

The Corporation of the Township of Douro-Dummer

By-law Number 2023-XX

A By-Law to Prohibit and Regulate Noise Within the Township of Douro-Dummer

Whereas Section 129 of the Municipal Act, 2001, S.O. 2001, c. 25 and amendments thereto enables the councils of local municipalities to prohibit and regulate noise within the municipality;

And Whereas Section 425 of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, provides that by-laws may be passed by a municipality to provide that a person who contravenes a By-law of the municipality passed under the Municipal Act, 2001 is guilty of an offence;

And Whereas Section 426 of the Municipal Act, 2001, S.O., c. 25 as amended, provides that no person shall hinder or obstruct, or attempt to hinder or obstruct any person who is exercising a power or performing a duty under a By-law passed under this Act;

And Whereas Section 436 of the Municipal Act, 2001, S.O. 200, c. 25 as amended, provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether a By-law of the municipality passed under the Act is being complied with;

And Whereas Section 444 of the Municipal Act, 2001, authorizes municipalities to make orders requiring the person who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

And Whereas Noise pollution has a negative impact on the quality of life for the residents of the Township of Douro-Dummer.

Now Therefore Be It Resolved that the Council of The Corporation of the Township of Douro-Dummer hereby enacts as follows:

1. Definitions

In this By-law:

- 1.1. **Construction** means the erection, alteration, repair, dismantling, maintenance, land clearing, earth moving, excavation, blasting, road building, equipment installation and alteration, and including any work in connection therewith.
- 1.2. **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, forklifts, cranes, derricks, loaders, scrapers, pavers, generators, off-Highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment.
- 1.3. **Conveyance** includes a vehicle and any other device utilized 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 a building.
- 1.4. **Council** means the elected Municipal Council of The Corporation of The Township of Douro-Dummer.

- 1.5. **Electronic Device** means a device intended primarily for the production, reproduction or amplification of Sound, including, but not limited to, any musical instrument, radio receiver, television receiver, recorder, phonograph, loudspeakers, amplifiers, microphones or reproducers or any combination of such equipment, including devices used in the reproduction of music, speech or other sounds.
- 1.6. **Emergency** means a sudden and unexpected occurrence demanding immediate action to prevent possible injury, loss of life or substantial property damage.
- 1.7. **Government Work** Construction, rehabilitation or maintenance work conducted by the Municipality, the Province of Ontario, the Government of Canada and any of its agencies or agents including the operation of motor vehicles and equipment actually engaged in the work.
- 1.8. **Highway** as defined in the Highway Traffic Act, R.S.O. 1990, c. H.8.
- 1.9. **Motor Vehicle** as defined in the Highway Traffic Act, R.S.O. 1990, c. H.8.
- 1.10. **Motorized Conveyance** means a conveyance propelled or driven otherwise than by muscular, gravitational, wind power or electrical power.
- 1.11. **Municipality** means the Corporation of the Township of Douro-Dummer.
- 1.12. **Noise Exemption Application** means an application requesting to be exempt from the Noise By-law or portions thereof, as amended.
- 1.13. **Noise Mitigation Plan** means a plan as required and approved by Council that addresses the mitigation of sound not in compliance with the requirements of this By-law from planned events or activities.
- 1.14. **Normal Practice** means the noise associated with performing a task that is typical or common practice.
- 1.15. **Officer** means a Person appointed by Council as a Municipal Law Enforcement Officer, or a Police Officer, or other individual duly appointed to enforce this By-law.
- 1.16. **Owner** means the registered Owner of the land and includes a trustee acting on behalf of the registered Owner, the estate of the registered Owner and a Person with a leasehold interest in the land.
- 1.17. **Person** means an individual, corporation or other legal entity.
- 1.18. **Point of Reception** means any point on the Premises of a Person, where sound is heard, the source of which does not originate from the same property.
- 1.19. **Power Equipment Device** means any tool, equipment or machinery that is used in the servicing, maintenance or repair of lawns, gardens and property maintenance, and includes lawn mowers, edge-trimmers, rototillers, pressure washers, and hand operated power tools, including but not limited, to chainsaws, chippers and leaf blowers.
- 1.20. **Power Outage** means the hydro service normally provided to a property is temporarily unavailable for any reason other than the termination of the service for lack of payment.
- 1.21. **Premises** means land and includes the buildings and/or structures thereon.
- 1.22. **Statutory Holiday** as defined in the Retail Business Holiday Act R.S.O. 1990, Chapter r.30 and includes Family Day.
- 1.23. **Unreasonable Noise** means sound that can be heard at a Point of Reception that unreasonably interferes with the comfort, peace, rest, enjoyment, or convenience of any reasonable Person. The making, allowing, creation or maintenance of loud, unnecessary, or unusual

noises which are continuously heard for a period of thirty (30) minutes or more or intermittently over a period of one (1) hour or more, constitute Unreasonable Noise.

