

THE CORPORATION OF THE TOWNSHIP OF MCGARRY

BY-LAW 2016-47

BEING A BY-LAW TO PROHIBIT AND REGULATE NOISES WITHIN THE TOWNSHIP OF MCGARRY.

WHEREAS the Council of the Corporation of the Township of McGarry deems it desirable to pass a By-Law to prohibit and regulate unusual noise, or noises likely to disturb the inhabitants of the municipality.

NOW THEREFORE the Council of the Corporation of the Township of McGarry hereby enacts as follows:

1. THAT Council adopts a By-Law to prohibit and regulate noises in the Municipality and that the provisions of the said By-Law are outlined in Schedule "A" hereto attached and forming of the By-Law;
2. THAT the application shall be attached to and form Schedule "B" to this By-Law;
3. THAT this By-Law shall come into force and take effect on January 1st, 2017.

Part 1 - General Provisions:

1.1 Short Title

This By-Law shall be cited as the "Noise By-Law"

1.2 Scope

The provisions of this By-Law shall apply to all property within the geography limits of the Township of McGarry except where otherwise provided.

1.3 Enforcement

This By-Law shall be enforced by a Municipal By-Law Enforcement Officer, Property Standards Officer or designate, and Peace Officers.

1.4 Conflicts with other By-Law

Where a provision of this By-Law conflicts with a provision of another By-Law in force in the Township of McGarry, the provision that establishes the higher standard in terms of protecting the health, safety and welfare of the general public and the environmental well-being of the municipality, shall prevail to the extent of the conflict.

Part 2 - Definitions in this By-Law:

2.1 "Authorized Emergency Vehicle" includes any ambulance or hearse, any vehicle of the fire department, any vehicle of the municipality, 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.

2.2 "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.

- 2.3 **“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.
- 2.4 **“Corporation”** means the Corporation of the Township of McGarry.
- 2.5 **“Council”** means the Council of the Corporation of the Township of McGarry.
- 2.6 **“Enforcement Officer”** means the person or persons duly appointed by Council as Municipal Law Enforcement Officers for the purpose of enforcing regulatory By-Laws of the municipality.
- 2.7 **“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.
- 2.8 **“Inhabitants”** means those *person(s)* occupying or residing within the *municipality*.
- 2.9 **“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.
- 2.10 **“Motor Vehicle”** includes a 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*.
- 2.11 **“Municipality”** means the land within the geographic limit of the McGarry Township.
- 2.12 **“Noise(s)”** means unwanted sound.
- 2.13 **“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.
- 2.14 **“Person”** means an individual, firm or corporation.
- 2.15 **“Point of Reception”** means any point on the premises of a person where sound or vibration originating from other than those premises is received.
- 2.16 **“Police Officer”** means a member of the Ontario Provincial Police Service.
- 2.17 **“Zone”** means the various areas into which the Municipality is divided into in accordance with the *Zoning By-Law*.
- 2.18 **“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 3 – General Prohibitions

- 3.1** No person or owner shall emit, cause or permit the emission of sound, unusual noise, or noises likely to disturb inhabitants, and which sound is clearly audible to a point of reception.
- 3.2** The detonation of fireworks or explosive devices not used in construction is prohibited. Notwithstanding any other provision of the By-Law, this By-Law does not apply to a person who emits, causes, or permits the emission of sound in connection with any traditional or festive activities and events that have been authorized by Council.
- 3.3** The discharge of firearms is prohibited at all times.
- 3.4** The operation of any auditory signalling device, including but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles, or the production, reproduction or amplification of any similar sounds by electronic means except where required or authorized by law or in accordance with good safety practices is prohibited.
- 3.5** 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.
- 3.6** Any noises caused by loud shouting or excessive sound generated by a human voice such as yelling, hooting, whistling or signing, selling or advertising by shouting or outcry or amplified sound is prohibited.
- 3.7** Persistent barking, calling or whining or other similar persistent noise making by any domestic pet or any other animal kept or used for any purpose other than agriculture, which is likely to disturb the peace, comfort of any individual is prohibited.
- 3.8** The venting release or pressure relief of air, steam or other gaseous material, product or compound from any autoclave, boiler pressure vessel, pipe, valve, machine, device or system is prohibited.
- 3.9** Loading, unloading, delivering, packing, unpacking or otherwise handling any containers, products, materials, or refuse, whatsoever, unless necessary for the maintenance of essential services or the moving of private household effects is prohibited.
- 3.10** 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.
- 3.11** 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.
- 3.12** 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.
- 3.13** Between the hour of 11:00 p.m. of any day and 6:00 a.m. of the next following day, any *noise* arising from a compression release engine brake and the operation of a compression release engine brake is prohibited.

