

THE CORPORATION OF THE TOWNSHIP OF BROCK

BY-LAW NUMBER 3118-2022

BEING 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 HEREBY ENACTS A BY-LAW AS FOLLOWS:

1. Definitions

- 1.1. "agricultural area" means an area designated as such in the Township of Brock Zoning By-law and includes an identified non-conforming use.
- 1.2. "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.
- 1.3. "commercial area" means an area designated as such in the Township of Brock Zoning By-law and includes an identified non-conforming use.
- 1.4. "construction" includes the erection, alteration, repair, dismantling, demolition or structural maintenance of buildings, land clearing, earth moving, grading, excavating, 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.
- 1.5. "conveyance" means any type of device designed or capable for use as a means of physically transporting persons from one place to another.
- 1.6. "council" means the Council of the Corporation of the Township of Brock.
- 1.7. "exhaust muffling device" means a muffler in good working order and in constant operation to prevent excessive or unusual noise from a motor vehicle.
- 1.8. "heavy equipment" means any equipment, tool or device designed or capable of use in construction or demolition, automotive repair 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.
- 1.9. "highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for use or used by the general public for the passage of vehicles and includes a road allowance and/or right of way.

- 1.10. "industrial area" means an area designated as such in the Township of Brock Zoning By-Law.
- 1.11. "inhabitants" means those people normally residing or working within the Township, which includes any temporary resident or occupier of a premises within the Township.
- 1.12. "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 vehicle running only upon rails, traction engines, farm tractors, self-propelled implements of husbandry or road building machines within the meaning of the *Highway Traffic Act*.
- 1.13. "Municipal Clerk" means the Municipal Clerk or his or her designate of the Corporation of the Township of Brock.
- 1.14. "non-conforming" means a use which does not comply with the provisions of the Township of Brock Zoning By-law for the zone in which such use is located as of the date of passing of the Township Zoning By-law.
- 1.15. "officer" means a municipal law enforcement officer appointed by the Township to enforce the provisions of this by-law or a police officer who is a member of the Durham Regional Police Service.
- 1.16. "parks area" includes playgrounds, sports fields, memorial squares, gardens, waters, marinas, boat launches, and any other area or areas owned and used by the Township for active or passive recreational purposes or for any other purpose ancillary thereto.
- 1.17. "point of reception" means any point on the premises of a person where noise, originating from other than those premises, is received.
- 1.18. "Region" means the Region of Durham.
- 1.19. "residential area" means an area designated as such in the Township of Brock Zoning By-law and includes an identified non-conforming use;
- 1.20. "special event" includes a demonstration, parade, sports event, festival carnival and other like events.
- 1.21. "statutory holiday" means any holiday designated a holiday in the *Retail Business Holidays Act*.
- 1.22. "Township " means The Corporation of the Township of Brock or the territorial jurisdiction of the Township of Brock as the context requires.

2. Interpretations

- 2.1. Unless otherwise specified, references in this by-law to sections, subsections, clauses and schedules are references to sections, subsections, clauses and schedules in this by-law.
- 2.2. 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.

- 2.3. References in this by-law to any statute or statutory provision include reference to that statute or statutory provision as it may be amended from time to time.
- 2.4. This by-law shall be read with all changes in gender and number as the context requires.

3. Regulations

- 3.1. No person shall allow, cause or permit to be caused any noise audible at the point of reception listed in "Schedule 1 - Prohibited Noise".
- 3.2. No person shall allow, cause or permit to be caused any noise audible at a point of reception listed in "Schedule 2 - Prohibited Noise by Time and Place" where the noise occurs during the prohibited times specified in the schedule.
- 3.3. Notwithstanding any other provision in this by-law, a person shall allow, cause or permit to be caused any noise audible at a point of reception provided the noise is in connection with any of the activities listed in "Schedule 3 - Exempted Noise".
- 3.4. Notwithstanding any other provision in this by-law, a person may cause or permit to be caused any noise audible at a point of reception in connection with legitimate emergency measures for the protection of the immediate health, safety or welfare of the inhabitants of the Town or for the preservation or protection of property.

