

THE CORPORATION OF THE TOWNSHIP OF PAPINEAU-CAMERON

BY-LAW NUMBER 2023-04

This By-Law Repeals By-Law: 99-15

BEING A BY-LAW TO CONTROL NOISE

WHEREAS section 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under that Act or any other Act;

AND WHEREAS section 10(1) of the Municipal Act provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS section 10(2) of the Municipal Act provides that a municipality may pass By-Laws respecting: in paragraph 5, social and environmental well-being of the municipality; in paragraph 6, health, safety and well-being of persons; in paragraph 7, services and things that the municipality is authorized to provide under section 10(1); in paragraph 8, protection of persons and property; and in paragraph 9, animals;

AND WHEREAS section 129 of the Municipal Act provides that a municipality may (a) prohibit and regulate with respect to noise and vibration, and (b) prohibit noise and vibration unless a permit is obtained from the municipality, and may impose conditions for obtaining, continuing to hold, and renewing permits, including requiring the submission of plans;

AND WHEREAS section 128 of the Municipal Act provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that in the opinion of the municipality's Council, are or could become public nuisances;

AND WHEREAS in the opinion of Council for the Township of Papineau-Cameron, certain kinds of noise and vibration are or could become a public nuisance;

AND WHEREAS it is the policy of the Council to reduce and control such noise and vibration;

AND WHEREAS the Council of The Corporation of The Township of Papineau-Cameron deems it expedient to enact such a By-Law, approved by Resolution 2023-14 passed by Council on January 24, 2023.

NOW THEREFORE, the Council of The Corporation of The Township of Papineau-Cameron hereby enacts the following:

1.0 DEFINITIONS

For the purpose of this By-Law, the following definitions apply:

- 1.1 **"Construction"** includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earthmoving, grading, excavating, the laying of pipe and conduit whether 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.
- 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, 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 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.

- 1.4 **“Council”** means the Council of The Corporation of The Township of Papineau-Cameron.
- 1.5 **“Firearm”** shall mean a barreled weapon from which any shot, bullet or other projectile can be discharged and that is capable of causing serious bodily injury or death to a person or animal. Includes air guns, spring-guns and anything that can be adapted for use as a firearm.
- 1.6 **“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 vehicles.
- 1.7 **“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 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
- 1.8 **“Motorized Conveyance”** means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power.
- 1.9 **“Municipality”** means the land within the geographic limit of The Township of Papineau-Cameron.
- 1.10 **“Noise”** means unwanted sound.
- 1.11 **“Point of Reception”** means any point on the premises of a person where sound or vibration originating from other than those premises is received.
- 1.12 **“Sensitive Land Use”** means buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby major facility. Sensitive land uses may be a part of the natural or build environment. Examples of sensitive land uses may include, but are not limited to: residences, day care centers, and educational and health facilities.
- 1.13 **“Provincial Offences Officer”** under section 1(1) of the Provincial Offences Act, means
- a) a police officer,
 - b) a constable appointed pursuant to any Act,
 - c) a municipal law enforcement officer referred to in subsection 101 (4) of the Municipal Act, 2001 or in subsection 79 (1) of the City of Toronto Act, 2006, while in the discharge of his or her duties,
 - d) a by-law enforcement officer of any municipality or of any local board of any municipality, while in the discharge of his or her duties,
 - e) an officer, employee or agent of any municipality or of any local board of any municipality whose responsibilities include the enforcement of a by-law, an Act or a regulation under an Act, while in the discharge of his or her duties, or
 - f) a person designated under subsection (3); (“agents des infractions provinciales”)

2.0 GENERAL PROHIBITIONS

- 2.1 No Person shall emit or cause or permit the emission of sound resulting from an act listed in the attached “Schedule A” – General Prohibitions, and which sound is clearly audible at a point of reception

3.0 PROHIBITIONS BY TIME

- 3.1 No person shall emit or cause or permit the emission of sound resulting from any act listed in the attached “Schedule B” – Prohibitions by time, if clearly audible at a point of reception located in an area of the municipality within a prohibited time shown.

4.0 EXEMPTION: PUBLIC SAFETY

- 4.1 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:

- a) For the immediate health, safety, or welfare of the inhabitants or any of them; or
- b) For the preservation or restoration of property.

