

THE CORPORATION OF THE TOWN OF SMITHS FALLS

BY-LAW 10151-2020

A BY-LAW TO PROHIBIT UNUSUAL NOISES AND NOISES LIKELY TO DISTURB THE INHABITANTS OF THE TOWN OF SMITHS FALLS

WHEREAS the Municipal Act, R.S.O. 2001, c. 25, as amended provides that the Council of a local municipality may pass by-laws 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 the Council of The Corporation of the Town of Smiths Falls deems it expedient to prohibit or regulate such noises;

NOW THEREFORE the Council for The Corporation of the Town of Smiths Falls enacts as follows:

1. DEFINITIONS

- 1.1 **By-Law Enforcement Officer** shall mean a person or persons appointed by The Corporation of the Town of Smiths Falls to enforce this by-law;
- 1.2 **Construction** shall mean 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 the structural installation of construction component and materials in any form or for any purposes, and includes any work in connection therewith;
- 1.3 **Construction Equipment** shall mean 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-way haulers, trucks, ditches, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;
- 1.4 **Consumer Firework** means an outdoor, low hazard, recreational firework that is classed as a subdivision 1 of Division 2 of Class 7 Fireworks under the Act and includes fireworks showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, and volcanoes, but does not include sparklers, Christmas crackers, and caps for toy guns containing not in excess of twenty-five one-hundredths of a grain of explosive used per cap;
- 1.5 **Conveyance** includes a vehicle and any other device employed to transport a person or persons or goods from place to place but does not include any such device or vehicle if operated only within the premises of a person;
- 1.6 **Council** shall mean the Council of The Corporation of The Town of Smiths Falls;
- 1.7 **Emergency Vehicle** shall include ambulance, fire, police department vehicles and a motor vehicle being used to respond to an emergency or in the course of their regular duties as required;

- 1.8 **Livestock** shall mean, but is not limited to chickens, turkeys or other fowl, swine, goats, sheep or cattle;
- 1.9 **Motor Vehicle** shall mean a vehicle or any other device employed to transport a person or person or goods from place to place propelled, driven or drawn by any means other than by muscular, gravitational or wind power, including but not limited to motor vehicle, motorcycle, motorized snow vehicle, motor assisted bicycle, trailer, farm tractor, road building machine;
- 1.10 **Municipality** shall mean the Corporation of The Town of Smiths Falls;
- 1.11 **Noise** shall mean sound that is unusual or excessive, or that is unwanted by or disturbing to persons;
- 1.12 **Nuisance** shall mean one that is inconvenient, annoying, or vexatious; a bother: A use of property or course of conduct that interferes with the legal rights of others by causing damage, annoyance, or inconvenience. A nuisance can be either public or private.
- 1.13 **Plainly Audible** means the sound in question can be easily detected, without undue effort, by a disinterested person with no hearing disability.
- 1.14 **Point of Reception** shall mean any point on a premises where noise from other than those premises is received;
- 1.15 **Urgent Necessity** shall mean that it is essential that work, noise, thing, or event etc. continue or begin for the health, safety, or welfare for those involved including the community.

2. GENERAL PROHIBITIONS

- 2.1 No person shall cause or permit a noise from ringing any bell, blowing or sounding any horn or cause the same to be rung, blown or sounded; shout or create or permit unusual noises or noises likely to disturb or be a nuisance to the inhabitants of the community unless authorized by law or in accordance with good safety practices.
- 2.2 No person shall create or permit noise by playing radios, television sets, musical or a sound producing instrument or device of whatever kind which becomes a nuisance or disturbs the peace, quiet, comfort or repose of the inhabitants of the community and which noise is clearly audible at a point of reception.
- 2.3 No person shall create or permit noise by keeping birds or animals, the noise of whose crowing, cries, barking or other such sounds which becomes a nuisance or disturbs the peace and comfort of the neighbourhood. The owner or person having the bird or animal under their control when the noise was generated is liable for the noise causing the disturbance.
- 2.4 No person shall cause or permit noise arising between the hours of 11:00 p.m. of any day and 6:00 a.m. of the next following day from any excavation or construction work whatever, including the erection, demolition, alteration or repair of any building, except in the case of urgent necessity or emergency.

