

THE CORPORATION OF THE TOWNSHIP OF TINY

BY-LAW 21-028

A By-law to Regulate Noise within the Township of Tiny
and to repeal By-laws 11-065 and 12-056.

WHEREAS Section 128 of *The Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides authority for municipalities 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 Section 129 of *The Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides authority for municipalities to prohibit and regulate noise and vibration;

AND WHEREAS The Council of the Corporation of the Township of Tiny deems it necessary to regulate or prohibit noise within the Township of Tiny;

NOW THEREFORE the Council of the Corporation of The Township of Tiny hereby ENACTS AS FOLLOWS:

1. TITLE:

- 1.1 This By-law shall be known and may be cited as the "Noise Control By-law".

2. DEFINITIONS:

For the purpose of this By-law:

- 2.1 "**Construction**" includes the erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, blasting, rock crushing, the laying of pipe and conduit whether above or below ground level, street and highway building, concreting, equipment installation and alteration and structural installation of construction components and materials in any form or for any purpose, and includes work in connection therewith;
- 2.2 "**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, cranes, derricks, loaders, scrapers, pavers, generators, off highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;
- 2.3 "**Council**" means the Council of the Corporation of the Township of Tiny;
- 2.4 "**Domestic Tool**" means any tool, equipment or device designed or intended for use for Construction or maintenance of private property by the private property owner where a building permit is not required including but not limited to: air compressors, electric power tools, manual hammers, and similar tools, but does not include Lawn Maintenance Equipment, or equipment used for the removal of snow;
- 2.5 "**Highway**" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
- 2.6 "**Lawn Maintenance Equipment**" means any equipment, which uses a combustion or electric motor for the purposes of yard maintenance

or repair and includes chain saws, lawn mowers, leaf blowers, grass trimmers, or any other similar equipment, but does not include equipment used to remove snow or ice.

- 2.7 **“Motor vehicle”** includes an automobile, a motorcycle, a motor-assisted bicycle, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car or other motor vehicle running only upon rails, a power-assisted bicycle, a motorized snow vehicle, off road vehicle, all terrain vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry or a road-building machine;
- 2.8 **“Motorized conveyance”** means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- 2.9 **“Noise”** means a sound that is of such volume or nature at a point of reception that it disturbs or is likely to disturb the inhabitants of the Township;
- 2.10 **“Officer”** means a Municipal Law Enforcement Officer, a Police Officer or other person appointed by by-law to enforce the provisions of this by-law;
- 2.11 **“Person”** means any human being, association, firm, partnership, incorporated company, corporation, agent or trustee, and the heirs, executors or other legal representatives of a person to whom the context can apply, according to law;
- 2.12 **“Point of reception”** means any point on the premises of a person where sound or vibration originating from other than those premises is received;
- 2.13 **“Township”** means The Corporation of the Township of Tiny.

3. GENERAL PROHIBITIONS:

- 3.1 No person shall emit or cause or permit the emission of noise resulting from any activity listed in Schedule “A”, attached hereto, if clearly audible at a point of reception.

4. PROHIBITIONS BY TIME AND PLACE:

- 4.1 No person shall emit or cause or permit the emission of noise resulting from any Activity listed in Column 1 of Schedule “B”, attached hereto, and which noise is clearly audible at a point of reception within a prohibited time shown in Column 2.

5. EXEMPTION FOR PUBLIC SAFETY:

- 5.1 Notwithstanding any other provision of this By-law, it shall be lawful to emit or cause or permit the emission of noise or vibration in connection with emergency measures undertaken:
- 5.1.1 for the immediate health, safety or welfare of the inhabitants or any of them; or
- 5.1.2 for the preservation or restoration of property;
- unless such noise or vibration is clearly of a longer duration or nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

6. GENERAL EXEMPTIONS:

- 6.1 This By-law shall not apply to a person who emits or causes or permits the emission of noise in connection with any of the activities listed in Schedule "C" attached hereto this By-law.

7. GRANT OF EXEMPTION BY COUNCIL:**7.1 Application to Council**

Notwithstanding anything contained in this By-law, any person may make application to Council to be granted an exemption from any of the provisions of this By-law with respect to any source of noise or vibration for which he/she might be prosecuted.