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

5.0 GRANT EXEMPTION BY COUNCIL

- 5.1 Application to Council: Notwithstanding any other provisions of 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 sound or vibration for which the applicant may be prosecuted and Council, by resolution, may refuse to grant exemption. Exemptions Granted shall specify the time period, not in excess of six months, during which it is effective and may contain such terms and conditions as Council sees fit.
- 5.2 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 sees fit.
- 5.3 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.

6.0 SEVERABILITY

- 6.1 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 constructed 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.

7.0 PROVINCIAL OFFENCES OFFICER ENFORCEMENT

- 7.1 Any Provincial Police Officer, Provincial Offences Officer, or Papineau-Cameron Township Municipal by-law Enforcement Officer, is authorized to enforce this By-law pursuant to the provisions hereof, the Municipal Act, S.O. 2001, c. 25 as amended, or any successor thereof, and the Provincial Offences Act, R.S.O. 1990, c. P.33, or any successor thereof.
- 7.1 This By-Law shall apply to all property and or persons within the Township of Papineau-Cameron, and shall be enforced upon written and signed complaints only.
- 7.2 After becoming aware of an infraction, the Provincial Offences Officer will contact and inform the property owner and or person of any contravening By-Law issues and outline what would need to be completed in order to comply.
- 7.3 The Provincial Offences Officer may send by registered mail, the property owner and or person a follow-up letter (offence notice), explaining the contravening By-Law issues and outline what would need to be completed in order to comply within certain time limits.
- 7.4 During the ongoing dialog between the Provincial Offences Officer and the property owner and or person when continued improvement steps are being taken place to comply, certain time limits will be adjusted accordingly.
- 7.5 If verbal and written warnings or dialog in section 7.4 of this By-Law are ignored, and no action has been taken, or action has been ceased by the property owner and or person to comply, then steps to issue necessary fines will proceed. Also, the municipality may take other means of action to have the property owner comply with the Municipal By-Law. Cost incurred by the Municipality to have a property meet compliance will be billed to the property owner and or person, and if not paid, transferred to the property owner's property tax account.

8.0 OFFENCE AND PENALTIES

- 8.1 Every person who contravenes any provision of this By-Law is guilty of an offence as provided for in subsection 429(1) of the Municipal Act, 2001, and all such offences are designated as continuing offences as provided for in subsection 429(2)(a) of the Municipal Act, 2001.
- 8.2 A person who is convicted of an offence under this By-Law is liable, for each day or part of a day that the offence continues, to a minimum fine of \$500.00 and a maximum fine of \$10,000.00, and the total of all daily fines for the offence is not limited to \$100,000.00 as provided for in subsection 429(3)2 of the Municipal Act, 2001.
- 8.3 When a person has been convicted of an offence under this By-Law, the Superior Court of Justice or any court of competent jurisdiction thereafter may, in addition to any penalty imposed on the person convicted, issue an order.
- a) Prohibiting the continuation or repetition of the offence by the person convicted; and
 - b) Requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

9.0 That all previous By-Laws with respect to Controlling Noise be and are hereby rescinded.

10.0 THAT this by-law shall become ratified upon the signing thereof.

READ A FIRST, SECOND AND THIRD TIME, ENACTED AND PASSED BEFORE AN OPEN COUNCIL, THIS 24th DAY OF JANUARY, 2023.