2. Unreasonable Noise

- 2.1. No Person shall make, cause or permit the creation of Unreasonable Noise, resulting from an act listed in Schedule "A" of this By-law that is clearly audible at a point of reception anywhere within the Municipality at any time.
- 2.2. Without limiting the generality of Section 3.1 of this by-law, noise is deemed not to be unreasonable if resulting from an act or emanating from the use of a device described within Sections 4.0 - 8.0 inclusive, in accordance with the regulations contained herein.

3. Construction

- 3.1. No Person shall cause or permit the emission of sound resulting from the operation of Construction Equipment or any Construction, that is clearly audible at a Point of Reception;
 - (a) between the hours of 7:00 p.m. of one day to 7:00 a.m. of the next day; or
 - (b) before 9:00 a.m. and after 7:00 p.m. on Sundays and Statutory Holidays;
 - (c) or at any time without an exhaust or intake muffling device in good working order.

4. Power Equipment Device

- 4.1. No Person shall cause or permit the emission of sound from a Power Equipment Device including, but not limited to, a lawn mower, grass trimmer, leaf blower or chainsaw; that is clearly audible at a Point of Reception;
 - (a) between the hours of 9:00 p.m. of one day to 7:00 a.m. of the next day;
 - (b) or at any time without an exhaust or intake muffling device in good working order.

5. Electronic Device

- 5.1. No Person shall cause or permit the emission of sound from an Electronic Device including, but not limited to, radio, speaker, television, loud speaker or musical instrument, that is clearly audible at a Point of Reception;
 - (a) between the hours of 11:00 p.m. of one day to 7:00 a.m. of the next day.

6. Noise from Human

- 6.1. No Person shall cause or emit noise created by yelling, shouting, hooting or similar noises made by a human, that is clearly audible at a Point of Reception;
- (a) between the hours of 11:00 p.m. of one day to 7:00 a.m. of the next day.

7. Generator

- 7.1. No Person shall cause or permit the emission of noise from the continuous operation of a generator or inverter that is clearly audible at a Point of Reception, for the purposes of providing non-emergency hydro.
- 7.2. Section 8.1 shall be deemed not to apply to the following:
- (a) test operation, operation during a power outage or emergency situation;
 - (b) the use of a generator conducted under a valid building or demolition permit issued by the Municipality and during permitted hours;
 - (c) where a valid Noise Exemption Permit has been issued by the Municipality.

8. General Provisions

- 8.1. Notwithstanding Sections 4.0 through 8.0 inclusive, no person shall emit or cause or permit the creation or emission of noise resulting from an act listed in Schedule "A" attached hereto, and forming part of this By-law, that is clearly audible at a point of reception anywhere within the Municipality.

9. Exceptions

- 9.1. Despite any other provision of this By-law, it shall be lawful to emit, cause or permit the emission of sound from:
- (a) Police, Fire, Ambulance or other emergency vehicles or any measures undertaken in an emergency for the immediate health, safety, or welfare of the inhabitants;
 - (b) Preservation of property during an emergency; sounds associated with construction or repair work which is required urgently in order to prevent severe damage to buildings or property;
 - (c) Persons or organizations who have received a Noise Exemption Permit or for an event sanctioned by Township of Douro-Dummer;
 - (d) Operation of bells, chimes, carillons and clocks in connection with any place of worship, religious service or any public buildings;
 - (e) The operation of vehicles, equipment and Construction Equipment when utilized for, the clearing of snow from public and private property;
 - (f) Agricultural, Commercial, Institutional or Industrial activities recognized as Normal Practice;
 - (g) Motor Vehicles and Motorized Conveyances being operated on a Highway, authorized snow mobile trail or a navigable body of water;
 - (h) Government work.

10. Noise By-law Exemption Application

- 10.1. Notwithstanding the prohibitions contained in this By-law, any Person may submit a Noise By-law Exemption Application for consideration to the Douro-Dummer Municipal Council.

- 10.2. Any Person requesting a Noise By-law Exemption must submit a written request to the Municipal Clerk no less than thirty (30) calendar days prior to the start date being requested.
- 10.3. The application must include:
 - (a) The applicant's name, address, telephone number and email address;
 - (b) The date, time and location of each event or activity for which the exemption permit is sought and, where applicable, the number of people expected to attend;
 - (c) The purpose for which the exemption permit is required;
 - (d) Reasons supporting an exemption permit;
 - (e) A noise mitigation plan;
 - (f) The description of any sound equipment or construction equipment to be used
 - (g) The name, address and telephone number of at least one contact person who will supervise each event or activity; and will be on-site during the entire event or activity to ensure compliance with the terms and conditions of the exemption permit.
- 10.4. No Person or applicant shall provide false or misleading information or statements on a Noise Exemption application form.
- 10.5. Upon reviewing the application, Council may, approve, deny or approve with conditions any Noise By-law Exemption request.
- 10.6. An approved Noise By-law Exemption permit shall specify the time period, during which it is effective and may contain such terms and conditions as Council sees fit.
- 10.7. Any Noise Exemption Permit granted shall be posted in a conspicuous place on the property for which the Noise By-law Exemption permit applies; and shall be strictly adhered to.
- 10.8. No Person or applicant shall fail to comply with the terms and conditions as set within the Noise By-law Exemption permit.
- 10.9. Breach of any of the terms or conditions of the exemption that is caused by the applicant or persons responsible for the activity or event under the exemption shall render the permit null and void.

