

# THE CORPORATION TOWN OF GREATER NAPANEE

BY-LAW NO. 04 – 60, as amended by By-law No. 06-49

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## Consolidated Noise By-law

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**WHEREAS** Section 128 of the *Municipal Act, 2001*, S.O. 2001, c.25 authorizes a local municipality 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 authorises a local municipality to prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors;

**AND WHEREAS** the residents of a municipality should be ensured an environment free from unusual, unnecessary, or excessive noise which may degrade the quality and tranquillity of their lives or cause a nuisance;

**AND WHEREAS** the Council of the Corporation of the Town of Greater Napanee deems it expedient to pass a by-law to regulate noise;

**NOW THEREFORE**, the Council of the Corporation of the Town of Greater Napanee hereby enacts as follows:

### 1. DEFINITIONS

For the purpose of this by-law,

- (a) “Corporation” means The Corporation of the Town of Greater Napanee.
- (b) “Council” means the Council of The Corporation of the Town of Greater Napanee.
- (c) “Municipality” means the land within the geographic limit of the Municipality of the Town of Greater Napanee.
- (d) “Unnecessary Noise” means noise that is of such loud volume or continuous duration that it creates a nuisance, is likely to disturb the inhabitants of any dwelling and without limiting the generality of the foregoing, includes the following:
  - (i) the noise from or created by any radio, or television, or any musical or sound-production instrument when such device is played or operated in such a manner or with such volume as to disturb the inhabitants of any dwelling; and

- (ii) the noise made by a domestic animal or bird, including a persistently barking dog.
- (e) “Point of Reception” means any premises of a person where noise is received.

## **2. UNNECESSARY NOISE PROHIBITED**

- (a) No person shall cause or permit any Unnecessary Noise within the Municipality that creates a disturbance to a person at the Point of Reception.

## **3. EXEMPTION FOR EMERGENCY MEASURES AND PUBLIC SAFETY**

Notwithstanding any other provisions of this by-law, this by-law does not apply to any person who makes, causes or permits the making of noise in connection with emergency measures undertaken,

- (a) for the immediate health, safety or welfare of the inhabitants of the Municipality; or
- (b) for the preservation or restoration of property,

unless the noise is clearly of a longer duration or of a more disturbing nature than is reasonably necessary to deal with the emergency.

## **4. EXEMPTION OF ACTIVITIES**

Notwithstanding any other provisions of this by-law, this by-law does not apply to a person who makes, causes or permits the making of noise in connection with any of the following activities:

- (a) any bicycle races, races, parades, and events for ceremonial, religious or traditional purposes that have been authorized by Council;
- (b) any use of bells or chimes normally associated with activities within a place of worship;
- (c) any carnival, midway or circus authorized by Council;
- (d) any sporting, recreational, musical entertainment, or other event or performance in municipal parks or municipal buildings authorized by Council or the Parks and Recreation Department of the Corporation;
- (e) any detonation of fireworks authorized by Council;
- (f) any activities of the Corporation or its employees or agents, associated with the provision of maintenance and essential services;

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- (g) any normal farm practices as defined under the *Farming and Food Production Act, S.O. 1998, c.1*;
  - (h) any normal noise that emanates from an industrial zone as defined in the Zoning By-law No. 02-22 that results from an essential part of the industrial process that is established on the property from which the noise originated. This exemption does not apply to the activities of a salvage yard as defined in the Zoning By-law No. 02-22 between the hours of 9 p.m. of any day and 7 a.m. of the next day;
  - (i) any normal noise that emanates from a commercial / business park zone as defined in the Zoning By-law No. 02-22 that results from an essential part of the business process; that is established on the property from which the noise originated;
  - (j) any noise from the discharge of weapons as permitted under any Gun By-law of the Municipality;
  - (k) the operation of any equipment in connection with construction and excavation, including detonation of explosive devices, between the hours of 7:00 am and 9:00 pm;
  - (l) the outdoor operation of any powered or non-powered tool for domestic purposes, which is not a conveyance, between the hours of 7:00 am and 9:00 pm; and
  - (m) the operation of a motorized conveyance other than on a highway or other facility intended for its operation, and other than for the purpose of amusement, between the hours of 7:00 am and 9:00 pm; and
  - (n) the operation of a motorized conveyance solely for amusement other than on a highway or other facility intended for its operation,
    - (i) for not longer than one (1) hour between the hours of 7:00 am and 9:00 pm in any given day on any property that is less than or equal to one (1) acres in size; and
    - (ii) for not longer than four (4) hours between the hours of 7:00 am and 9:00 pm in any given day on any property that is greater than one (1) acre in size and not closer than 50 metres from any residential dwelling.

