

**THE CORPORATION OF THE TOWNSHIP OF McNAB/BRAESIDE**

**BY-LAW NO. 2011-47**

Being a By-Law to Control Noise

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**WHEREAS** under Section 129 of the *Municipal Act*, Chap M.45 2001, as amended, councils of local municipalities may pass by-laws prohibiting or regulating noise within the whole of the municipality or within certain defined areas;

**AND WHEREAS** it is recognized that people have a right to and should be provided to the extent possible, an environment free from unusual, unnecessary, or excessive noise or vibration which may unreasonably degrade the quality and tranquillity of their life or cause nuisance;

**AND WHEREAS** it is the policy of the Council to reduce and control such sound or vibration;

**NOW THEREFORE** the Council of the Corporation of the Township of McNab / Braeside , enacts as follows:

1. **DEFINITIONS:** In this By-law, unless the context otherwise requires;

**Agriculture** - means the practice of cultivating the soil or the keeping/raising of animals;

**Air Conditioner** - includes an air conditioner, a fan, a heat pump or other similar device;

**Auxiliary Equipment** - means any device, attachment, delivery body or apparatus attached to a motor vehicle, either permanently or temporarily, for the purpose of

- 1) hauling property, vehicles or animals or
- 2) preserving perishable cargo through the use of heating or refrigerating systems;

**By-law Enforcement Officer** – means a person so appointed by the Municipality under the Police Services Act;

**Construction** - includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and highway building, the manufacturing of material used for highway construction, pouring 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;

**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 a building;

**Construction Equipment** - means any non-domestic equipment, tool, device or motorized conveyance designed and intended for 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, drills, loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment;

**Council** - means the Council of the Corporation of the Township of McNab/Braeside;

**Emergency Vehicle** - means a police motor vehicle, ambulance, fire truck or other vehicle responding to an emergency call pursuant to a statutory duty;

**Fire Chief** – means the person so appointed by the Council of the Corporation of the Township of McNab/Braeside ;

**Inhabitants** - means any owner, tenant, occupier or licensee of real property within the Township of McNab / Braeside ;

**Intermittent** - means to cease for a time or to occur at intervals;

**Leisure Vehicle** - means any all-terrain vehicle or snowmobile;

**Motor Vehicle** - includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include all-terrain vehicles, snowmobiles, other vehicles running only upon rails, construction equipment, farm tractor or a self-propelled implement of husbandry;

**Motor Conveyance** – means a conveyance propelled or driven other than by muscular, gravitational or wind power;

**Municipality** - means the land within the geographic limit of the Corporation of the Township of McNab / Braeside;

**Person** - includes any physical or corporate entity, partnership or any association and the heirs, executors, administrators, successors and assigns or other legal representative thereof to whom the context may apply;

**Point of Reception** - means any point on the premises of a person where sound or vibration originating from other than those premises is received;

**Residential Area** - means all properties within the Corporation of the Township of McNab /Braeside zoned Residential, Rural Residential or Limited Service Residential under the Zoning By-law, as amended;

**Rural Area** - means all properties within the Corporation of the Township of McNab/ Braeside zoned Rural Area and/or Agriculture under the Zoning By-law, as amended;

**Solid Waste Bulk Lift** - means a vehicle designated to load, unload and transport containers for handling refuse;

**Township** - means the Corporation of the Township of McNab /Braeside ;

## 2. **GENERAL PROHIBITIONS**

No person shall emit or cause or permit the emission of sound resulting from an act listed herein and, which sound is clearly audible at a point of reception.

