

## **By-Law No. 2023-29**

### ***Being a By-Law to regulate noise within the municipality in Township of Dubreuilville.***

**WHEREAS** it is expedient to exercise the power conferred upon the council by the *Environmental Protection Act, R.S.O. 1990, chap. E.19*, as amended, and other statutory authority, noise is recognized as a form of pollution: and

**WHEREAS** *Section 129(a) of the Municipal Act 2001, S.O. c. 25* as amended authorizes the municipality to prohibit and regulate with respect to noise: and

**WHEREAS** pursuant to *section 425 of the Municipal Act, 2001*, a municipality may pass By-law providing that a person who contravenes a By-law of the municipality passed under the Act is guilty of an offence; and

**WHEREAS** pursuant to *section 426 of the Municipal Act, 2001* 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** pursuant to *section 429 of the Municipal Act, 2001* a municipality may establish a system of fines for offences under a By-law of the municipality passed under this Act; and

**WHEREAS** it is the policy of the Council to reduce and control excessive or nuisance noise or vibration, to protect the public health and safety, and preserve the tranquility in the Township of Dubreuilville; and

**NOW THEREFORE BE IT RESOLVED THAT** the Council of the Corporation of the Township of Dubreuilville enacts as follows:

#### SHORT TITLE

1. This By-law may be referred to as the “Noise Control By-law”.

#### STATUTORY REFERENCE

2. Any reference in this By-law to a statutory provision is a reference to the statute of that name in effect in the Province of Ontario or the county of Canada as amended from time to time.

#### DEFINITIONS

3. In this by-law:

- a) “Administrative penalty” means a monetary penalty that can be issued to a person or corporation found in violation of the provisions of the by-law, established by by-laws passed by the Township, *the Provincial Offences Act, R.S.O. 1990* or *the Municipal Act, 2001*.
- b) “Appliance” means a household device either fixed or portable;
- c) “Applicant means the name of the person or corporation found on the application to the Township for exemption to the Noise By-law, as the person who is requesting the exemption or acting on behalf of the person or corporation who is requesting the exemption from the by-law;

- d) “Construction” includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, the laying of pipe and conduit either above or below ground 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;
- e) “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, loader, scrapers, pavers, generator, off-highway haulers or trucks, ditchers, compactors, and rollers, pumps, concrete mixers, graders, or other material handling equipment;
- f) “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;
- g) “Council” means the Council of the Corporation of the Township of Dubreuilville;
- h) “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 sounds;
- i) “Excessive noise” means noise under human control and is of such a nature as to interfere with the peace, comfort, and convenience of any person at a point of reception occurring at restrictive times;
- j) “Fireworks” is defined in the Explosive Regulations made pursuant to *the Explosive Act, R.S. c. E-15, s-1* as amended, and also means consumer fireworks that are defined as “outdoor, low hazard fireworks that are designed for personal recreational use and includes, but is NOT limited to Roman candles, sparklers, fountains, multi-shot cakes, volcanoes, mines and snakes”;
- k) “Highway” includes a common and public highway, street, avenue, parkway, driveway, square, place bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicle;
- l) “Minister” means Minister of the Environment;
- m) “Ministry” means Ministry of the Environment;
- n) “Motor vehicle” includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electric or steam railways, 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*;
- o) “Motorized Conveyance” means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- p) “Municipality” means the land within the geographic limit of the Township of Dubreuilville;
- q) “Municipal By-law Enforcement Officer” means the Municipal By-Law Enforcement Officer appointed by the Township of Dubreuilville or their agent, other staff appointed as an Officer for the Township;
- r) “Noise” means unwanted sounds and vibrations;
- s) “Owner” means the registered owner of the land from which noise originates, and includes a trustee acting on behalf of the registered owner, the estate of a registerer owner and a person with a leasehold interest in the land;
- t) “Point of reception” means any place on a property where sound or vibration is heard, the source of which does not originate from in the land;
- u) “Township” means the geographic area comprising the Township of Dubreuilville.

## ADMINISTRATION & ENFORCEMENT

4. The Municipal By-law Enforcement Officer, staff appointed by Council as an Officer, or their representative shall be responsible for the administration and enforcement of this by-law.
5. Nothing herein shall be deemed to limit the ability of the Ontario Provincial Police to enforce this by-law at any time.

## GENERAL PROVISIONS

6. This by-law applies to properties and those residents, corporations, or persons who are within the area known as the Township.
7. Nothing in this by-law prevents enjoyment of one's environment or property in alignment with Council's policy to protect the public health and safety and preserve the tranquility in the Township of Dubreuilville.
8. Council may delegate to a Township staff member or Municipal By-law Enforcement Officer, by resolution, the ability to authorize an exemption under this By-law.