7.2 Details of Application for Exemption

The application mentioned in subsection 7.1 shall be made in writing and shall contain:

- 7.2.1 the name, address and telephone number of the applicant;
- 7.2.2 a description of the source and location of sound in respect of which exemption is sought;
- 7.2.3 a statement of the particular provision(s) of this By-law from which the exemption is sought;
- 7.2.4 the period of time, of a duration not in excess of six (6) months, for which the exemption is sought;
- 7.2.5 the reasons why the exemption should be granted;
- 7.2.6 a statement of the steps, if any, planned or presently being taken to bring about compliance with this By-law.

7.3 Decision

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 deems appropriate. The Council, by resolution, may refuse to grant an exemption or may grant the exemption applied for or may grant an exemption of lesser effect. An exemption granted shall specify the time period, not in excess of six (6) months, during which it is effective and may contain such terms and conditions as the Township deems appropriate.

7.4 Breach

Breach by the applicant of any of the terms or conditions of any exemption granted by Council shall render the exemption null and void.

8. ORDERS

- 8.1 If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an Order requiring the person who contravened this By-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to take actions to correct the contravention.

8.2 The Order shall set out:

- 8.2.1 Reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred.

- 8.2.2 The work to be done and the date by which the work must be done.
- 8.3 An Order may be served personally upon the person to whom it is directed to or sent by regular mail to the address shown on the last revised assessment roll or to the last known address.
- 8.4 An Order under Section 8.1 may require action be taken even though the facts which constitute the contravention of this By-law were present before this By-law making them a contravention came into force.
- 8.5 No person shall fail to comply with an Order issued pursuant to Section 8.1.
- 8.6 If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an order, known as a Discontinue Activity Order, requiring the person who contravened this 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.
- 8.7 The Discontinue Activity Order shall set out:
- 8.7.1 Reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred.
- 8.7.2 The date by which there must be compliance with the Discontinue Activity Order.
- 8.9 A Discontinue Activity Order may be served personally upon the person to whom it is directed to or sent by regular mail to the address shown on the last revised assessment roll or to the last known address.
- 8.10 No person shall fail to comply with a Discontinue Activity Order issued pursuant to Section 8.6.
- 8.11 In the event the Officer is unable to serve an Order under the provisions of this By-law, the Order shall be posted in a conspicuous place on the property, and the placing of the Order shall be deemed to be sufficient service of the Order on the property owner.
- 9. ENTRY AND INSPECTION:**
- 9.1 An Officer may at any time, enter onto land to determine whether this By-law is being complied with.
- 9.2 Every owner shall permit the Officer to inspect any land for the purposes of determining compliance with this By-law.
- 9.3 Notwithstanding any provision of this By-law, an Officer shall not enter or remain in any room or place actually being used as a dwelling, unless:
- 9.3.1 the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of a warrant issued under the *Provincial Offences Act*, R.S.O.1990, c.P.33, as amended.

- 9.3.2 a warrant issued under the *Provincial Offences Act*, R.S.O.1990, c. P.33, as amended, is obtained.

10. OBSTRUCTION:

- 10.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law.
- 10.2 Any person who has been alleged to have contravened any of the provisions of this By-law, shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of his duties.

11. PENALTY:

- 11.1 Every person who contravenes any of the provision of this By-law and every Director or Officer of a Corporation, who knowingly concurs in the contravention by the Corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 11.2 Every person who contravenes the provisions of this by-law and every Director or Officer of a Corporation, who knowingly concurs in the contraventions by the corporation, is guilty of an offence and liable:
- 11.2.1 upon a first conviction, to a fine of not be less than \$300 and the maximum shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 11.2.2 upon a second, or subsequent conviction, to a fine of not be less than \$500 and the maximum shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 11.3 For the purpose of continuous offences, every person who contravenes any provision of this by-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a by-law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 11.3.1 Despite section 11.3 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the total of all daily fines for the offence is not limited to \$100,000.
- 11.4 For the purpose of multiple offences, every person who contravenes any provision of this by-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a by-law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 11.4.1 Despite section 11.4 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the total of all daily fines for the offence is not limited to \$100,000.

12. SEVERABILITY:

- 12.1 If any court of competent jurisdiction declares any section or part of this By-law to be invalid, such section or part of a section thereof shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent there from and to be enacted as such and the remainder of the By-law shall be valid and shall remain in force.

