

THE CORPORATION OF THE TOWNSHIP OF BROCK

BY-LAW NUMBER 2389-2011-PP

A BY-LAW TO REGULATE NOISE WITHIN THE CORPORATION OF THE TOWNSHIP OF BROCK

WHEREAS section 128 of the Municipal Act, 2001, S.O. 2001, as amended, authorizes a local municipality to prohibit and regulate matters that, in the opinion of Council, are or could become public nuisances;

AND WHEREAS section 129 of the Municipal Act, S.O. 2001, as amended, authorizes municipalities to pass a by-law to prohibit and regulate noise;

AND WHEREAS excessive sound vibration and inadequately controlled noise may impair public health, safety and welfare and may become a nuisance;

NOW THEREFORE the Council of The Corporation of the Township of Brock enacts as follows:

I. Definitions

1. For the purpose of this by-law, the term:

- (1) "agricultural operation" means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or monetary reward;
- (2) "agricultural processing" includes sawing, cleaning, treating, grading and packaging to the extent that these activities relate to products primarily from and are conducted as part of an agricultural operation;
- (3) "By-law Officer" means a person appointed by the Council as a Municipal Law Enforcement Officer or a sworn officer of the Durham Regional Police Service;
- (4) "Chief Administrative Officer and Municipal Clerk" means the Chief Administrative Officer and Municipal Clerk of the Township of Brock or his/her designate;
- (5) "Chief of Police" means the Chief of Police of the Durham Regional Police Service or authorized representative;
- (6) "construction" includes the 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 therewith;
- (7) "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 trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;
- (8) "Council" means the Council of the Corporation of the Township of Brock;
- (9) "dBA" means the sound level in decibels obtained when using a sound level meter with the A-weighting;
- (10) "effective muffler" means a muffler in good working order and in constant operation to prevent excessive or unusual noise and excessive smoke but it shall not include a cut-out muffler, straight exhaust, gutted muffler, hollywood muffler, by-pass or similar device;
- (11) "equivalent sound level", sometimes denoted as Leq, means the value of the constant sound level which would result in exposure to the same total A-weighted energy as would the specified time-varying sound, if the constant sound level persisted over an equal time interval and is measured in dBA;

- (12) "highway" means a highway within the meaning of the *Highway Traffic Act*, R.S.O. 1990, as amended;
- (13) "kart" means a self-propelled motorized vehicle that is designed to be driven on a go-kart track at limited speed where the driver has control over acceleration from rest, deceleration, stopping and steering of the vehicle;
- (14) "motor vehicle" includes an automobile, truck, motorcycle, kart, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a streetcar or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the *Highway Traffic Act*, R.S.O. 1990, as amended;
- (15) "sound amplifying device" means any single or system of loudspeakers, amplifiers, microphones or reproducers or any combination of such equipment, including electronic devices or electro-mechanical transducers, used in the reproduction or amplification of music, speech or other sounds;
- (16) "sound reproduction device" means a device intended primarily for the production or reproduction of sound, including, but not limited to, any musical instrument, radio receiver, television receiver, tape recorder, phonograph or sound amplifying system;
- (17) "special event" includes a demonstration, parade, sports event, festival, carnival, donation station, public fireworks displays, residential block party, sidewalk sale, outdoor mass, and other like events;
- (18) "Township" means the municipal Corporation of the Township of Brock and/or the corporate limits of the Township of Brock as the context requires;
- (19) "vehicle" includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine, motorcycle, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle, or the cars of electric or steam railways running only upon rails.

II. General Prohibitions

Unusual Noise, Noise Likely to Disturb

- 1. No person shall make any unusual noise or noise likely to disturb the inhabitants of the Township.

Bells, Horns, Shouting

- 2. No person shall ring any bell, sound any horn, or shout in a manner likely to disturb the inhabitants of the Township provided that nothing herein contained shall prevent:
 - a) the ringing of bells in connection with any church, chapel, meeting house or religious service; or,
 - b) the ringing of fire bells, fire alarms, alarm systems or the making of any other noise for the purpose of giving notice of fire or any other danger or any unlawful act for a continuous period of time of twenty (20) minutes or less.

Construction

- 3. No person shall, between 22:00 hours of one day and 06:00 hours of the next day operate or cause to be operated, any construction vehicle or construction equipment in connection with any construction.
- 4. Notwithstanding section 3, no person shall operate or cause to be operated any construction vehicle or construction equipment before 09:00 hours on any Sunday or statutory or public holiday.

Domesticated Pets

5. No person or owner shall allow any domesticated pet to whine, howl or bark excessively.

Loading and Unloading

6. No person shall load or unload any transport truck, moving van or vehicle between 22:00 hours of one day and 06:00 hours of the next day in such a manner so as to make or cause noise that disturbs the quiet, peace, rest, enjoyment, comfort or convenience of persons in the vicinity.

