

THE CORPORATION OF THE TOWNSHIP OF TAY

BY-LAW NO. 2016-01

**Being a By-law to repeal By-law No. 2011-47 and to provide for the Regulation and Prohibition of Unusual Noises or Noises likely to Disturb the Public and/or the Prevention of Public Nuisances within the Township of Tay**

**WHEREAS** Section 129 of the Municipal Act, S.O. 2001, c.25 as amended, provides that a Municipality may prohibit and regulate with respect to public nuisances including noise;

**AND WHEREAS** the Council of the Township of Tay deems it necessary and expedient to pass a by-law to control activities which cause noises that substantially interfere with other people's health, safety or the normal use and enjoyment of their property;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF TAY ENACTS AND BE IT ENACTED AS FOLLOWS;**

**1.0 DEFINITIONS**

In this by-law,

**"Agriculture"** means the science or practice of farming, including cultivation of the soil for the growing of crops and the rearing of animals to provide food, wool, and other products;

**"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;

**"Council"** means the Council of the Corporation of the Township of Tay;

**"Motor vehicle"** means an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power;

**"Noise"** means a sound that is of such volume or nature at a point of reception that it disturbs or is likely to disturb the inhabitants of the Township;

**"Officer"** means a Municipal Law Enforcement Officer or Police Officer;

**"Owner"** includes an assessed owner, tenant, occupant or any person having an interest, whether equitable or legal, in the land;

**"Person"** means any human being, association, firm, partnership, private club, incorporated company, corporation, agent or trustee and the heirs, executors, or other legal representatives of a person to whom the context can apply according to the By-law;

**"Point of Reception"** means any point on the premises of a person where sound or vibration originating from other than those premises is received;

**"Property Maintenance Equipment"** shall include but it not limited to lawn mowers, leaf blowers or vacuums, lawn trimmers, chain saws, garden tractors, power sprayers and washers and other equipment powered by gasoline internal combustion engines normally used for or associated to household, lawn and garden maintenance;

**"Residential Noise Zone"** means those areas denoted as a residential noise zone as shown on Schedule "C" attached hereto;

**"Rural Noise Zone"** means those areas denoted as a rural noise zone as shown on Schedule "C" attached hereto;

**"Township"** means the Corporation of the Township of Tay;

**"Zoning By-law"** the prevailing Zoning By-law(s) in force and effect in the Township of Tay.

**"Air Conditioning Equipment"** means equipment located on the outside of a dwelling used for heating, cooling and/or the exchange of air inside the residence.

## **2.0 OFFENCES**

2.1 No Owner shall cause or permit the creation, presence or existence of any noise or unusual sound that disturbs or are likely to disturb any inhabitant of the Township of Tay as outlined in Schedule "A" attached;

2.2 Section 2.1 does not apply to the exceptions or circumstances as outlined in Schedule "B" attached.

## **3.0 GRANT OF EXEMPTION BY COUNCIL**

### **3.1 Application to Council**

Notwithstanding anything contained in this by-law, any person may make application to Council to be granted an exemption from any of the provisions of this by-law with respect to any source of sound or vibration and Council, may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect and any exemption granted shall specify the time period, not in excess of one month, during which it is effective and may contain such terms and conditions as Council sees fit.

### **3.2 Decision**

In deciding whether to grant the 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 appropriate.

### **3.3 Breach**

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.

## **4.0 RIGHT OF ENTRY**

4.1 An officer may at any reasonable time, enter onto land to determine whether this By-law is being complied with.

4.2 Every owner shall permit the Officer to inspect any land for the purposes of determining compliance with this By-law.

4.3 Notwithstanding any provision of this By-law, an Officer shall not enter or remain in any room or place actually being used as a dwelling, unless;

a) the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be

refused and, if refused, may only be made under the authority of a warrant issued under the Provincial Offences Act, R.S.O. 1990, as amended.

- b) a warrant issued under the Provincial Offences Act, R.S.O. 1990, as amended is obtained.

## **5.0 OBSTRUCTION**

- 5.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law.
- 5.2 Any person who has been alleged to have contravened any of the provisions of the By-law, shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of his or her duties.

