

THE CORPORATION OF THE MUNICIPALITY OF MACHIN

BY-LAW NUMBER 30-2011

BEING a By-law to Rescind By-law 1059-96

and

**BEING a By-law to Prohibit and Regulate Noise
Within the Municipality of Machin**

WHEREAS Section 129(a) of The Municipal Act, S.O. 2001, as amended ("the Act"), allows a 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 Section 129 (b) of the Act allows a municipality to require the acquisition of a permit for an exemption to any provision regulated by a by-law of the municipality with respect to noise, vibration odour, dust and outdoor illumination and may impose conditions for obtaining, continuing to hold and renewing the permit; and

WHEREAS Section 425 of the Act allows municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence; and

WHEREAS Section 429 of the Act grants authority to a municipality to establish a system of fines for offences under a by-law of the municipality passed under the Act; and

WHEREAS Section 435 of the Act sets out the conditions applying to the exercise of a power of entry of a municipality under the Act; and

WHEREAS Section 436 of the Act grants a municipality the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with: 1) a by-law of the municipality passed under the Act; 2) a direction or order of the municipality made under the Act or made under a by-law of the municipality passed under the Act; 3) a condition of a license issued under a by-law of the municipality passed under the Act; or 4) an order made under Section 431 of the Act, and

WHEREAS the Council of The Corporation of the Municipality of Machin having deemed there to be a need to prohibit and regulate noise within the Municipality;

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NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF MACHIN ENACTS AS FOLLOWS:

1.0 Definitions

For the purposes of this By-law the following words or terms shall have the definitions associated therewith.

Paragraph Number	Word/Term	Definition
1.1	Animal	Any member of the animal kingdom, other than a human.
1.2	Audio Device	Any radio, television, stereo or musical-sound-producing instrument or device of any kind.
1.3	Corporation	The Corporation of the Municipality of Machin
1.4	Council	The Council of The Corporation of the Municipality of Machin
1.5	Compression Brake(s)	The system that vehicles use to modify the engine valve operation to use engine compression to slow the vehicle, and when engaged typically produces a loud chattering or machine gun noise. Also known as "engine retarder brakes", compression release engine brake system", and "Jake Brakes."
1.6	Construction	The erection, alteration, repair, dismantling, demolition, structural maintenance and painting of any structure; moving, land clearing, earth moving, grading, and excavation; blasting and detonation of explosive devices other than fireworks; the laying of pipe and conduit whether above or below ground level, street and highway building, concrete and asphalt laying; equipment installation and alteration and the structural installation of construction components and materials in any form or for any purpose, including any associated or related work and/or equipment.
1.7	Enforcement Officer	An Animal Control Officer, a Municipal Law Enforcement Officer, a By-law Enforcement Officer, the By-law Enforcement Officer/Clerk-Treasurer, or other person appointed or employed by the Corporation to enforce By-laws, or a Police Officer.
1.8	Motor Vehicle	Any automobile, motorcycle, and any other conveyance propelled or driven otherwise than by muscular, gravitational or wind power.

1.9	Municipality	The Corporation of the Municipality of Machin and all lands associated therewith.
1.10	Noise	Any unwanted and unwarranted sound or vibration (also see "unwarranted").
1.11	Point of Reception	Any point outside of the originating location of a sound where the sound is clearly audible, and may include another structure, parcel of land, or highway.
1.12	Signal Device	Any bell, horn, siren and any other device used to amplify a sound.
1.13	Special Event(s)	Any demonstration, parade, sporting event, festival, carnival, midway, street dance, block party, and any other function that Council deems to be a Special Event.
1.14	Statutory Holiday	Any holiday proclaimed as a Statutory Holiday or Public Holiday by the Government of the Province of Ontario or the Government of Canada, including but not limited to: New Years Day (January 1 st), Family Day (third Monday in February), Good Friday (Friday before Easter Sunday), Victoria Day (Monday preceding May 25 th), Canada Day (July 1 st), Labour Day (first Monday in September), Thanksgiving Day (second Monday in October), Remembrance Day (November 11 th), Christmas Day (December 25 th), Boxing Day (December 26 th).
1.15	Timber Industry Operations	Any work, including any equipment required to carry out such work.
1.16	Transmitting Device	Any drum, horn, bell, radio or mechanical loudspeaker, amplified or other instrument or device or sound-producing instrument or apparatus.
1.17	Unwarranted	With respect to noise within the Municipality any noise which unnecessarily disturbs the peace, quiet, comfort or repose of residents of the Municipality.

2.0 Interpretation

- 2.1 This By-law may be cited as the "Noise Control By-law."
- 2.2 All reference made to the male gender shall include the female gender and all reference made to the singular shall include the plural where applicable in this By-law.
- 2.3 All defined words in Section 1.0 are intended to reflect all possible forms of the word as required by this By-law.

