

THE CORPORATION OF THE MUNICIPALITY OF TEMAGAMI

BY-LAW NO. 08-796

Being a bylaw to prohibit and regulate certain noises in the Municipality.

WHEREAS the Municipal Act S.O. 2001, C.25, S.129 (a) provides that a Municipality may pass by-laws for prohibiting Noises;

AND WHEREAS the Municipal Act S.O. 2001, C.25, S.129 (b) provides that a Municipality may through permit grant exemptions;

AND WHEREAS the Council of the Municipality of Temagami deems it desirable to pass a By-law to regulate and prohibit unusual Noise, or Noises likely to disturb the inhabitants of the Municipality;

AND WHEREAS Council has ensured adequate notice has been given;

NOW THEREFORE the Council of the Corporation of the Municipality of Temagami hereby enacts the following as a by-law:

1. That Council adopts a by-law to regulate and prohibit unusual Noise, or Noises likely to disturb the inhabitants of the Municipality identified as Schedule "A" hereto attached and forming part of this by-law.
2. That this by-law shall come into force and take effect on the date of its final passing.
3. That the Clerk of the Municipality of Temagami is hereby authorized to make any minor modifications or corrections of an administrative, numerical, grammatical, semantically or descriptive nature or kind to the by-law and schedule as may be deemed necessary after passage of this by-law.

BE TAKEN AS READ A FIRST time on this 24th day of July, 2008.

BE TAKEN AS READ A SECOND time on this 9th day of October, 2008.

BE TAKEN AS READ A THIRD time and finally passed this 23rd day of October, 2008.

MAYOR

CAO/Clerk

SCHEDULE "A" TO BY-LAW NO. 08-796

BEING A BY-LAW TO PROHIBIT AND REGULATE CERTAIN NOISES IN THE MUNICIPALITY.

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Part 1
DEFINITIONS

“Authorized Emergency Vehicle” includes any ambulance or hearse, any vehicle of the fire department, any vehicle of the municipal, provincial or federal police, any vehicle including snow removal equipment operated by or for the *Municipality* or a public utility company while actively engaged in the *construction*, maintenance or repair of any *highway*, or any equipment or facilities thereon and any vehicle or equipment required to address an ongoing or imminent danger to *persons* or property or any extraordinary response required to mitigate harm to the environment or community.

“Municipality” means the Municipality of Temagami.

“Commercial Zone” means the area of land designated as commercial use as prescribed in the *Zoning By-law*.

“Construction” includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, or moving of any building or structure, the clearing of land, earth moving, grading, excavating, the laying of pipe and conduit whether above or below grade 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.

“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.

“Corporation” means the *Corporation* of the *Municipality* of Temagami.

“Council” means the *Council* of the *Municipality* of Temagami.

“Highway” includes a common and public *highway*, street, road, crescent, avenue, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicles.

“Industrial Zone” means the area of land designated as industrial use as prescribed in the *Zoning By-law*.

“Inhabitants” means those *person(s)* occupying or residing within the *municipality*.

“Lot Line” means the boundary line between adjoining properties and or the boundary line between a property and a *highway*, laneway, municipal sidewalk or municipal road allowance.

“Motor Vehicle” includes an truck, automobile, motorcycle, motorized snow vehicle, all terrain vehicle and any other vehicle propelled or driven otherwise than by muscular power; but does not include a farm tractor or *construction equipment*.

“Municipality” means the land within the geographic limit of the *Municipality* of Temagami.

“Noise(s)” means unwanted sound.

“Owner” means and includes: the *person* for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the *person’s* own account or as an agent or trustee of any other *person*, or who would so receive the rent if such land and premise were let.

“**Person**” means an individual, firm or *corporation*.

“**Residential Zone**” means the area of land designated as residential use as prescribed in the *Zoning By-law*.

“**Rural Zone**” means the area of land designated as *rural* use as prescribed in the *Zoning By-law*.