- a) The operation of any engine or pneumatic device without an effective exhaust muffling device in good working order and in constant operation .
- b) The operation of a motor vehicle or an engine so as to cause excessive motor revving, squealing of tires or other sounds that cause a disturbance.
- c) The operation of an engine or motor vehicle or item of attached auxiliary equipment for a continuous period exceeding five minutes, while such vehicle is stationary in a residential area, unless:
  - (i) the vehicle is in an enclosed structure constructed so as to effectively prevent excessive noise emission; or
  - ii) 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
  - iii) operation of such engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to operation of ready-mixed concrete trucks, lift platforms, or refuse compactors and heat exchange systems during normal operation; or

- iv) weather conditions justify the use of heating or refrigerating systems powered by the motor engine for the preservation of perishable cargo or for the safety and welfare of the operator, passengers or animals; or
  - v) prevailing low temperatures make longer idling periods necessary, immediately after starting the motor or engine; or
  - vi) 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, carburettor or the like, when such work is performed other than for profit; or
  - vii) the operation of such motor is essential to maintain radio and computer equipment for police, ambulance, fire vehicles and other emergency vehicles.
- d) The operation of a motor vehicle horn or other warning device except where required or authorized by law, or in accordance with good safety practice;
- e) The operation of any item of construction equipment that is without effective muffling devices.

### 3. PROHIBITIONS BY TIME AND PLACE

No person shall emit, cause or permit the emission of a sound resulting from any act listed below if clearly audible at a point of reception in a Rural Area or Residential Area in a prohibited period of time. Prohibited periods of time are as follows:

- A 23 00 one day to 07 00 next day (09 00 Sundays)
- B 19 00 one day to 07 00 next day (09 00 Sundays)
- C 23 00 one day to 07 00 next day (09 00 Sundays)
- D All day Sundays and Statutory Holidays
- E 19 00 one day to 07 00 next day
- F 21 00 one day to 07 00 next day

Residential    Rural  
Area            Area

(a)	The detonation of fire-works except those authorized by the Fire Chief and explosive devices except those in connection with construction activities	At Any Time	At Any Time
(b)	the discharge of firearms except when discharged for the protection of livestock	At Any Time	N/A
(c)	the operation of a combustion engine, that is used in, or is intended for use in a toy or a model or replica of a larger device, which model or replica has no function other than amusement and which is not a conveyance	At Any Time	N/A
(d)	The operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other Electro-mechanical transducers, and intended for the production, reproduction or amplification of sound	C	C
(e)	The operation of any auditory signalling device, including but not limited to: the ringing of bells or gongs, the blowing of horns, sirens or whistles, or the production or reproduction of the amplification of any similar sounds by electronic means, except where required or authorized by law or in accordance with good safety practices.	D & E	D & E
(f)	The operation of any motorized conveyance other than on a highway or other place intended for its operation including snowmobiles, all-terrain vehicles and off-road motorcycles	B	N/A

(g)	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	A	A
(h)	Persistent barking, whining, calling, crowing or other similar persistent noise by any domestic animal or bird	A	A
(i)	The operation of commercial car wash air drying equipment.	D & E	D & E
(j)	Yelling, shouting, hooting, whistling or singing.	A	A
(k)	All selling or advertising by shouting or outcry or amplified sound	D & E	D & E
(l)	Loading, unloading, delivery, packing, unpacking or otherwise handling any containers, products, materials or refuse whatsoever, unless necessary for the maintenance of essential services or the moving of private household effects.	D & E	N/A
(m)	The manufacturing of construction material or the operation of any construction or manufacturing equipment in connection with construction or any construction related activity, including those activities that use explosive devices.	D & F	D & F
(n)	The operation of any powered or non-powered tool for domestic purposes other than snow removal.	B	N/A
(o)	The operation of a solid waste bulk lift or refuse compacting equipment.	B	B

#### **4. OUTDOOR PATIOS**

Outdoor patios are subject to noise restrictions between the hours of 12:00 a.m. (midnight) and 7:00 a.m.