- 2.5 No person shall cause or permit any noise in the vicinity of any school, seminar of learning, court while the same is in session or in the vicinity of any hospital or convalescent institution or rest home when such noise interferes with the undertaking of the same.
- 2.6 No person shall cause or permit any noise resulting from the grating, grinding or rattling noise or sound caused by a condition of disrepair or maladjustment of any motor vehicle whatsoever, or part or accessory thereof.
- 2.7 No person shall cause or permit any noise resulting from the operation of any combustion engine or pneumatic device without an effective exhaust muffling device in good working order and in constant operation.
- 2.8 No person shall cause or permit any noise resulting from racing of any motorized conveyance other than in a racing event regulated by law.
- 2.9 No person shall cause or permit any noise resulting from 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 area, unless:
- 2.9.1 The original equipment manufacturer specifically recommends a long idling period for normal and efficient operation of the motor vehicle (written documentation must be provided) in which case such recommended period shall not be exceeded.
- 2.9.2 The operation of such engine or motor is essential to a basic function of the vehicle equipment, including but not limited to, operation of ready mixed concrete trucks, lift platforms and refuse compactors.
- 2.9.3 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 the purposes of delivery or loading, or emergency.
- 2.9.4 Prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine
- 2.9.5 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
- 2.10 No person shall cause or permit any noise resulting from the operation of any electronic device or group connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers, and intended for the production, reproduction or amplification of sound in such a manner as to which becomes a nuisance or disturb the peace and comfort of a person or persons at the point of reception.
- 2.11 No person shall cause or permit any noise resulting from the sound of any bell, whistle, horn, siren or signal device on or off a vehicle.

- 2.12 No person shall cause or permit any noise resulting from the selling or advertising by shouting, or loud speaking.
- 2.13 No person shall cause or permit any noise resulting from a structure(s) or parts of the structure(s) on their property to become into a condition of disrepair or maladjustment into disrepair as to produce a sound of such nature that is unwanted, on-going, persistent, unusual, repetitive, or a public nuisance.
- 2.14 No person shall cause or permit noise by discharging any consumer fireworks in such a manner as might create danger or constitute a nuisance to any person or property. No person shall discharge consumer fireworks except:
- (a) between dusk and 11:00 p.m. on Victoria Day;
 - (b) between dusk and 11:00 p.m. on Canada Day;
 - (c) between dusk and 11:00 p.m. on July 4 (Independence Day);
 - (d) between dusk and 1:00 a.m. on New Years Eve
 - (e) as part of a display of display fireworks for which a permit has been obtained and for which all conditions and requirements of the permit have been met; or
 - (f) at such other times and such other dates as permitted by Council by by-law.

3 EXCEPTIONS

- 3.1 Notwithstanding any other provisions of this by-law to the contrary, this by-law does not apply to a person who emits or causes or permits the emission of noise in connection with:
- 3.1.1 Emergency vehicles
 - 3.1.2 The ringing of any emergency bells or alarms
 - 3.1.3 The immediate health, safety or welfare of the inhabitants;
 - 3.1.4 Races, authorized by the municipality;
 - 3.1.5 Regimental salutes;
 - 3.1.6 Parades authorized by the Municipality;
 - 3.1.7 Firework displays authorized by the Municipality;
 - 3.1.8 Community public events authorized by the Municipality;
 - 3.1.9 Sporting, recreational and entertainment events in or on public parks or buildings authorized by the Municipality;
 - 3.1.10 Musical and other performances in public parks or buildings authorized by the Municipality;
 - 3.1.11 Municipal/Utility Service Vehicles, including but not limited to snow clearing, street cleaning and garbage collection vehicles;
 - 3.1.12 Blasting authorized by the Municipality
 - 3.1.13 The ringing of bells in connection with any church, chapel or religious services;
 - 3.1.14 Noise heard through a common wall or floor in multi-unit residences unless such noise is plainly audible at a point of reception outside the residence.
 - 3.1.15 The operation of a generator during a power failure, regular maintenance testing or other emergency.
 - 3.1.16 Noise arising between 6:00am to 11:00pm of any day from any excavation or construction work whatever, including the erection, demolition, alternation or repair of any building.
 - 3.1.17 Municipally authorized work between the hours of 11:00pm of any day and 6:00am of the next following day from any excavation or construction work whatever, including the erection, demolition, alternation or repair of any building or road.

4 GRANT OF EXEMPTION BY COUNCIL

- 4.1 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 for which he/she might be prosecuted and Council, by resolution, may refuse to grant any exemption or Council, by resolution, may grant the exemption applied for or any exemption of lesser effect and any exemption granted shall specify the time period during which it is effective and may contain such terms and conditions as Council sees fit.
- 4.2 Details of Application for Exemption
The application mentioned in subsection 4.1 shall be made in writing and shall contain:
- a. the name and address of the applicant
 - b. a description of the source of sound or vibration in respect of which the exemption is sought
 - c. the period of time for which the exemption is sought
 - d. the reasons why the exemption should be granted
- 4.3 Decision
In deciding whether or not 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 sees fit.
- 4.4 Breach
Breach by the applicant of any of the terms or conditions of the exemption shall render the exemption null and void.