- 3.14 Between the hour of 11:00 p.m. of any day and 6:00 a.m. of the next following day, Sunday to Saturday and 11:00 p.m. Saturday until 6:00 a.m. Sunday, any *noises* arising from any *construction* and the operation of any *construction equipment* related thereto is prohibited.
- 3.15 Between the hours of 11:00 p.m. of any day and 6:00 a.m. of the next following day, Sunday to Saturday, and 11:00 p.m. Saturday until 6:00 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.
- 3.16 The noise caused by the erection, demolition, alteration or repair of a building or by construction of earth-moving equipment working upon such site situated within 500 feet of an occupied dwelling house on any day, between the hours of 9:00 o'clock in the evening and 5:00 o'clock in the forenoon of the following day is prohibited.

Appendix "1"

Prohibited Period of Time

- A – 23 00 one day to 06 00 next day
- B – All day Sundays and Statutory Holidays

Part 4 - Exemption

- 4.1 None of the provisions in this By-Law shall apply to any authorized emergency vehicle answering a call or carrying out their duties.
- 4.2 None of the provisions in this By-Law shall apply to any vehicle of the Corporation of the Township of McGarry or their agents working on behalf of the Corporation of the Township of McGarry to perform snow removal, snow plowing or snow cleaning on any Municipal roads and properties or to private contractors or persons performing snow removal, snow plowing or snow cleaning.
- 4.3 None of the provision 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 5.
- 4.4 Notwithstanding any other provision of this By-Law, this By-Law does not apply to a person who emits or causes or permits the emission of sound or vibration in connection with traditional, festive, religious and other activities.

Part 5 – Grant of Exemptions by Council

- 5.1 *Council* may by resolution, upon receipt of written application, grant an exemption 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.
- 5.2 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.

5.3 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 sees fit.

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

Part 6 – Penalties

6.1 Every *person* who contravenes, suffers or permits any act or thing to be done in contravention of, or neglects to so or refrain from doing anything required to be done pursuant to any provisions of this By-Law or any permit or order issued pursuant thereto, commits an offence and except where specifically provided in Appendix “1” attached to this By-Law, shall be liable to a penalty as provided under the “Provincial Offences Act”

6.2 Where an offence is a continuing offence, each new day that the offence continues shall constitute a separate and distinct offence.

6.3 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 penalty imposed and enacted as such.

Part 7 – Enforcement

This By-Law shall be enforced by a Police Officer, Municipal Law Enforcement Officer, Provincial Offences Officer, By-Law Enforcement Officer or any person appointed by the Council of the Corporation of the Township of McGarry.

READ THIS FIRST AND SECOND TIME THIS 13TH DAY OF DECEMBER, 2016.

READ THIS THIRD TIME AND FINALLY PASSED THIS 13TH DAY OF DECEMBER, 2016.


MAYOR


CLERK TREASURER

THE CORPORATION OF THE TOWNSHIP OF MCGARRY
Appendix "1" of Schedule "A"
TO NOISE BY-LAW NO. 2016-47

PART 1 PROVINCIAL OFFENCES ACT
SET FINES

Item	COLUMN 1 Short form wording	COLUMN 3 Offence creating provision or Defining offence	COLUMN 4 Set fine
1	<i>Cause noise</i>	Section 3.1	\$100.00
2	<i>Noise caused by horn</i>	Section 3.4	\$100.00
3	<i>Noise caused by speaker</i>	Section 3.5	\$100.00
4	<i>Noise cause by shouting</i>	Section 3.6	\$100.00
5	<i>Noise caused by pet</i>	Section 3.7	\$100.00
6	<i>Noise caused by vehicle</i>	Section 3.10	\$100.00
7	<i>Noise caused by load improperly secured.</i>	Section 3.11	\$100.00
8	<i>Noise caused by engine</i>	Section 3.12	\$100.00
9	<i>Noise caused by Compression release brake</i>	Section 3.13	\$100.00
10	<i>Noise caused by construction</i>	Section 3.14 – 3.16	\$100.00
11	<i>Noise caused by Residential equipment</i>	Section 3.15	\$100.00

Note: The general penalty provision for the offences listed above is Section 6.1 of Schedule "A" to By-law No. 2016-48, a certified copy of which has been filed.