#### **5. EMERGENCY EXEMPTIONS**

Notwithstanding any other provision of this by-law, it shall be lawful during an emergency to emit or cause to permit the emission of sounds or vibrations in connection with emergency measures;

- (a) for the immediate health, safety or welfare of the inhabitants;
- (b) for the preservation or restoration of services and property; unless such sound or vibration is clearly of a longer duration, or nature more disturbing than is reasonably necessary for the accomplishment of such emergency

#### **6. OTHER EXEMPTIONS**

It shall be lawful to permit the emission of sounds or vibrations in connection with those activities listed below:

- (a) Any parade authorized by Council;
- (b) Use of bells or chimes normally associated with church or school activities;
- (c) Any carnival, midway, circus, sporting event, recreational, musical, entertainment, festival or other event authorized by Council;
- (d) Any sporting, recreational, musical, entertainment, festival, or other event or performance, in a municipal park, on a municipal road, or any other place, provided the specific written permission of Council has been obtained;
- (e) The detonation of fireworks authorized by the Fire Chief;
- (f) All sounds normally associated with farming operations as governed by the *Farming and Food Production and Promotion Act* including animal sounds, the operation of

farm equipment and machinery, providing that animals are kept under normal farm practices and providing reasonable maintenance of machinery and equipment inhibits noise according to manufacturer's specifications;

- (g) Authorized non-emergency work carried out by or on behalf of the Township unless such noise emission is of a longer duration or a nature more disturbing, than is reasonable necessary;
- (h) Annual fall fairs operated by an Agricultural Society on property owned or leased by an Agricultural Society;
- (i) Sounding of horns or alarms for the purpose of giving notice of fire and other emergencies for the immediate health, safety or welfare of the inhabitants or for the preservation or restoration of property;
- (j) Noise between a common shared wall or floor by two adjacent dwelling units within an apartment, condominium or townhouse building, row buildings or carriage homes unless the sound can be clearly audible from the exterior of the building;
- (k) Noise generated by sanding, salting, clearing of snow or the removal of snow;
- (l) An outdoor singing performance;
- (m) Victoria Day and Canada Day celebrations organized by the municipality or municipally sponsored organizations.

## **7. GRANT OF EXEMPTION BY COUNCIL**

### **(a) 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 sound or vibration for which he/she might be prosecuted and Council, by resolution, may refuse to grant any exemption or 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 terms and conditions as Council sees fit.

### **(b) Details of Application for Exemption**

The application mentioned in subsection (a) shall be made in writing and shall contain:

- i) the name and address of the applicant
- ii) a description of the source of sound or vibration in respect of which the exemption is sought
- iii) the period of time for which the exemption is sought
- iv) the reasons why the exemption should be granted

### **(c) Decision**

In deciding whether or not 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.

### **(d) Breach**

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

**8. PENALTY**

Every person who contravenes any of the provisions of this by-law is guilty of an offence and, upon conviction, shall be liable to a fine as provided for in the Provincial Offences Act, Chap P.33, R.S.O. 1990 as amended.

**9. TIME**

Notwithstanding the Time Act, Chapter T. 9, R.S.O. 1990 as amended, so long as the time commonly observed in the municipality is one hour in advance of Standard Time, the times mentioned in this by-law shall be reckoned in accordance with the time so commonly observed and not Standard Time.

**10. SEVERABILITY**

Should any part, section, subsection or portion of this by-law be repealed or declared by a court of competent jurisdiction to be illegal, the same shall not affect the validity of the by-law as a whole or in part thereof, except for that which was declared to be invalid.

**11. SHORT TITLE**

The short title of this By-law shall be Noise Control By-law.

**12. ENFORCEMENT**

This by-law shall be enforced by the By-Law Enforcement Officer so appointed by Council.

**13. REPEAL**

THAT By-law 89-34 of the Township of McNab and By-law 86-16 of the Village of Braeside and any other By-Laws inconsistent with this By-Law are hereby repealed.

READ a first time this **19<sup>th</sup>, day of July, 2011.**

READ a second time this **19<sup>th</sup>, day of July, 2011.**

READ a third and final time and passed time this **19<sup>th</sup>, day of July, 2011.**

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MAYOR

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CAO/CLERK