13. REPEAL OF BY-LAWS:

13.1 That By-laws 11-065 and 12-056 are hereby repealed.

14. EFFECTIVE DATE:

14.1 That this By-law shall come into force and effect on the date of passing.

BY-LAW READ A FIRST, A SECOND AND THIRD TIME AND FINALLY PASSED THIS 28th DAY OF APRIL 2021.

THE CORPORATION OF THE TOWNSHIP OF TINY



MAYOR, George Cornell



CLERK, Sue Walton

Schedule "A" General Prohibitions

The following activities are subject to prosecution pursuant to Section 3 of the By-law, if clearly audible at a point of reception:

1. The 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. 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 sound can easily be heard outside of the motor vehicle;
3. Persistent barking, calling, or whining or other similar persistent noise made by any domestic pet or any other animal kept or used for any purpose other than agriculture;
4. The operation of any construction equipment, combustion engine or pneumatic device without an exhaust or intake muffling device in good working order and in constant operation;
5. Racing of any motorized conveyance other than in a lawful racing event;
6. The operation of a motor vehicle or motorized conveyance in such a way that the tires squeal;
7. The operation of a motor vehicle or motor vehicle with a trailer resulting in banging, clanging, squealing or other like sounds due to improperly secured load or equipment, or inadequate maintenance;
8. The operation of a motorized conveyance or motor vehicle horn or other warning device except where required or authorized by law or in accordance with good safety practices;
9. The operation of an air conditioner, water pump, heat pump or the like that is not in proper working order;
10. Ring bells, blow or sound any horn, yelling, shouting, hooting, whistling or singing;
11. All selling or advertising by shouting or outcry or amplified sound.
12. Any unwanted or meaningless sound that in the opinion of the Officer is likely to disturb the inhabitants of the Township.

Schedule "B" Prohibitions by Time

The following activities are subject to prosecution pursuant to Section 4 of the By-law, if clearly audible at a point of reception:

	Column 1	Column 2	Column 3
Item	Activity	Prohibited Period of time	Permitted Period of time
1.	The sound from a woodchipping establishment	<u>Monday to Saturday</u> From 7:00pm to 7:00am the next day <u>Sunday</u> at all times	<u>Monday to Saturday</u> From 7:00am to 7:00pm
2.	Construction or maintenance activities other than snow removal	<u>Monday to Friday</u> From 8:00pm to 7:00am the next day <u>Saturday, Sunday,</u> <u>Statutory Holidays</u> From 8:00pm to 9:00am the next day	<u>Monday to Friday</u> From 7:00am to 8:00 pm <u>Saturday, Sunday,</u> <u>Statutory Holidays</u> From 9:00 am to 8:00pm
3.	The operation of Construction Equipment	<u>Monday to Friday</u> From 8:00pm to 7:00am the next day <u>Saturday, Sunday,</u> <u>Statutory Holidays</u> From 8:00pm to 9:00am the next day	<u>Monday to Friday</u> From 7:00am to 8:00 pm <u>Saturday, Sunday,</u> <u>Statutory Holidays</u> From 9:00 am to 8:00pm
4.	Domestic Tool	<u>Monday to Friday</u> From 9:00 pm to 7:00 am the next day <u>Saturday, Sunday,</u> <u>Statutory Holidays</u> From 9:00 pm to 9:00am the next day	<u>Monday to Friday</u> From 7:00am to 9:00 pm <u>Saturday, Sunday,</u> <u>Statutory Holidays</u> From 9:00 am to 9:00pm
5.	Lawn Maintenance Equipment	<u>Monday to Friday</u> From 9:00 pm to 7:00 am the next day <u>Saturday, Sunday,</u> <u>Statutory Holidays</u> From 9:00 pm to 9:00am the next day	<u>Monday to Friday</u> From 7:00am to 9:00 pm <u>Saturday, Sunday,</u> <u>Statutory Holidays</u> From 9:00 am to 9:00pm

Schedule "C"

General Exemptions

The following activities are considered to be exempt from the provisions of this By-law:

1. The sirens or noises associated with essential services, all activities of the Township, the County of Simcoe, the Province of Ontario, any utility provider, or their servants or agents associated with the provision of maintenance or essential services;
2. Parades, activities or special events permitted by Council;
3. The use of vehicles, equipment and construction equipment when utilized for the clearing of snow from public and private property;
4. The noise caused by farm equipment performing any farm operation;
5. The ringing of bells, chimes or clocks associated with religious or public buildings or uses;
6. Generators for the purpose of power outages.