4. Exemption for Noise for Infrastructure Works

- 4.1. Any person may make an application to Council for a permit to exempt from the provisions of this By-law those activities related to infrastructure construction works undertaken by the Township of Brock, Region of Durham and/or Ministry of Transportation, or any private infrastructure construction works which requires the use of Township-owned lands or the public right of way within the Township of Brock, subject to the following general guidelines where possible:
 - (a) work outside the limits of this by-law will be avoided.
 - (b) evening work within 400 meters of a residential dwelling will be avoided when possible.
 - (c) Sunday work will be avoided; however, if Sunday work is required, work will be limited to between 8:00 a.m. and 5:00 p.m.
 - (d) no evening work will be permitted on holiday weekends, when possible.
- 4.2. Applications shall be made by the owner of the corporation or business performing the work or his/her delegate, no less than four (4) weeks prior to the commencement of work.
- 4.3. The application shall contain:
 - (a) the name and address of the applicant, including the legal description of the property that will be the source of the sound.
 - (b) a description of the source of sound.
 - (c) a statement of the particular provision or provisions of the by-law from which exemption is sought.
 - (d) the period of time, during which the exemption is sought.
 - (e) the reasons why the exemption should be granted.
 - (f) an application fee as set out in the Townships Fees By-Laws.
- 4.4. Council may grant or refuse to grant any exemption request and may impose conditions as may be determined to be appropriate.
- 4.5. Where an exemption is granted, breach of any condition of the exemption will immediately render the exemption null and void.

5. Exemption for Noise for Private Event / Special Events

- 5.1 Any person may make an application to Council for a permit to exempt from the provisions of this By-law those activities related to a time-limited special event or private event, subject to the following general guidelines:
- 5.2 Applications shall be made by the owner of the land of the source of sound.
- 5.3 The application shall contain:
- (a) the name and address of the applicant, including the legal description of the property that will be the source of the sound.
 - (b) a description of the source of sound.
 - (c) a statement of the particular provision or provisions of the by-law from which exemption is sought.
 - (d) the period of time during which the exemption is sought.
 - (e) the reasons why the exemption should be granted.
 - (f) an application fee as set out in the Townships Fees By- law.
- 5.4 Council may grant or refuse to grant any exemption request, and may impose conditions as may be determined to be appropriate.
- 5.5 Where an exemption is granted, breach of any condition of the exemption will immediately render the exemption null and void.

6. General

- 6.1 The activities listed in "Schedule 1 - Prohibited Noise" are deemed to be noises which are likely to disturb the inhabitants of the Township if audible at a point of reception.
- 6.2 The activities listed in "Schedule 2 -Prohibited Noise by Time and Place" are deemed to be noises which are likely to disturb the inhabitants of the Township if the noise occurs within the identified times specified in the schedule and are audible at a point of reception.
- 6.3 The activities listed in "Schedule 3 -Exempted Noise" are deemed to be noises which are considered to be reasonable or necessary in consideration of the circumstances and are exempted from the provisions of this by-law.

7. Schedule(s)

- 7.1 Schedule 1 -Prohibited Noise
- 7.2 Schedule 2 -Prohibited Noise by Time and Place
- 7.3 Schedule 3 -Exempted Noise

8. Enforcement and Penalties

- 8.1 Every person who contravenes or fails to comply with any of the provisions of this by-law is guilty of an offence, and pursuant to section 429 of the Municipal Act, 2001 is liable to a maximum penalty of \$10,000 (ten thousand dollars) and a minimum penalty of not less than \$350.00 (three hundred and fifty dollars).
- 8.2 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

8.3 This By-Law shall be enforced by an Officer.

9. Short Title

9.1 This By-law may be cited as the Noise By-law.

10. Force and Effect

10.1 This By-law shall come into force and effect on the date it is enacted by the Council of the Corporation of the Township of Brock.

10.2 That By-law Number 2389-2011-PP and all amendments thereto are hereby repealed in its entirety.

ENACTED AND PASSED THIS 25th DAY OF APRIL 2022.