## **6.0 PENALTY**

- 6.1 Every person who contravenes any of the provision of this by-law and every director or officer of a corporation, who knowingly concurs in the contravention by the corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 6.2 Every person who contravenes the provisions of this by-law and every director or officer of a corporation, who knowingly concurs in the contraventions by the corporation, is guilty of an offence and liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act 2001, S.O. 2001, c. 25, as amended.
- 6.3 For the purpose of continuous offences, every person who contravenes any provision of this by-law and every director or officer of a corporation who knowingly concurs in the contravention of a by-law of the corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 6.4 Despite section 6.3 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, the total of all daily fines for the offence is not limited to \$100,000.
- 6.5 For the purpose of multiple offences, every person who contravenes any provision of this by-law and every director or officer of a corporation who knowingly concurs in the contravention of a by-law of the corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 6.6 Despite section 6.5 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the total of all daily fines for the offence is not limited to \$100,000.
- 6.7 Every person who fails to comply with a notice made under this By-law is guilty of an offence.
- 6.8 It shall be an offence for a person to hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under the Municipal Act, 2001, as amended, or under a by-law passed under the Municipal Act, 2001, as amended.

- 6.9 Any person who has been alleged to have contravened any of the provisions of a by-law passed under the Municipal Act, 2001, as amended shall identify themselves to the Officer upon request. Failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of the Officer's duties.
- 6.10 Every person who contravenes any section of this by-law under a Part 1 ticket, upon conviction shall be liable to a fine as provided for in the Provincial Offences Act, R.S.O 1990, Chapter P.33, as amended.
- 6.11 Upon conviction any penalty imposed under this By-law may be collected under the authority of the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

**7.0 VALIDITY AND SEVERABILITY**

- 7.1 Should any section, subsection, clause, paragraph or provision of this By-law be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof, other than the Part so declared to be invalid.

**8.0 SHORT TITLE**

- 8.1 The short title of this By-law is the Noise By-law.

**9.0 REPEALED**

- 9.1 By-law No. 2011-47 is hereby repealed.

**10.0 EFFECTIVE DATE**

- 10.1 This By-law shall come into force and take effect immediately upon the final passing thereof.

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 29<sup>th</sup> DAY OF FEBRUARY, 2016**

**THE CORPORATION OF THE TOWNSHIP OF TAY**

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**MAYOR, Scott Warnock**

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**CLERK, Alison Thomas**

**Schedule A**  
**2016-01 : Noise Regulation**

Without limiting the generality of Section 2.1, the following are deemed to be noises that will disturb or are likely to disturb an inhabitant of Tay Township:

- a. The noise or sound made or created by any radio, phonograph, public address system, sound equipment, loud speaker, musical instrument or other sound-producing equipment, when the equipment is played or operated in such a manner that the sound or noise made or created thereby disturbs the peace, comfort or repose of any person.
- b. The operation of a stereo or other electronic device designed to amplify sound in, or on, a motor vehicle in such a way that the sound can easily be heard outside of the motor vehicle.
- c. Racing of any motorized conveyance other than in a racing event regulated by law.
- d. The operation of a motor vehicle in such a way that the tires squeal.
- e. The operation of a motor vehicle horn or other warning device except where required or authorized by law or in accordance with good safety practices.
- f. The operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to inadequate maintenance and/or improperly secured load or equipment.
- g. The operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in good working order and in constant operation.
- h. The operation of an engine or motor in, or on, any motor vehicle or item of attached auxiliary equipment for a continuous period exceeding five minutes, while such vehicle is stationary in a Residential Noise Zone unless:
  - i. 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
  - ii. operation of such 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 platforms and refuse compactors; or
  - iii. weather conditions justify the use of heating or refrigerating systems powered by the motor or engine for the safety and welfare of the operator, passengers or animals, or the preservation of perishable cargo, and the vehicle is stationary for purposes of delivery or loading; or,
  - iv. prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or,
  - v. the idling is for the purpose of cleaning and flushing the radiator and associated circulation system for seasonal change of antifreeze, cleaning of the fuel system, carburetor or the like, when such work is performed other than for profit.
- i. Persistent barking, calling, or whining or other similar persistent noise made by any domestic pet or any other animal kept or used for any purpose other than agriculture;

- j. The noise caused by the erection, demolition, alteration or repair of a building or by construction or earth-moving equipment working upon a site within 500 feet of an occupied dwelling house on any day between the hours of 10:00 p.m. and 7:00 a.m. the next day, excepting Sundays, when no such noise shall be created before the hour of 10:00 a.m. and no such noise shall be made after 6:00 p.m. on a Sunday.
- k. The discharge of firearms at any time in the residential noise zone.
- l. The discharge of firearms between 7:00 p.m. and 7:00 a.m. Monday to Saturday in the rural noise zone and prior to 9:00 a.m. on Sunday in the rural noise zone. If legally hunting, firearms may be discharged half hour before sunrise to half hour after sunset as per the MNR hunting regulations.
- m. Fireworks in the residential or rural noise zone outside of the permitted dates and times being Canada Day and Victoria Day and the three days immediately preceding and/or following each of these days from dusk until 11:00 p.m.
- n. The noise made by air conditioning equipment which is likely to disturb the peace, comfort or repose of any person in a dwelling unit.
- o. The noise made by yelling, shouting, hooting or other boisterous activity after 11:00 p.m.
- p. Any unwanted or meaningless sound that in the opinion of the Officer is likely to disturb the inhabitants of the Township of Tay.