MAYOR


CAO / CLERK-TREASURER

“Schedule A” to By-law 2023-04

GENERAL PROHIBITIONS

1. Racing any motorized conveyance other than in a racing event regulated by law.
2. The operation of a motor vehicle in such way that the tires squeal.
3. The discharge of any firearms, air gun, or spring gun or any class or type thereof within two hundred (200) meters of a “Sensitive Land Use” (example: of sensitive land uses may include, but are not limited to: residences, day care centers, and educational and health facilities). Provided that this shall not apply to police officers, peace officers or conservation officers in the performance of their duties, or hunters during a legalized hunt in compliance with the *Fish and Wildlife Conservation Act, 1997* (FWCA) and the *Firearms Act (S.C. 1995, c. 39)*.
4. The operation of any combustion engine or pneumatic device without an effective muffler or exhaust or intake muffling device in good working order and in constant operation.
5. The operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing, or other like sounds due to improperly secured load or equipment, or inadequate maintenance.
6. The operation of an engine or motor in, or on any motor vehicle or item of attached auxiliary equipment for a continuous period exceeding five minutes, while such vehicle is stationary, unless:
 - a) The original equipment manufacturer specifically recommends a longer idling period for normal and efficient operation of the motor vehicle in which case such recommended period shall not be exceeded; or
 - b) Operations of such engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to, operations of ready-mixed concrete trucks, lift platforms, and refuge compactors; or
 - c) Weather conditions justify the use of heating or refrigerating systems powered by the motor or engine for the safety and welfare of the operator, passengers, or animals, or for the preservation or perishable cargo, and the vehicle is stationary for purposes of delivery or loading; or,
 - d) Prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or,
 - e) The idling is for the purpose of cleaning and flushing the radiator and associated circulation system for seasonal change of antifreeze, cleaning of the fuel system, carburetor, or the like, when such work is performed other than for profit.
7. The operation of a motor vehicle horn or other warning device except where required or authorized by law or in accordance with good safety practices.
8. The operation of any item of construction equipment without effective muffling device in a good working order and in constant operation.
9. Persistent barking, calling, whining or other similar persistent making by any domestic pet or any other animal kept or used for any purpose other than agriculture
10. Despite any other provision of this By-Law
 - a) subject to subsection (b), a person may operate a chainsaw:
 - i) between 7:00 a.m. and 9:00 p.m. on a weekday, Saturday, Sunday or Holiday;
 - b) a person must not at any time operate a chainsaw the equivalent sound level of which exceeds 85 dBA on an approved sound meter when measured at the greater of the following distances from that chainsaw:
 - i) at the point of reception;
 - ii) 15.2m (50 feet).
 - c) For a Home Based Business as outlined in the Townships Official Plan and zoning By-Law (for example, the business (use) does not create a nuisance for neighbours).

Schedule “B” to By-Law 2023-04

PROHIBITIONS BY TIME

NOISE CREATED FROM THE FOLLOWING ACTIVITIES IS PROHIBITED	PROHIBITED TIME OF DAY
The detonation of fireworks or explosive devices not used in construction	AT ALL TIMES Excluding Statutory Holidays and Traditional, Festive or Religious Activities between 8:00 p.m. to 12:30 a.m.
The operation of a combustion engine which, Is used in, or Is intended for use in, a toy, or model or replica or any device, which model or replica has no function other than amusement, and which is not a conveyance.	9:00 p.m. to 8:00 a.m.
The operation of any electronic device or group connected electronic devices incorporating one or more loudspeakers or other electromechanical transducers and intended for the production, reproduction or amplification of sound	11:00 p.m. to 7:00 a.m. (to 11:00 a.m. on Sundays)
The operation of any auditory signaling device, including but not limited to the ringing of bells, or gongs and the blowing of horns or sirens or whistles, or the production, reproduction, or amplification of any similar sounds by electronic means except where required or authorized by law or in accordance with good safety practices.	11:00 p.m. to 7:00 a.m. All day Sundays & Statutory Holidays
The operation of any powered rail car including but not limited to refrigeration cars, locomotives, or self-propelled passenger cars, while stationary on property not owned or controlled by a railway governed by the Canada Railway Act.	11:00 p.m. to 7:00 a.m.
The operation of any motorized conveyance other than on a highway or other place intended for its operation.	11:00 p.m. to 7:00 a.m.
The venting, release or pressure relief of air, steam or other gaseous material, product or compound from any autoclave, boiler pressure vessel, pipe, valve, machine, device or system.	11:00 p.m. to 7:00 a.m.
The operation of a commercial car wash with air drying equipment.	11:00 p.m. to 7:00 a.m.
All selling or advertising by shouting or outcry or amplified sound.	9:00 p.m. to 7:00 a.m.
Yelling, shouting, hooting, whistling, or singing.	11:00 p.m. to 7:00 a.m. (9:00 a.m. on Sundays)
The operation of any item of snow making equipment.	9:00 p.m. to 7:00 a.m.
Loading, unloading, packing, delivering or otherwise handling any container, product, or material unless necessary for the maintenance of essential services for the moving or private household effects.	9:00 p.m. to 7:00 a.m.
The operation of any equipment in connection with construction.	9:00 p.m. to 7:00 a.m.
The operation of any tool including but not limited to a hammer, saw, nail gun, lawnmower, staple gun, hedge trimmer, drill, or the like for domestic purposes other than snow removal.	9:00 p.m. to 7:00 a.m.