3.0 General Prohibitions

- 3.1 No person shall emit, cause, or permit the emission of an Unwarranted Noise at any time when the Noise emitted is clearly audible at a Point of Reception resulting from:
- a) The sounding of any Audio Device, Signal Device or Transmitting Device;
 - b) Persistent barking, calling, whining or other similar persistent noise-making by any domestic animal or pet, or any other animal other than those animals used for agricultural purposes;
 - c) The detonation of fireworks;
 - d) The use of compression brakes.

4.0 Prohibitions By Time

- 4.1 No person shall emit, cause or permit the emission of any Unwarranted Noise not otherwise specified in this By-law between the hours of 11:00 p.m. and 7:00 a.m. Monday through Friday.
- 4.2 No person shall emit, cause or permit the emission of any Unwarranted Noise not otherwise specified in this By-law between the hours of 1:00 a.m. and 6:00 a.m. on a Saturday.
- 4.3 No person shall emit, cause or permit the emission of any Unwarranted Noise not otherwise specified in this By-law between the hours of 1:00 a.m. and 6:00 a.m. on a Sunday or Statutory Holiday.
- 4.4 No person shall emit, cause or permit the emission of any Unwarranted Noise created by the use or operation of any Audio Device, Signal Device or Transmitting Device for the purpose of advertising or for attracting attention to any performance, show, sale or display of goods, ware or merchandise between the hours of 11:00 p.m. to 7:00 a.m. if the Noise is clearly audible at a Point of Reception.
- 4.5 No person shall emit, cause or permit the emission of any Unwarranted Noise resulting from the act of construction or the use of construction equipment between the hours of 11:00 p.m. to 7:00 a.m. Sunday through Friday, or between the hours of 11:00 p.m. to 7:00 a.m. on a Saturday or the day preceding a Statutory Holiday. (See Schedule "A")

5.0 Exemptions

- 5.1 The provisions of this By-law do not apply to Noises caused by:
- a) The use, in a reasonable manner, of any Transmitting Device or Audio Device for the amplification of human voice or of music in a public park during any public celebration or religious service, or during any other gathering provided that prior written permission for the Noise is obtained from the Clerk-Treasurer, including, but not necessarily limited to:
 - i) Canada Day celebrations (including fireworks), concerts, parades, carnivals, midways, ceremonial drumming, and any Special Events set out by Council.

- b) Any motor vehicle of the Police or Fire departments or any Ambulance or other emergency vehicle, or any motor vehicle of the Corporation while answering a call or while participating in any event;
- c) Emergency works conducted by or on behalf of the Corporation, including but not necessarily limited to excavation, construction, installation, alteration, relocation, repair or demolition of buildings, structures, public facilities or utilities; or
- d) The operation of street sweepers, snow clearing or removal equipment, or maintenance machines and equipment by or on behalf of the Corporation.
- e) The use or operation of any equipment, machines or facilities associated with timber industry operations or the noise produced from or associated with timber industry operations.

5.2 Notwithstanding any provision 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 Noise he intends to emit, cause or permit to emit, for which he would otherwise be liable to a penalty as provided for under this By-law, and Council may, by Resolution:

- Grant the requested exemption;
- Refuse to grant the requested exemption; or
- Grant an exemption of lesser effect.

Any exemption granted by Council shall not exceed a period of six months, and shall specify the time period during which the exemption is in force. Council may impose such terms and conditions on the exemption as it deems appropriate. All decisions with respect to the granting of exemptions made by Council shall be deemed final.

5.3 Every request for an exemption to any provision of this By-law shall be made in accordance with Section 5.2, and shall be submitted to Council not less than thirty days prior to the date for which the exemption is requested. Every request for an exemption made to Council shall be made in writing and shall contain the following information:

- The name and address of the applicant;
- The address or location for which the exemption is requested;
- A description of the source of the noise in respect of which the exemption is sought;
- The time(s) during which the noise will be produced;
- The period of time, not to exceed six months, for which the exemption is requested; and
- Written proof of concurrence from neighbouring property owners and those individuals that may be affected by such exemption.

5.4 No person shall breach any requirement, condition, or other Council-imposed terms of an exemption granted by Council. Such a breach shall render the exemption null and void and the person to whom the exemption was granted shall be guilty of an offence and liable to a penalty as provided for under this By-law.

6.0 Enforcement, Offence and Penalty

- 6.1 This By-law shall be enforced using the powers granted to municipalities under Part XIV of the Municipal Act, including sections 435 and 436.
- 6.2 Every person who contravenes any provision of this By-law is guilty of an offence and, if convicted, is liable to a fine as provided for in the Provincial Offences Act, R.S.P. 1990, c. P. 33.
- 6.3 The Municipality shall make application to the Ministry of the Attorney General of Ontario for approval of Short Form Wordings and Set Fines in accordance with the Set Fine Schedule approved by Resolution of Council, and such fines shall come into effect upon the approval or amendment by the Attorney General of Ontario or his designate.
- 6.4 Staff shall be authorized to make changes to the By-law or Set Fine Schedule without amendment to the By-law or Resolution of Council, if so recommended by the Attorney General or his designate in order for the Set Fines to be approved.
- 6.5 Council may, by Resolution, amend the Set Fines under this By-law at any time. Any amendment made to the Set Fines by Resolution of Council will come into force upon approval of the Attorney General or his designate.