**Schedule B  
2016-01: Noise Regulation**

The Following are exceptions to Section 2.1 of the by-law:

- a. The noises made by a parade authorized by the municipality.
- b. Fireworks displays authorized by the municipality.
- c. The noises associated with a traditional, festive or religious activity authorized/hosted by the municipality.
- d. Road and bicycle races authorized by the municipality.
- e. Midways and circuses authorized by the municipality.
- f. The sound from an outdoor concert or band when approved by the municipality.
- g. The sound of outdoors hymn singing or caroling.
- h. The sound of church bells or chimes normally associated with church activities.
- i. The sirens or noises created by an emergency vehicle.
- j. 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 Corporation of the Township of Tay, any Provincial road authority or the County of Simcoe road authority or by any public utilities.
- k. The noise caused by farm equipment performing any farm operation.
- l. The discharge of firearms associated with the Georgian Bay Hunters & Anglers located at 3175 Ogdens Beach Road, Port McNicoll.

**CORPORATION OF THE TOWNSHIP OF TAY  
PART 1 PROVINCIAL OFFENCES ACT**

**By-law 2016-01 : Noise Regulation**

| <b>ITEM</b> | <b>Column 1<br/>Short Form Wording</b>  | <b>Column 2<br/>Provision<br/>Creating or<br/>Defining<br/>Offence</b> | <b>Column<br/>3<br/>Set Fine</b> |
|-------------|---|--|----------------------------------|
| 1           | Emit/Cause to emit noise likely to disturb from radio, phonograph, pa system, sound equipment, loud speaker, musical instrument or other sound-producing equipment. | Section 2.1<br>Schedule A<br>(a)                                       | \$150.00                         |
| 2           | Emit/Cause to emit noise likely to disturb from a stereo or other electronic device designed to amplify sound associated with a motor vehicle.                      | Section 2.1<br>Schedule A<br>(b)                                       | \$150.00                         |
| 3           | Emit/Cause to emit noise likely to disturb from racing motorized vehicles.  | Section 2.1<br>Schedule A<br>(c)                                       | \$150.00                         |
| 4           | Emit/Cause to emit noise likely to disturb from the squealing of tires associated with a motor vehicle.   | Section 2.1<br>Schedule A<br>(d)                                       | \$150.00                         |
| 5           | Emit/Cause to emit noise likely to disturb from a motor vehicle horn or other warning device.   | Section 2.1<br>Schedule A<br>(e)                                       | \$150.00                         |
| 6           | Emit/Cause to emit unnecessary noise likely to disturb from a motor vehicle or vehicle with a trailer.  | Section 2.1<br>Schedule A<br>(f)                                       | \$150.00                         |
| 7           | Emit/Cause to emit noise likely to disturb due to the operation of a combustion engine or pneumatic device.   | Section 2.1<br>Schedule A<br>(g)                                       | \$150.00                         |
| 8           | Emit/Cause to emit noise likely to disturb from prolonged idling of an engine.  | Section 2.1<br>Schedule A<br>(h)                                       | \$150.00                         |
| 9           | Emit/Cause to emit noise likely to disturb from persistent barking, calling, or whining made by any domestic pet.   | Section 2.1<br>Schedule A<br>(i)                                       | \$150.00                         |
| 10          | Emit/Cause to emit noise likely to disturb from the erection, demolition, alteration or repair of a building or by equipment.                                       | Section 2.1<br>Schedule A<br>(j)                                       | \$150.00                         |
| 11          | Emit/Cause to emit noise likely to disturb from the discharge of firearms.  | Section 2.1<br>Schedule A<br>(k)                                       | \$150.00                         |
| 12          | Emit/Cause to emit noise from the discharge of firearms outside time permitted.   | Section 2.1<br>Schedule A<br>(l)                                       | \$150.00                         |
| 13          | Emit/Cause to emit noise likely to disturb from the use of air conditioning equipment.  | Section 2.1<br>Schedule A<br>(n)                                       | \$150.00                         |
| 14          | Emit/Cause to emit noise likely to disturb by yelling, shouting, hooting or other boisterous activity.  | Section 2.1<br>Schedule A<br>(o)                                       | \$150.00                         |