Mayor
John Grant

Clerk/Deputy CAO
Fernando Lamanna

SCHEDULE 1 – PROHIBITED NOISE

1. The operation of any electronic device or group of connected electronic devices incorporating one or more speakers and intended for the production, reproduction, or amplification of sound at such a volume that it is audible at a point of reception.
2. Shouting, screaming, yelling, singing or the playing of instruments at such a volume that it is audible from at a point of reception.
3. The excessive or unnecessary revving of any engine.
4. The operation of a motor vehicle in such a manner that the tires squeal.
5. The operation of any motor vehicle without an effective exhaust muffling device in good working order.
6. The operation of a motor vehicle or a motor vehicle with a trailer which results in banging, clanking, squealing or other like sounds due to an unsecured or improperly secured load or inadequate maintenance of the vehicle or trailer.
7. The operation of a horn or other warning device except where required and authorized by law or in the interest of good safety practices.
8. The operation of a stereo or other electronic device designed to amplify sound in a motor vehicle at such a volume that the sound is clearly audible from the outside of the motor vehicle.

SCHEDULE 2 - PROHIBITED BY TIME AND PLACE

Type of Noise	Prohibited Times	
	Residential and Parks Areas	Commercial, Industrial and Agricultural Areas
1. 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, except wind chimes, or the production, reproduction or amplification of any similar sounds by electronic means except where authorized by this by-law.	9:00 p.m. to 8:00 a.m.	9:00 p.m. to 7:00 a.m.
2. The operation of any electronic device or group of connected electronic devices incorporating one or more speakers, or other electro-mechanical transducers, and intended for the production, reproduction or amplification of sound.	9:00 p.m. to 8 a.m.	9:00 p.m. to 7:00 a.m.
3. Selling or advertising by shouting or amplified sound.	Prohibited at any time	9:00 p.m. to 7:00 a.m.
4. Loading, unloading, delivering, packing, unpacking or otherwise handling any containers, products, materials or refuse whatsoever for the maintenance of essential services.	9:00 p.m. and 7:00 a.m.	9:00 p.m. to 7:00 a.m. (permitted at any time in an industrial area)
5. The operation of heavy equipment in connection with construction or demolition, automotive repair or material handling.	8:00 p.m. to 7:00 a.m. (prohibited at any time on Sundays and holidays)	8:00 p.m. to 7:00 a.m. (prohibited at any time on Sundays and holidays)
6. The operation of any motorized conveyance other than on a highway or other place where its operation is permitted by all applicable legislation.	Prohibited at any time	9:00 p.m. to 7:00 a.m.
7. The operation of a combustion engine which is used as a toy or model or replica, which is not a vehicle	9:00 p.m. to 8:00 a.m.	9:00 p.m. to 8:00 a.m.
8. The operation of any powered or non-powered tool for domestic purposes.	9:00 p.m. to 7:00 a.m.	9:00 p.m. to 7 a.m.
10. The operation of any snow thrower, snow blower or similar device.	10:00 p.m. to 6:00 a.m.	2:00 a.m. to 6:00 a.m.

11. The operation of solid waste bulk lift or refuse compacting equipment.	9:00 p.m. to 7:00 a.m.	10:00 p.m. to 7:00 a.m.
12. Yelling, whistling, singing, speaking or the playing of instruments at such a volume that it is audible off the property from which it originates at any point of reception.	9:00 p.m. to 8:00 a.m.	9:00 p.m. to 8:00 a.m.
13. The operation of any powered mechanical or electrical device located outdoors that is not otherwise listed in Schedule 2 of the by-law, and which is not required for the direct safety or comfort of occupants within a building.	9:00 p.m. to 7:00 a.m.	10:00 p.m. to 6:00 a.m.

SCHEDULE 3 – EXEMPTIONS

1. The operation of emergency vehicles or any other activities in connection with an emergency.
2. The operation of municipal service vehicles, including municipally contracted services and related equipment used for snow removal.
3. Midways, carnivals and special events approved by the Township.
4. Races, parades, processions and ceremonial events, or religious events authorized by the Township.
5. The operation of bells, chimes, carillons and clocks used in conjunction with churches, schools and other institutional buildings.
6. Events or activities open to the community, or on municipal property, highways or other public places that have been authorized by the Township.
7. The racing of motor vehicles, go karts and motorcycles regulated by the Township of Brock By-law 1954-2005-PP ATV and Off-Road Vehicles and By-law No. 1375-96-PP the by-law regulating snowmobiles.
8. Non-emergency construction, reconstruction or repair of any municipal, provincial or federal public works including construction, reconstruction or repair of a highway and appurtenances, provided the Township is given advanced notice in writing of the hours to be worked if outside of the permitted construction hours.
9. The operation of any equipment, apparatus or device used as part of a normal farming practice