Deliveries

7. No person shall deliver any goods, wares, merchandise or commodities from any vehicle to the owner, lessee, tenant or occupier of any premises between the hours of 22:00 hours of one day and 06:00 hours of the next day in such a manner so as to make or cause noise that disturbs the quiet, peace, rest, enjoyment, comfort or convenience of persons in the vicinity.

Unnecessary Motor Vehicle Noise

8. No person shall cause or permit unnecessary motor vehicle noise such as the sounding of the horn, revving of engine, the squealing of tires of any motor vehicle unless:
 - a) the sounding of a motor vehicle horn or other warning device is required or authorized by law or carried out in accordance with good safety practices.

Idling Motor Vehicles

9. No person shall operate or permit 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 (5) minutes, while such vehicle is stationary unless:
 - a) the operation of such engine or motor is essential to the basic function of the vehicle or equipment; or,
 - b) 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, the preservation of perishable cargo, or the vehicle is stationary for purposes of actively loading or unloading.

Mufflers

10. No person shall discharge into the open air the exhaust of any motor vehicle except through an effective muffler or other device which prevents loud or explosive noises.

Motor Sports

11. No person shall operate or permit the operation of racing competitions between motor vehicles other than in a racing event regulated by law; unless:
 - a) the competition is held at a permanent approved facility;
 - b) all motor vehicles are properly equipped with effective mufflers; and,
 - c) such competition is not carried out between 22:00 hours of one day and 09:00 hours of the next day.

Power Equipment

12. No person shall operate or cause to be operated any power equipment such as chain saws, power lawn mowers, leaf blowers, high vacuum (H-Vac) devices, power tools or other similar devices, between 23:00 hours of one day and 07:00 hours of the next day, Monday through Friday, and before the 09:00 hours on any Saturday, Sunday, or public holiday in such a manner so as to make or cause noise that disturbs the quiet, peace, rest, enjoyment, comfort or convenience of persons in the vicinity.

Sound Reproduction or Amplification Devices

13. No person shall operate, use, or cause to be operated or used, any sound reproduction device or sound amplification device between 23:00 hours of one day and 07:00 hours of the next day so as to disturb the peace and comfort of:
 - a) any person in any dwelling house, apartment house, hotel or other type of residence; or,
 - b) any owner or operator of a business in his or her place of business.
14. No person shall operate or use or cause to be operated or used any sound reproduction device or sound amplification device in any dwelling house, apartment house, hotel or other residence between 07:00 hours and 23:00 hours of the same day if the noise from such device:
 - a) is clearly audible in another dwelling unit within the said residence; or,
 - b) has an equivalent sound level (Leq) greater than 45 dBA when measured inside the walls of another dwelling within the said residence or building on adjoining property.
15. No person shall operate, cause to be operated, or use any sound reproduction device or sound amplification device between 07:00 hours and 23:00 hours of the same day if the noise from such device has an equivalent sound level (Leq) greater than 55 dBA when measured outside of the business, dwelling house, apartment house, hotel or other residence, or at or inside the property line of the business owner or person whose peace and comfort has been disturbed.

III. Exemptions

Non-Application – General

1. The provisions of this by-law shall not apply to the following operations and activities:
 - a) sound that originates from the activities of industry in any industrial zone as set forth in the comprehensive Zoning By-law;
 - b) sound in connection with work undertaken for the immediate health, safety or welfare of the inhabitants of the Township unless such sound is clearly of a longer duration or nature more disturbing than is reasonably necessary for the accomplishment of such emergency purpose;
 - c) agricultural operations and agricultural processing activities;
 - d) snow clearing or snow removal activities;
 - e) the operation or maintenance of rail transportation as defined and prescribed under the *Canada Transportation Act S.C. 1996, c.10*; or,
 - f) the operation of power equipment used for the purpose of maintaining a golf course.

Non-Application – Granted By Staff and Council

2. The provisions of this by-law shall not apply to sound that originates from a special event that has been recognized or sanctioned by Council.
3. The Chief Administrative Officer and Municipal Clerk or his/her designate is hereby delegated the authority to grant a written exemption from the provisions of this by-law for construction equipment or projects as deemed necessary.

IV. Severability

1. If any section, clause or provision of this by-law is, for any reason 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 section, clause or provision so declared to be invalid. It is hereby declared to be the intention that all the remaining sections, clauses or provisions of this by-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof shall have been declared invalid.

V. Enforcement

1. Every person who contravenes any of the provisions of this by-law is guilty of an offence and, upon conviction, is liable to a fine or penalty as provided in the *Provincial Offences Act*, R.S.O. 1990, as amended.
2. This by-law shall be enforced by any designated By-law Officer.

VI. Repeal

1. That By-Law Number 661-83-PP be and the same is hereby repealed in its entirety.

VII. Enactment

1. This by-law shall come into force and effect on the date of its passage.