**By-law 2016-01 : Noise Regulation**

|    |  |                                  |          |
|----|--|----------------------------------|----------|
| 15 | Emit/Cause to emit noise likely to disturb the inhabitants of the Township of Tay. | Section 2.1<br>Schedule A<br>(p) | \$150.00 |
| 16 | Hinder or obstruct, or attempt to hinder or obstruct, any Officer                  | Section 5.1                      | \$300.00 |

Note: The penalty provision(s) for the offences indicated above is Section 6.1 of by-law 2016-01 a certified Copy of which has been filed and s.61 of the Provincial Offences Act, R.S.O. 1990, c. P.33

**CORPORATION OF THE TOWNSHIP OF TAY  
PART 1 PROVINCIAL OFFENCES ACT**

**By-law 2016-01 : Noise Regulation**

| <b>ITEM</b> | <b>Column 1<br/>Short Form Wording</b>  | <b>Column 2<br/>Provision<br/>Creating or<br/>Defining<br/>Offence</b> | <b>Column<br/>3<br/>Set Fine</b> |
|-------------|---|--|----------------------------------|
| 1           | Emit/Cause to emit noise likely to disturb from radio, phonograph, pa system, sound equipment, loud speaker, musical instrument or other sound-producing equipment. | Section 2.1<br>Schedule A<br>(a)                                       |                                  |
| 2           | Emit/Cause to emit noise likely to disturb from a stereo or other electronic device designed to amplify sound associated with a motor vehicle.                      | Section 2.1<br>Schedule A<br>(b)                                       |                                  |
| 3           | Emit/Cause to emit noise likely to disturb from racing motorized vehicles.  | Section 2.1<br>Schedule A<br>(c)                                       |                                  |
| 4           | Emit/Cause to emit noise likely to disturb from the squealing of tires associated with a motor vehicle.   | Section 2.1<br>Schedule A<br>(d)                                       |                                  |
| 5           | Emit/Cause to emit noise likely to disturb from a motor vehicle horn or other warning device.   | Section 2.1<br>Schedule A<br>(e)                                       |                                  |
| 6           | Emit/Cause to emit unnecessary noise likely to disturb from a motor vehicle or vehicle with a trailer.  | Section 2.1<br>Schedule A<br>(f)                                       |                                  |
| 7           | Emit/Cause to emit noise likely to disturb due to the operation of a combustion engine or pneumatic device.   | Section 2.1<br>Schedule A<br>(g)                                       |                                  |
| 8           | Emit/Cause to emit noise likely to disturb from prolonged idling of an engine.  | Section 2.1<br>Schedule A<br>(h)                                       |                                  |
| 9           | Emit/Cause to emit noise likely to disturb from persistent barking, calling, or whining made by any domestic pet.   | Section 2.1<br>Schedule A<br>(i)                                       |                                  |
| 10          | Emit/Cause to emit noise likely to disturb from the erection, demolition, alteration or repair of a building or by equipment.                                       | Section 2.1<br>Schedule A<br>(j)                                       |                                  |
| 11          | Emit/Cause to emit noise likely to disturb from the discharge of firearms.  | Section 2.1<br>Schedule A<br>(k)                                       |                                  |
| 12          | Emit/Cause to emit noise from the discharge of firearms outside time permitted.   | Section 2.1<br>Schedule A<br>(l)                                       |                                  |
| 13          | Emit/Cause to emit noise likely to disturb from the use of air conditioning equipment.  | Section 2.1<br>Schedule A<br>(n)                                       |                                  |
| 14          | Emit/Cause to emit noise likely to disturb by yelling, shouting, hooting or other boisterous activity.  | Section 2.1<br>Schedule A<br>(o)                                       |                                  |

**By-law 2016-01 : Noise Regulation**

|    |  |                                  |  |
|----|--|----------------------------------|--|
| 15 | Emit/Cause to emit noise likely to disturb the inhabitants of the Township of Tay. | Section 2.1<br>Schedule A<br>(p) |  |
| 16 | Hinder or obstruct, or attempt to hinder or obstruct, any Officer                  | Section 5.1                      |  |

Note: The penalty provision(s) for the offences indicated above is Section 6.1 of by-law 2016-01 a certified Copy of which has been filed and s.61 of the Provincial Offences Act, R.S.O. 1990, c. P.33