5 FINES – CONTRAVENTION / ENFORCEMENT

- 5.1 Any person found violating any of the provisions of this By-law is guilty of an offence and on conviction shall be liable to a fine pursuant to the Provincial Offences Act.
- 5.2 The Town shall be responsible for the administration and enforcement of this By-law, and any person(s) appointed by the Town, under an Agreement for Services as a Law Enforcement Officer shall be designated as Provincial Offences Officer for the enforcement of this By-law.
- 5.3 The Smiths Falls Police Service shall also be responsible for the administration and enforcement of this By-law.
- 5.4 No person shall hinder or otherwise obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an Officer, employee and/or agent of the Municipality in the lawful exercise of a power or duty under this by-law.

6 VALIDITY

- 6.1 If any section, clause or provision thereof of this by-law for any reason is declared by a court of competent jurisdiction deemed to

be invalid, the same shall not affect the validity of this 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 that all remaining section, clause or provisions of the by-law shall remain in effect until repealed.

- 6.2 Where provisions of this by-law conflicts with the provisions of another by-law in force in the municipality, the provisions that establish the higher standards to protect the health, safety and welfare of the general public prevails.

7 SHORT TITLE

- 7.1 This by-law may be referred to as "The Noise By-Law"

8 REPEAL

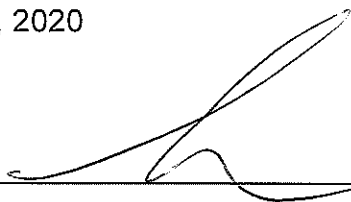
- 8.1 That by-law 4022-73 and amendments thereto prohibiting unusual noises and noise likely to disturb the inhabitants of the municipality be and is hereby repealed.

NOW THEREFORE the Council of the Corporation of the Town of Smiths Falls enacts as follows:

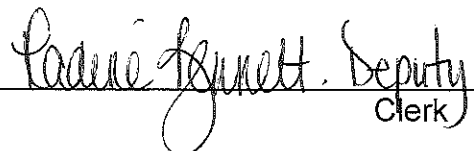
1. Should any part, section, subsection or portion of this by-law be repealed or declared by a court of competent jurisdiction to be illegal the same not affect the validity of the by-law as a whole or in part thereof, except for that which was declared to be invalid.
2. That the provisions of this by-law shall come into force and take effect on which day it receives third reading and is passed.
3. The set fines to this by-law shall come into force and take effect on the date of the approval by the Senior Justice, Ontario Court of Justice, Province of Ontario.

Read a first and second time this 1st day of June, 2020

Read a third time and passed this 1st day of June, 2020



Mayor



Deputy
Clerk

**THE CORPORATION OF THE TOWN OF SMITHS FALLS
PART 1 , PROVINCIAL OFFENCES ACT
BY-LAW # 10151-2020
A BY-LAW TO PROHIBIT UNUSUAL NOISES AND NOISES LIKELY TO DISTURB THE
INHABITANTS OF A MUNICIPALITY**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fines
1	Create/permit noise from ringing/sounding bell or horn.	2.1	\$ 125.00
2	Create/permit noise from shouting.	2.1	\$125.00
3	Create/permit unusual noises likely to disturb or be a nuisance to others.	2.1	\$125.00
4	Create or permit noise from radios, television sets, musical or a sound producing instrument or device causing nuisance.	2.2	\$ 125.00
5	Permit birds or animals under their control to cause noise causing nuisance to others.	2.3	\$ 125.00
6	Cause or permit noise between the hours of 11:00 p.m. of any day and 6:00 a.m. from any non-urgent excavation or construction work.	2.4	\$250.00
7	Cause or permit any noise in the vicinity of any school, seminar of learning, court while the same is in session.	2.5	\$250.00
8	Cause or permit noise in the vicinity of any hospital or convalescent institution or rest home.	2.5	\$250.00
9	Cause or permit noise motor vehicle which is in a condition of disrepair or maladjustment.	2.6	\$125.00
10	Cause or permit noise from the operation of any combustion engine or pneumatic device without an effective exhaust muffling device.	2.7	\$125.00
11	Cause or permit noise from racing of any motorized conveyance.	2.8	\$250.00
12	Cause or permit noise from the operation of an engine or motor for a continuous period exceeding five minutes.	2.9	\$125.00

13	Cause or permit noise from the operation of any electronic device intended for the amplification of sound causing nuisance.	2.10	\$125.00
14	Cause or permit noise from the sound of any bell, whistle, horn, siren or signal device on or off a vehicle.	2.11	\$125.00
15	Cause or permit noise from selling or advertising by shouting, or loud speaking.	2.12	\$250.00
16	Cause or permit persistent noise from a structure in a condition of disrepair.	2.13	\$250.00
17	Cause or permit noise from the discharge of fireworks during prohibited time.	2.14	\$250.00

NOTE: The general penalty provision for the offences indicated above is Section 5.1. of By-Law No. 10151-2020, a certified copy of which has been filed.