and final time this 5<sup>th</sup> day of March 2013

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Mayor Jennifer Murphy

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Bryan Martin CAO

Schedule "A"  
 To By-law 2013 - 16  
 Being a By-law to regulate noise

No person shall emit, cause or permit the emission of noise resulting from any act listed below at any time as detailed in this bylaw

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|---|
| 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 music, speech, or other noise such clauses to include, without limitation, radios, phonographs, stereos, televisions, public address systems, noise equipment, loud speakers, musical or noise producing instruments and all similar devices. |
| Persistent yelling, shouting, screaming, hooting, whistling or singing  |
| The detonation of fireworks or explosive devices  |
| The operation of any power device   |
| Crowd-related noise emanating from a gathering of individuals a property or premises, including without limitation, parties, music festivals, concerts, weddings, and other privately-hosted events.  |
| The operation of an engine or motor in, or on any motorized Vehicle or item of attached auxiliary equipment for a continuous period exceeding ten (10) minutes while such vehicle is stationary, except where weather conditions justify the use of heating or refrigeration systems powered by the motor or engine of the vehicle or supplementary motor or engine for the safety and welfare of the operator, passengers or animals or the preservation of perishable cargo.      |
| The operation of any electrical or combustion engine which is, or is intended for use in any toy or a model or replica which has no function other than that of amusement and which is not a Vehicle.   |
| The operation 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 noises.  |
| Construction activities or the operation of any construction equipment  |
| The loading or unloading of any transport truck, moving van or motor vehicle.   |
| The operation of a motorized Vehicle, engine, motor, construction equipment or pneumatic device without an effective exhaust, intake muffling device or other noise attenuation device of a type specified by the manufacturer, which is in good working order, and in constant operation.  |
| The operation of a Vehicle resulting in banging, clanking, squealing, or other like noise due to improperly secured load or equipment or inadequate maintenance.  |
| The operation of a vehicle horn or other warning device except where required or authorized by law or in accordance with generally accepted safety practices.   |
| The operation of any hydraulic motor or hydraulically powered device  |

Schedule B  
To Bylaw 2013 - 16  
Being a Bylaw to Regulate Noise

Exemptions

- a) Operation of authorized emergency vehicles including but not limited to police vehicles, fire trucks, and ambulances.
- b) Operation of Municipal, County or Provincial service vehicles and related equipment performing snow removal or public maintenance.
- c) Agricultural operations, agricultural processing activities, forestry operations and the operation of sawmill.
- d) The ringing of fire or burglar alarms.
- e) Noise emanating from a fuel powered generator being operated in case of an emergency or power outage.
- f) Use of Engine brakes or similar device to assist in braking of a vehicle in an emergency situation

Schedule C  
To Bylaw 2013 - 16  
Being a Bylaw to Regulate Noise

Engine Brake Prohibited Zones

As per section 4 of this Bylaw no person shall use or permit the use of any “Engine brake” or any other similar device on any Motor Vehicle between the hours of 7:00 PM of one day and 7:00 AM of the following day in any location as detailed below:

1. All areas located within ward 1 (Village of Eganville) as signed
2. Augsburg Road from the Village limits for distance of 800 Meters as signed
3. Foymount Road from the village limits for a distance of 600 Meters as signed
4. Fourth Chute Road from the village limits for a distance of 1000 meters as signed

**Township of Bonnechere Valley**

Part I Provincial Offences Act

Bylaw # 2013 - 16

| Item | Column 1<br>Short Form Wording          | Column 2<br>Provision<br>creating or<br>defining<br>offence | Column 3<br>Set fine |
|------|---|---|----------------------|
| 1    | Emit, Cause or Permit excessive noise   | 2.0   | \$250.00             |
| 2    | Operation of Engine Brake               | 4.0   | \$250.00             |
| 3    | Perform, permit or allow a nuisance act | 5.0   | \$250.00             |
|      |   |   |                      |

NOTE: The penalty provisions for the offences cited above are section 9 of Bylaw 2005-12; a certified copy of which has been filed.