“**Zone**” means the various areas into which the *Municipality* is divided into in accordance with the *Zoning By-law*.

“**Zoning By-law**” means all current by-laws and amendments thereto and any subsequent by-laws which may be enacted in substitution therefore under the Planning Act with respect to land use within the *Municipality*.

Part 2 GENERAL PROHIBITIONS

2.1 Likely to disturb – unusual – prohibited

2.1.1 No *Person* or *Owner* shall cause, or permit to be caused, any unusual *noise* or *noises* likely to disturb *inhabitants* to be generated for an unnecessary or unreasonable period of time.

2.1.2 No *Person* or *Owner* shall cause, or permit to be caused, any unnecessary or unreasonable noise or *noises* likely to disturb *inhabitants* between the hours of 10:00 PM to 7:00 AM of the following day.

2.2 Likely to disturb – unusual – set out

For the purpose of and not so as to limit the generality of section 2.1 of this by-law, the *noises* or sounds set out in sections 2.3 to 2.11 inclusive of this by-law shall be deemed to be unusual *noise* or *noises* likely to disturb *inhabitants*.

2.3 Horn – Siren – Bell

Any sounds or *noises* caused by the use or operation of any horn, bell, siren, signal device or other sound-producing device whether stationary or on any *motor vehicle* or bicycle is prohibited.

2.4 Radio – loud speaker – other – annoying – disturbing

The sounds or *noises* from or created by any radio or phonograph, public address system, sound equipment, loud speaker, or similar device or devices, or any musical or sound producing instrument of whatever kind, when such device or instrument is played or operated in such a manner or with such volume, as to likely annoy or disturb the peace, quiet, comfort of repose of any individual in any location beyond the *Lot Line* of the property on which such device or instrument is located, is prohibited.

2.5 Shouting – Verbal Sound

Any *noises* caused by loud shouting, or excessive sound generated by a human voice, is prohibited.

2.6 Animal – disturbing peace – quiet

Any *noises* made by any domestic pet, or any other animal kept or used for any purpose other than agriculture, which is likely to disturb the peace, or comfort of any individual in any location beyond the *Lot Line* of the property on which such domestic pet, or other animal is located, is prohibited.

2.7 Vehicle – rattling – in disrepair – maladjusted

The grating, grinding, or rattling *noises* or sounds caused by condition of disrepair or maladjustment of any *motor vehicle*, or other vehicle, or part or accessory thereof is prohibited.

2.8 Vehicle – load – improperly secured

The *noises* created by driving any *motor vehicle*, or other vehicle bearing material, articles or things which are loaded upon such vehicles in such a manner as to create such *noises* is prohibited.

2.9 Exhaust – discharge – without muffler

The discharge into the open air of the exhaust of any stationary internal combustion engine or *motor vehicle* except through a muffler or other device, which effectively prevents loud or explosive *noises*, is prohibited.

2.10 Construction – excavation – 9 p.m. to 7 a.m. Sunday to Saturday

9 p.m. to 9 a.m. Saturday to Sunday

Between the hour of 9:00 o'clock p.m. of any day and 7:00 o'clock a.m. of the next following day, Sunday to Saturday and 9:00 o'clock p.m. Saturday until 9:00 o'clock a.m. Sunday, any *noises* arising from any *construction* and the operation of any *construction equipment* related thereto is prohibited.

2.11 Residential Power equipment – use – 10 p.m. to 7 a.m. Sunday to Saturday

10 p.m. to 8 a.m. Saturday to Sunday

Between the hours of 10:00 o'clock p.m. of any day and 7:00 o'clock a.m. of the next following day, Sunday to Saturday, and 10:00 o'clock p.m. Saturday until 8:00 o'clock a.m. Sunday, the *noises* or sounds created by the use or operation of any residential power equipment including lawn and garden maintenance equipment and chainsaws is prohibited.

