To: Mayor & Council
From: Kerry Costello, Director of Corporate Services/Clerk
Date: May 13, 2020
Committee of the Whole Date: May 19, 2020
Title: Bylaw to Prohibit Unusual Noises Likely to Disturb the Inhabitants of the Town of Smiths Falls

Recommendation: THAT Council review and adopt a bylaw to prohibit unusual noises likely to disturb the inhabitants of the Town of Smiths Falls.

Purpose: To seek feedback/comment from Council on the proposed bylaw which would prohibit unusual noises and noises likely to disturb the inhabitants of the Town of Smiths Falls.

Background: The current “Noise Bylaw” for the Town of Smiths Falls is dated November 5, 1973. Although this bylaw has served the Town well, staff felt the need to update the bylaw with current terminology as well as add a set fine provision.

Set fines of either $125 to $250 are recommended depending on the severity of the violation. These fines would have to be approved by the Ontario Court of Justice before it can be implemented.

Analysis & Options:
Option 1: Adopt a bylaw enacting the draft noise policy as presented / amended. (Recommended)
This would give Bylaw Enforcement and Police the means to enforce and fine.
Option 2: Do not pass a bylaw regarding the prohibition of unusual noises likely to disturb the inhabitants of the Town of Smiths Falls.

Budget/Financial Implications: The costs to enforce are unknown at this time. The amount of fine revenue generated will be dependent on the level of enforcement.

Existing Policy: Municipal Act, S.O. 2001, c.25 as amended (Section 129).
Bylaw 4022-73.

Consultation: All Town Directors/Mangers, Police Chief MacGillivray

Attachment: Draft Noise Bylaw and Proposed Set Fines

Respectfully Submitted:

Kerry Costello,
Director of Corporate Services/Clerk

Reviewed for agenda by:

Malcolm Morris, CMO
Chief Administrative Officer
THE CORPORATION OF THE TOWN OF SMITHS FALLS

BY-LAW ____________________

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 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;

1.5 **Council** shall mean the Council of The Corporation of The Town of Smiths Falls;

1.6 **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;

1.7 **Livestock** shall mean, but is not limited to chickens, turkeys or other fowl, swine, goats, sheep or cattle;

1.8 **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;

1.9 **Municipality** shall mean the Corporation of The Town of Smiths Falls;

1.10 **Noise** shall mean sound that is unusual or excessive, or that is unwanted by or disturbing to persons;

1.11 **Plainly Audible** means the sound in question can be easily detected, without undue effort, by a disinterested person with no hearing disability.

1.12 **Point of Reception** shall mean any point on a premises where noise from other than those premises is received;

1.13 **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 ring any bell, blow or sound any horn or cause the same to be rung, blown or sounded; shout or create or permit unusual noises or noises likely to disturb 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 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 keep birds or animals, the noise of whose crowing, cries, barking or other such sounds disturb 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 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 racing of any motorized conveyance other than in a racing event regulated by law.
2.8 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:

2.8.1 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.

2.8.2 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.

2.8.3 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.

2.8.4 Prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine.

2.8.5 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.

2.9 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 disturb the peace and comfort of a person or persons at the point of reception.
2.10 No person shall cause or permit any noise resulting from the sound of any bell, steam or air whistle, horn, siren or signal device on or off a vehicle.

2.11 No person shall cause or permit any noise resulting from the selling or advertising by shouting, or loud speaking.

2.12 No person shall cause or permit 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.

2.13 No person shall discharge any consumer fireworks in such a manner as might create danger or constitute a nuisance to any person or property.

3 EXCEPTIONS

3.13.1 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 The raising or herding of livestock;
3.1.13 Blasting authorized by the Municipality
3.1.14 The ringing of bells in connection with any church, chapel or religious services;
3.1.15 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.
3.1.16 The operation of a generator during a power failure, regular maintenance testing or other emergency.
3.1.17 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.
3.1.18 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 FINES – CONTRAVENTION / ENFORCEMENT

4.1 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.

4.2 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.

4.3 The Smiths Falls Police Service shall also be responsible for the administration and enforcement of this By-law.

5 VALIDITY

5.1 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.

5.2 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.
6 SHORT TITLE

6.1 This by-law may be referred to as “The Noise By-Law”

7 REPEAL

7.1 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______ day of________________, 2020

Read a third time and passed this______ day of________________, 2020

__________________________ Mayor

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

<table>
<thead>
<tr>
<th>ITEM</th>
<th>COLUMN 1 Short Form Wording</th>
<th>COLUMN 2 Provision creating or defining offence</th>
<th>COLUMN 3 Set Fines</th>
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**NOTE:** The general penalty provision for the offences indicated above is Section 4.1. of By-Law No.______________, a certified copy of which has been filed.