## **5. APPLICATION FOR EXEMPTION**

- (a) Notwithstanding any other provisions of this by-law, any person may make application to Council to be granted an exemption from any provision of this by-law with respect to any source of noise for which the person might be in violation of this by-law. Council, by resolution, may grant the exemption applied for or any exemption of lesser effect and any exemption granted shall specify the time period during which it is effective and may contain such other terms and conditions as Council considers appropriate.

- (b) The application mentioned in subsection (a) shall be made in writing, in duplicate, and shall contain:
  - (i) the name and address of the applicant;
  - (ii) a description of the source of noise in respect of which the exemption is sought;
  - (iii) a statement of the particular provision or provisions of this by-law from which exemption is sought;
  - (iv) the period of time, for which the exemption is sought;
  - (v) the reason why the exemption should be granted; and
  - (vi) a statement of the steps, if any, planned or presently being taken to bring about compliance with this by-law.
- (c) Council shall forward one copy of the application for exemption to the Police Services Board who shall prepare a report to Council forthwith. The report of the Police Services Board shall include their opinion of the merits of the application and their recommendations as to terms and conditions which, should be imposed upon the applicant if the exemption is granted. Council will not consider the application for exemption until it has received the report of the Police Services Board. Council, at its sole discretion, can choose to adopt any or all of the recommendations from the Police Services Board with respect to any application for exemption.
- (d) The Police Services Board shall forward a copy of their report to the applicant at the address shown on the application by prepaid registered mail and shall, on request, make the report available for public inspection.
- (e) In deciding whether to grant the exemption, Council may consider the application, the report of the Police Services Board, any written submissions received by Council from the applicant after the applicant receives the report of the Police Services Board and any other documents Council considers relevant.
- (f) Breach by the applicant of any of the terms or conditions of an exemption shall render the exemption null and void.

## **6. ENFORCEMENT**

The Municipal By-Law Enforcement Officer/Provincial Offences Officer of the Town of Greater Napanee, Police Officer, Peace Officer or such other person as Council may designate shall be responsible for enforcing the provisions of this by-law.

**7. PENALTIES**

- (a) Any person who contravenes the provisions of this by-law shall be guilty of an offence and upon conviction shall be liable to a fine pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33.
- (b) Schedule “A” Fines under Part III of the *Provincial Offences Act*, attached shall form part of this by-law.

**8. VALIDITY**

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 the by-law as a whole or any part thereof, other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention of Council that the remaining sections, clauses or provisions of the by-law shall remain in full force and affect until repealed, notwithstanding that one or more provisions thereof shall have been declared to be invalid.

**9. REPEAL**

All previous by-laws passed by the Town of Greater Napanee, the Town of Napanee, the Townships of Richmond, North Fredericksburgh, South Fredericksburg and Adolphustown, conflicting with this by-law are hereby repealed.

**10. EFFECTIVE**

This by-law shall take effect on the date of final passage by the Council of the Corporation of the Town of Greater Napanee, with the Set Fines under Part I of the *Provincial Offences Act*, R.S.O. 1990. Chapter P.33, being subject to the approval of the Regional Senior Justice, East Region, Ontario Court of Justice.

Read a first and second time and finally passed this 27<sup>th</sup> day of September, 2004.

Original signed by Mayor \_\_\_\_\_  
Gordon Schermerhorn, Mayor

Original signed by Clerk \_\_\_\_\_  
Rebecca Murphy, Clerk

## **SCHEDULE “A”**

### **FINES FOR INFRACTIONS UNDER PART III OF THE PROVINCIAL OFFENCES ACT**

Any person upon conviction, under Part III of the *Provincial Offences Act* is liable to a fine of \$500.00 minimum up to the maximum of \$ 5000.00

#### **PROHIBITION ORDER**

When a person has been convicted of an offence under this by-law, the Court in which the conviction has been entered, and any court of competent justice thereafter may, in addition to any other remedy and to any penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the convicted person directed toward the continuation or repetition of the offence.

**SCHEDULE "B"**

**SET FINES FOR INFRACTIONS UNDER PART I OF THE  
PROVINCIAL OFFENCES ACT  
FOR THE TOWN OF GREATER NAPANEE**

**BY-LAW NO. 04-60**

**Being a by-law to regulate noise**

No.	COLUMN # 1 SHORT FORM WORDING	COLUMN # 2 PROVISION CREATING OR DEFINING OFFENCE IN BY-LAW No.	COLUMN # 3 SET FINE INCLUDING COST
1.	Cause or permit unnecessary noise	2(a)	\$ 125.00

"Note the general penalty provision for the offences listed above is section 7 of By-law 04-60, a certified copy