Schedule "B"
Application



Name: _____ **Address:** _____

Description of the source of the sound: _____

Statement in which an exemption is being sought: _____

Period of time for which the exemption is being sought: _____

Reason why an exemption is being sought: _____

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
3rd FLOOR, SUITE 303
SUDBURY, ONTARIO P3E 6A5



CABINET DU JUGE PRINCIPAL RÉGIONAL
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU NORD-EST

159, RUE CEDAR
3^e ÉTAGE, BUREAU 303
SUDBURY (ONTARIO) P3E 6A5

TELEPHONE/TÉLÉPHONE (705) 564-7624
FAX/TÉLÉCOPIEUR (705) 564-7620

January 27, 2021

Ms. Karine Pelletier, Clerk-Treasurer
Township of McGarry
27 Webster Street
P.O. Box 99
Virginiatown, ON P0K 1X0

Dear Ms. Pelletier:

***Re: Set Fines – Provincial Offences Act – Part I
Township of McGarry, Temiskaming District***

Enclosed herewith is a copy of an Order and a copy of a schedule of set fines for By-law No. 2021-04 the By-law indicated in the schedule. Please ensure that a copy of the said documents is forwarded to the Provincial Offences Office, which has jurisdiction for the Temiskaming District.

The setting of the fines does not constitute my approval of the short form of wording used to describe the Offences.

I have forwarded a copy of the Order and the schedule of the set fines to the Ontario Court of Justice in Haileybury.

Yours truly,


MARTIN LAMBERT
A/REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

ML/hrd
Encl.

c.c.: His Worship Gary McMahon - Regional Senior Justice of the Peace
His Worship Theodore Hodgins

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
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COUR DE JUSTICE DE L'ONTARIO
RÉGION DU NORD-EST

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FAX/TÉLÉCOPIEUR (705) 564-7620

January 27, 2021

Ms. Devyani Anandjit
Crown Law Office, Criminal
720 Bay Street, 10th floor
Toronto, Ontario
M7A 2S9

Dear Ms. Anandjit:

Re: Set Fines - Provincial Offences Act - Part I
Township of McGarry, Temiskaming District

Please find enclosed a copy of an Order dated January 27, 2021, and a copy of a letter to Ms. Karine Pelletier on behalf of the Township of McGarry.

Should you have any questions, please do not hesitate to contact me at (705) 564-7624.

Yours truly,


MARTIN LAMBERT
A/REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

ML/hrd

Enclosures

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

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PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-Law No. 2021-04 of the Township of McGarry, Temiskaming District, attached hereto is the set fine, for those Offences. This Order is to take effect February 10th, 2021.

Dated at the City of Greater Sudbury, this 27th day of January, 2021.

A handwritten signature in blue ink, appearing to read 'M. Lambert', written over a horizontal line.

MARTIN LAMBERT
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

THE CORPORATION OF THE TOWNSHIP OF MCGARRY
Appendix "1" of Schedule "A"
TO NOISE BY-LAW NO. 2021-04

PART 1 PROVINCIAL OFFENCES ACT
SET FINES

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6	<i>Noise caused by vehicle</i>	Section 3.10	\$100.00
7	<i>Noise caused by load improperly secured.</i>	Section 3.11	\$100.00
8	<i>Noise caused by engine</i>	Section 3.12	\$100.00
9	<i>Noise caused by Compression release brake</i>	Section 3.13	\$100.00
10	<i>Noise caused by Construction – during prohibited times</i>	Section 3.14	\$100.00
11	<i>Noise caused by Residential power equipment</i>	Section 3.15	\$100.00

Note: The general penalty provision for the offences listed above is Section 6.1 By-law No. 2021-04, a certified copy of which has been filed.