11. Administration and Enforcement

- 11.1. This By-law shall be enforced by an Officer or such Person or Persons as Council may appoint under Municipal By-law.
- 11.2. Nothing herein shall be deemed to limit the ability of the Ontario Provincial Police to enforce this By-law at any time.

12. Powers of Entry

- 12.1. An Officer may enter any Premises, other than a dwelling at any reasonable time for the purpose of carrying out an inspection to determine compliance with this By-law or any Order issued under this By-law.
- 12.2. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer or other duly appointed Person, in the execution of their duties under this By-law.

13. Order to Discontinue Activity

- 13.1. If an Officer is satisfied that this By-law has been contravened, the Officer may make an **Order/issue** a Fine, requiring the Person who contravened the By-law, or who caused or permitted the contravention, or the Owner of the land on which the contravention occurred, to discontinue the contravention.
- 13.2. An Order made under section 13.1 of this By-law shall set out
- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - (b) the date by which there must be compliance with the Order.
- 13.3. No Person subject to an Order as described in Section 13.2 shall fail to comply with the provisions of such Order.

14. Offence and Penalty Provision

- 14.1. Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act R.S.O. 1990, c. P. 33, as amended.
- 14.2. If this By-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

15. Validity and Severability

- 15.1. Should any section, sub-section, clause, paragraph or provision of this By-law be declared by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of any other provision of this By-law or of the By-law as a whole.

16. Short Title

- 16.1. This by-law may be referred to as the "Noise By-law".

17. Repeal

- 17.1. That By-law Number 2003-59 is hereby repealed.

18. Effective Date

- 18.1. That this By-law shall come into force and take effect on the date of its final passing.

Read a first, second and third time and passed this XX day of XXXX, 2023.

Schedule "A" to By-Law Number 2023-XX

General Prohibitions

- a) Persistent barking. Howling, calling or whining or other similar persistent noise making by any domestic pet, or any other animal kept or used for a purpose other than agriculture;
- b) The operation of any construction equipment without an effective exhaust or intake muffling device where applicable and in good working order in accordance with the manufacturer's specifications;
- c) 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 noise can easily be heard outside of the motor vehicle;
- d) The detonation of fireworks or explosive devices not used in construction and not approved by the Township;
- e) The operation of any electronic devices or group of connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers, and intended for the production, reproduction or amplification of sound;
- f) The operation of an air condition, pool pump or filter, heat pump or the like that is not in proper working order;
- g) Racing of motorized vehicle other than in a lawful racing event;
- h) The operation of a motor vehicle in such a way that tires squeal;
- i) The operation of a motor vehicle or a motor vehicle with a trailer resulting in banging, clanking, squealing or other noises due to improperly secured load to equipment, or inadequate maintenance.

Schedule "B" to By-Law Number 2023-XX

Activities to which the By-law does not apply

- a) Road and Bicycle races authorized by the Municipality;
- b) Regimental salutes;
- c) Parades authorized by the Municipality;
- d) Firework displays authorized by the Municipality;
- e) Midways and circuses authorized by the Municipality;
- f) Sporting, recreational and entertainment events in public parks, buildings or grounds authorized by the Municipality;
- g) Non-motorized sports, sporting events and recreational activities occurring in public parks and grounds that were specifically designed for such activities;
- h) Musical and other performances in public parks, public buildings or public grounds authorized by the Municipality;
- i) Special neighbourhood social activities on streets or other public land authorized by the Municipality;
- j) Transformers and diesel operated pumps owned by the Municipality and necessary preventive maintenance work undertaken by the Municipality;
- k) Necessary municipal operations, including but not limited to, snow clearing, street cleaning and garbage collection, undertaken by, or on behalf of, the Municipality;
- l) Snow removal that is essential for the normal operation of a business;
- m) Church clocks striking the hour and chimes ringing and the playing of any church carillon;
- n) Generators for the purpose of power outages;
- o) The discharge of a firearm in accordance with the Municipality's Discharge of a Firearm By-law; and
- p) Events approved by the Special Events By-law.