## GENERAL PROHIBITIONS

9. No person or owner shall emit, cause, or permit the emission of noise, which is clearly audible to a person at a point of reception, resulting from an act listed in Schedule "A" attached hereto this By-law.

## PROHIBITIONS BY TIME AND PLACE

10. No person or owner shall emit, cause, or permit the emission of excessive noise, which disrupts the normal living or working environment of a person at a point of reception, resulting from an act or emanating from a device listed in Schedule "B" attached hereto this By-law.

## EXEMPTIONS

11. The provisions of Sections 9 and 10 shall not apply to the person, corporation, equipment, or event that causes or permits the emission of noise in connection with any of the activities or approved exemptions listed in Schedule "C" attached hereto this By-law.
12. No person, corporation or equipment shall cause or permit the emission of noise under Section 9 or Section 10 without an exemption granted under Section 9 of this By-law.

## EXEMPTION GRANTED BY COUNCIL

13. Any person or corporation may make an application to the Township to be granted an exemption from any provisions of this by-law with respect to any source of noise which may be prohibited.

14. The application referred to in Section 13 shall contain:

- a) Payment of application fee, as found in Fees & Charges By-law, which may be amended from time to time;
- b) The form, as attached in Schedule "E" of this By-law, titled "Noise Exemption Application", and completed in full.

15. No person or applicant shall provide false or misleading information or statements on a Noise Exemption application form.

16. If an application referred to in Sections 13 and 14 is not complete at the time of the review, the exemption will be considered denied and the Township will set out in writing to notify the applicant.

17. Approval of noise exemption can be granted by either delegated authority to staff or council resolution.

18. The noise exemption may be approved by staff (under the delegated authority of council), if ALL of the following criteria are met:

- a) No concerns received during comment period;

- b) No previous noise by-law violations;
- c) No previous history of complaints regarding noise;
- d) Exemptions being requested are defined in the by-law; and
- e) Complete application and fees paid.

19. If criteria listed in Section 18 (a), (b), (c) or (d) are not met, the noise exemption application shall be brought before Council at the next available Council meeting.

20. When the noise exemption application requires a Council meeting, staff shall notify the applicant of the details of when the noise exemption is brought before Council. The applicant and any other person wishing to speak to the matter shall be given the opportunity to delegate the matter before council.

21. At the time of council when the noise exemption application is being heard, the onus is on the Applicant to show cause why the noise exemption should be approved.

22. Where the Applicant has been provided with notification of the Regular Council meeting and does not attend, Council may proceed to deal with the matter in the absence of the Applicant.

23. Council shall hear the information contained in the report to council pertaining to the noise exemption application and may also hear evidence and ask questions of the Municipal By-law Enforcement Officer, Applicant, or any other person permitted to be heard on behalf of the noise exemption application.

24. Council may, by resolution, in its discretion:

- a) grant the exemption or any exemption of lesser effect, for a period not more than six (6) months during which it is effective and may contain such terms and conditions as the Township sees fit; or
- b) Deny the exemption or any exemption of lesser effect.

25. The decision by Council as outlined in Section 24, shall, by resolution:

- a) Contain the dates and time the noise exemption shall be valid;
- b) be set in writing and mailed, or personally served to the Applicant; and
- c) Be null and void once the exemption dates and times have expired.

#### BREACH OF NOISE EXEMPTION

26. No applicant shall cause or permit the breach of a noise exemption granted by the Township.

27. 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 exemption null and void.

#### POWER OF ENTRY

28. A Municipal By-law Enforcement Officer, persons appointed by the Council or their representative may enter onto a property at any reasonable time, for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- a) the provisions of this By-law;
- b) an order issued under this By-law.

29. The Township's power of entry may be exercised by a Municipal By-law Enforcement Officer or any other person appointed to enforce by-laws for the Township.

#### INSPECTIONS

30. Where an inspection is conducted by the Township under Section 28 and 29, the Person conducting the inspection may:

- a) require the production for inspection of documents or things relevant to the inspection;
- b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- c) require information from any Person concerning a matter related to the inspection including their name, address, phone number and identification; and
- d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

31. The Township may undertake an inspection pursuant to an order issued under *section 438 of the Municipal Act, 2001*.

#### OBSTRUCTION

32. No person shall hinder or obstruct a Municipal By-law Enforcement Officer, or person appointed by the Council, who is lawfully carrying out enforcement of performing a duty under this by-law.

33. No person shall fail to identify themselves to the Municipal By-law Enforcement Officer, or person appointed by the Council, if they have been alleged to have contravened any of the provisions of this by-law.

#### PENALTIES

34. Any person who contravenes a designated provision of this By-law is guilty of an offence, and, when given a Penalty Notice, in accordance with the Administrative Monetary Penalty System (herein after, "AMPS By-law"), be liable to pay to the Township an administrative penalty as set out in the schedules attached to the AMPS By-law (as amended from time to time).