7.0 Severability

- 7.1 If any provision or part of a provision of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law or its application in any other circumstances, shall not be affected and shall continue to be in full force and effect.

8.0 Effective and Expiry Date

This By-law shall come into force and take effect upon approval by the Attorney General or his designate of the Set Fines established under this By-law.

READ a FIRST time this 11th day of July, 2011.

READ a SECOND and THIRD time, and FINALLY passed this 12th day of December, 2012

THE CORPORATION OF
THE MUNICIPALITY OF MACHIN

Gord Dingman, Mayor

Tammy Rob, Clerk-Treasurer

By-law No. 30-2011 - Schedule "A"

Prohibitions Summarized (As per Sections 3.0 and 4.0)

Section	Activity	Prohibited Period of Time
3.1(a)	The sounding of any Audio Device, Signal Device or Transmitting Device that is Unwarranted and clearly audible at a Point of Reception	At all time
3.1(b)	Persisting barking, calling, whining, or other similar persistent noise-making by any domestic animal or pet, or any other animal other than those animals used for agriculture purposes that is Unwarranted and clearly audible at a Point of Reception.	At all times
3.1(c)	The detonation of fireworks that is Unwarranted and clearly audible at a Point of Reception.	At all times
3.1(d)	The use of compression brakes that is Unwarranted and clearly audible at a Point of Reception.	At all times
4.1	Any Unwarranted Noise not otherwise specified in this By-Law.	11:00pm. to 7:00am. Monday through Friday
4.2	Any Unwarranted Noise not otherwise specified in this By-Law.	1:00am to 7:00am Saturday
4.3	Any Unwarranted Noise not otherwise specified in this By-Law.	1:00am to 9:00pm Sunday or Statutory Holiday
4.4	The noise created by the use or operation of any Audis Device, Signal Device or Transmitting Device for the purpose of advertising or for attracting attention to any performance, show, sale or display of goods, ware or merchandise that is Unwarranted and clearly audible at a Point of Reception	11:00pm to 7:00am.
4.5	The engaging in construction and /or the use of construction equipment that is Unwarranted and clearly audible at a Point of Reception.	11:00 to 7:00am Sunday through Friday 11:00 to 9:00 on a Saturday or the day preceding a Statutory Holiday Specifically: Sun 11:00pm -Mon.7:00am Mon. 11:00pm-Tues. 7:00am Tues 11:00p.m-Wed. 7:00am Wed 11:00pm-Thurs 7:00am Thurs 11:00p.m-Fri. 7:00am Fri. 11:00pm-Sat. 7:00a.m Sat. 11:00p.m. - Sun. 9:00a.m. The day preceding a Statutory Holiday 11:00p.m-9:00 on the Statutory Holiday

**CORPORATION OF THE MUNICIPALITY OF MACHIN
BY-LAW NO. 30-2011 - NOISE CONTROL BY-LAW
PART 1 OF THE PROVINCIAL OFFENCES ACT**

Item No.	Column 1 – Short Form Wording	Column 2 – Provision Creating or Defining Offence	Column 3 – Set Fine
1	Emit, cause or permit unwarranted sounding of Audio, Signal, or Transmitting Device	3.1 (a)	\$100.00
2	Emit, cause, or permit persistent domestic animal/pet noises	3.1 (b)	\$125.00
3	Emit, cause, or permit noise from the detonation of fireworks	3.1 (c)	\$250.00
4	Use of or cause or permit noise from the use of compression brakes	3.1 (d)	\$150.00
5	Emit, cause or permit unwarranted noises on Monday through Friday between 11:00 p.m. and 7:00 a.m.	4.1	\$150.00
6	Emit, cause or permit unwarranted noises on Saturday between 1:00 a.m. and 6:00 a.m.	4.2	\$150.00
7	Emit, cause or permit unwarranted noises on Sundays and Statutory Holidays between 1:00 a.m. and 6:00 a.m.	4.3	\$150.00
8	Emit, cause or permit use of Audio, Signal or Transmitting Device for advertising between 11:00 p.m. and 7:00 a.m.	4.4	\$100.00
9	Emit, cause or permit unwarranted noises related to construction between 11:00 p.m. and 7:00 a.m.	4.5	\$200.00
10	Permit or breach of terms of exemption	5.4	\$150.00

Note: The penalty provision for the offences indicated above is Section 6.2 of By-law 30-2011 a certified copy of which has been filed.