**Part 3
EXEMPTIONS**

3.1 Commercial Exemption

Notwithstanding any other provision of this by-law, this by-law does not apply to a commercial use that emits, or causes, or permits the emission of sound or vibration that is normal and incidental to the *Commercial Zone*, provided all necessary steps have been made to limit the amount of noise created.

3.2 Industrial Exemption

Notwithstanding any other provision of the by-law, this by-law does not apply to a *Person* or industry use that emits, causes, or permits the emission of sound or vibration that is normal and incidental to the *Industrial Zone*.

3.3 Public Celebration – Election – Gathering

None of the provisions of this by-law shall apply to the use in a reasonable manner of any apparatus or mechanism for the amplification of the human voice or of music in a public park or any other commodious space in connection with any public election meeting, public celebration or other lawful gathering, provided that *Council* of the *Corporation* has passed a resolution in accordance with Section 4.

3.4 *Authorized Emergency Vehicles*

None of the provisions of this by-law shall apply to any *authorized emergency vehicle* answering a call or carrying out their duties.

3.5 *Snow Removal*

None of the provisions of this by-law shall apply to any vehicle of the *Corporation* or their agents working on behalf of the *Corporation* to perform snow removal, snow plowing or snow clearing on any Municipal *Highways* and properties or to private contractors or *persons* performing snow removal, snow plowing or snow clearing.

3.6 *Traditional, Activities*

Notwithstanding any other provision of this by-law, this by-law does not apply to a *person* who emits, causes, or permits the emission of sound in connection with any activity or event authorized by *Council* including the following:

Fire works, Fairs, parades, exhibitions, celebrations or concerts.

3.7 *Railway – operations – under Railway Act*

None of the provisions of this by-law shall apply to any sound arising from the operation of any railway, which operates under the Railway Act of Canada.

Part 4

GRANT OF EXEMPTIONS BY *COUNCIL*

4.1 *Council may grant exemption*

Council may by resolution, upon receipt of written application, grant an exception to provisions of the by-law for a specified period of time, not to exceed 6 months, subject to such terms and conditions as considered reasonable and appropriate.

4.2 *Form of Application*

The application shall include:

- a) the name and address of the applicant;
- b) a description of the source of the sound in respect of which an exemption is being sought;
- c) a statement of the section of the by-law for which an exemption is being sought;
- d) the period of time for which the exemption is being sought;
- e) the reason why an exemption is being sought.

4.3 *Exemption Application to be published*

Such applications shall be accompanied by proof of publication, within the preceding ten days, in a newspaper of general circulation within the applicable service area of the *Corporation*, of a notice of intention to apply for an exemption to this by-law, containing the information required by Clauses 4.2(a) through (e) inclusive and stating the date upon which the application to *Council* is intended to be made.

4.4 Procedure

In deciding whether to grant the exemption, *Council* will review the application and any written or verbal submissions and grant the applicant and any *Person* opposed to the application an opportunity to speak in accordance with *Council's* Procedural By-law.

4.5 Procedure breach of Provisions of Exemption

Where an exemption is granted, any breach of the terms or conditions shall render the exemption null and void.

**Part 5
ENFORCEMENT**

5.1 Offence – Penalty

Every *Person* who contravenes a section of the By-law is, upon conviction, guilty of an offence and subject to a penalty as provided under the “Provincial Offences Act”.

5.2 Continuation – New Offence

Each new day of a continuing offence will be considered a new offence.

5.3 Continuation – Repetition – Prohibited – By Order

The Court in which 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, and such order shall be in addition to any other penalty imposed and enacted as such.

**Part 6
SEVERABILITY**

6.1 Validity

It is declared that notwithstanding that any section or sections of this by-law, or parts thereof, may be found by any court of law to be bad or illegal or beyond the power of the *Council* to enact, such section or sections or parts thereof shall be deemed to be severable and that all sections or parts of this by-law are separate and independent from the other and enacted as such.