35. Any person who contravenes any of the provisions of this By-law, except a designated provision, is guilty of an offence and upon conviction is liable to a penalty as provided for in the Provincial Offences Act, R.S.O. 1990, c.p. 33 (as amended from time to time) or any successor thereof.

#### SCHEDULES

36. Provisions of this By-law that allow for financial penalties shall be updated and attached to the Schedules of the Administrative Penalties found in the AMPS By-law (as amended from time to time).

37. Schedule "A", "B", "C", "D", and "E" are attached and form part of this by-law.

#### SEVERABILITY

38. If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

39. That By-Law 89-48 and is hereby repealed in its entirety.

40. That this By-Law shall come into force and take effect on the 10th day of May 2023.

READ a first and second time on the 26<sup>th</sup> day of April 2023.

READ a third time and be finally passed this 10<sup>th</sup> day of May 2023.

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MAYOR

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CAO-CLERK

## SCHEDULE "A"

### General Noise Prohibitions

No person, Corporation, officer of the Corporation, device or equipment in their control shall emit, cause, or permit the emission of noise from this list below, which is clearly audible at Point of Reception:

1. **Amplification of sound** - Operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electromechanical transducers, and intended for the production, reproduction, or amplification of sound;
2. **Discharge of fireworks or explosives for amusement and not related to construction** - setting off fireworks during a FIRE BAN or on a date & time not prescribed within this By-law;
3. **Barking, whining, or similar sound made by a dog** - Continuous or persistent noise that causes a nuisance, where the person having control of the animal is in contravention of this by-law;
4. **Operation of equipment or device without original muffling devices in place** - Construction Equipment, combustion engine or pneumatic devices without an original equipment manufacturer specification exhaust or intake muffling device in good working order and in constant operation;
5. **Non-commercial / domestic work activity** - Residential domestic activities that produce sound of such nature that is unwanted, ongoing, persistent, unusual, repetitive, a public nuisance that disturbs a Person;
6. **Engine idling for longer than five (5) minutes** - Engine or motor operation in, or on, any motor vehicle, equipment or auxiliary equipment for a continuous period exceeding five (5) minutes while the engine is stationary, unless:
  - i. There is a power outage at the location where a generator is required to operate to keep electrical service running to the property for personal safety or ongoing construction; or
  - ii. Equipment manufacturer specifically recommends a longer idling period for normal operation of the engine, in which case the idling period shall not be exceeded; or
  - iii. Operation of such engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to the operation of ready-mix concrete trucks, lift platforms, and refuse compactors; or
  - iv. Weather conditions justify the use of heating or refrigeration systems powered by the motor or engine for the safety and welfare of the operator, passengers, animals, or the preservation of perishable cargo; or
  - v. Prevailing low temperatures make longer idling periods necessary, immediately after starting the motor or engine; or
  - vi. The idling is for the purpose of cleaning and flushing the radiator and associated circulation system for seasonal maintenance or repairs when work is performed other than for profit;
7. **Revvng of an engine** - Motor Vehicle or Motorized Conveyance engines except as required for by a licensed mechanic inside a place of business designated as an automotive repair business.

## SCHEDULE "B"

### Prohibitions by Time and Place

No person, Corporation, officer of the Corporation, device or equipment in their control shall emit, cause, or permit the emission of noise resulting from an act listed below, which is clearly audible at a Point of Reception within the prohibited time shown below:

#	Activity	Prohibited Period of Time:
1	Yelling, shouting, or similar noises made by a person	11 p.m. of one day to 7 a.m. of the next day
2	Amplification of sound - operation of any electronic device or group of devices with loudspeakers or electromechanical transducers	11 p.m. of one day to 7 a.m. of the next day
3	Construction activity or operation of any equipment or device in connection with construction	Monday to Saturday: 9 p.m. of one day to 7 a.m. of the next day. Sunday & STAT holidays: 7 a.m. to Noon & 6 p.m. of one day to 7 a.m. of the next day
4	The operation of any powered or non-powered tool, including a generator or equipment for domestic purposes other than snow removal	Monday to Saturday: 9 p.m. of one day to 7 a.m. of the next day. Sunday & STAT holidays: 7 a.m. to Noon & 6 p.m. of one day to 7 a.m. of the next day
5	The loading, shipping, or handling of any material or waste, unless necessary for essential services	Monday to Saturday: 9 p.m. of one day to 7 a.m. of the next day. Sunday & STAT holidays: ALL DAY
6	The operation of a toy, model or replica for amusement, and is not a Motor Vehicle	Monday to Saturday: 9 p.m. of one day to 7 a.m. of the next day
7	The use of auditory signaling devices were required by law or in accordance with good safety practices	Monday to Saturday: 9 p.m. of one day to 7 a.m. of the next day. Sunday & STAT holidays: 7 a.m. to Noon & 6 p.m. of one day to 7 a.m. of the next day
8	Discharge of Fireworks	DURING A FIRE BAN, and YEAR ROUND, but are ALLOWED on the day of July 1 and ALL other statutory holiday weekends; provided no fire ban is in place: from DUSK until 12 a.m.

## SCHEDULE "C"

### Exemptions

The emission of noise in connection with the following activities are considered exempt from the provisions of this By-law:

1. **SNOW REMOVAL**- domestic, commercial, municipal and district snow removal operations.
2. **GENERATORS** - when a generator is operated during a power outage where the generator provides power for essential services or construction.
3. **PUBLIC SAFETY** - Notwithstanding any other provision of this by-law, it shall be lawful to emit or cause or permit the emission of sound or vibration in connection with emergency measures undertaken:

I. For the immediate health, safety, or welfare of the inhabitants or any of them; or

II. For the preservation or restoration of property;

unless the sound or vibration is clearly of a longer duration, or nature more disturbing than is reasonably necessary for the accomplishment of such emergency purpose.

4. **SERVICE VEHICLES** - this by-law shall be deemed not to apply to the following:

I. Construction or demolition being conducted under a permit issued by the Township of Dubreuilville; and

II. Industrial or commercial operations in accordance with an approved site plan.

5. **TRADITIONAL, FESTIVE OR RELIGIOUS ACTIVITIES** - Notwithstanding any other provision of this by-law, this by-law does not apply to a person or owner who emits or causes or permits the emission of sound or vibration in connection with any of the traditional, festive, religious, and other activities listed below:

I. The amplification of the human voice or of music in a public park in connection with any public election meeting, public celebration, or other lawful gathering, provided that written permission of Council to hold such event has been first obtained under any applicable by-law of the Township of Dubreuilville.

II. Any band or parade, which has first obtained written permission of Council under any applicable by-law of the Corporation of the Township of Dubreuilville.

III. The use of church bells or chimes normally associated with church activities.

IV. All activities associated with an event authorized by council.

6. **GRANT OF EXEMPTION BY COUNCIL** - Notwithstanding anything contained in this by-law, any person may make the application, according to provisions of this By-law, to council, to be granted an exemption from prohibitions, with respect to any source of sound or vibration that could be in contravention of this By-law.



**SCHEDULE "D"**

**SET FINES**

Item	Column 1	Column 2	Column 3
	Short Form Wording	Provision creating or defining offence	Set fine
1	Emit/cause/permit noise from amplified sound	Section 9 Schedule "A", item 1	\$50
2	Emit/cause/permit noise from fireworks	Section 9 Schedule "A", item 2	\$50
3	Permit dog to create noise	Section 9 Schedule "A", item 3	\$50
4	Permit noise from equipment without muffling device	Section 9 Schedule "A", item 4	\$50
5	Cause or Permit noise from domestic work activity	Section 9 Schedule "A", item 5	\$50
6	Permit noise from engine idling longer than five (5) minutes	Section 9 Schedule "A", item 6	\$50
7	Cause or Permit noise from revving an engine	Section 9 Schedule "A", item 7	\$50
8	Yelling when prohibited	Section 10 Schedule "B", item 1	\$50
9	Cause or permit amplified sound when prohibited	Section 10 Schedule "B", item 2	\$50
10	Cause or permit noise from construction equipment or activity when prohibited	Section 10 Schedule "B", item 3	\$50
11	Cause or permit noise from tool or equipment when prohibited	Section 10 Schedule "B", item 4	\$50
12	Emit, cause or permit noise from handling material for non-essential purposes when prohibited	Section 10 Schedule "B", item 5	\$50
13	Cause or permit noise from a toy, model or replica when prohibited	Section 10 Schedule "B", item 6	\$50
14	Emit, cause or permit noise from auditory signaling devices when prohibited	Section 10 Schedule "B", item 7	\$50
15	Cause or permit noise from the discharge of fireworks during a fire ban	Section 10 Schedule "B", item 8	\$100
16	Cause or permit noise from the discharge of fireworks when prohibited	Section 10 Schedule "B", item 8	\$100
17	Cause or permit noise without an approved exemption	Section 12	\$100
18	Providing false/misleading information on application form	Section 15	\$100
19	Cause or permit the breach of approved noise exemption	Section 26	\$100
20	Hinder or obstruct an Officer/appointed person lawfully carrying out duties	Section 32	\$300
21	Failure to identify themselves to an Officer/appointed person while in contravention of this By-law	Section 33	\$200

**Schedule "D", SET FINES, is considered part of this By-law. Set fines take effect on the date of ORDER attached to this By-law.**