

THE CORPORATION OF THE TOWNSHIP OF O'CONNOR
BY-LAW NUMBER 2009-09

Being a By-law to prohibit and regulate Noise in the Corporation of the Township of O'Connor.

WHEREAS Section 129 of the Municipal Act, 2001 authorizes municipalities to prohibit and regulate noise and other nuisances.

AND WHEREAS the Council of the Corporation recognizes that balance must be achieved between the clash of individual interests that arise in modern municipalities, and that the existence of organized society depends upon the principle of "give and take".

AND WHEREAS it is considered necessary and expedient to replace By-law #839 of the Township of O'Connor.

THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF O'CONNOR
ENACTS AS FOLLOWS:

Article 1.00: Interpretation

1.01 Definitions: Wherever a term set out below appears in the text of this By-law with its initial letters capitalized, the term is intended to have the meaning set out for it in this Section 1.01. Wherever a term below appears in the text of this By-law in regular case, it is intended to have the meaning ordinarily attributed to it in the English language.

- (a) **By-law** means this By-law, including its recitals and schedules, which form integral parts of it, as amended from time to time.
- (b) **Compression Brake**, also known as "engine compression exhaust style brake", refers to a system by which vehicle braking is achieved by using the engine compression stroke to slow the vehicle drive wheels by opening an exhaust valve at or near the end of the compression stroke thereby turning the power-producing engine into a power-absorbing air compressor.
- (c) **Construction** means the erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, 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, concreting, 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.
- (d) **Construction Equipment** means any equipment or device designed and intended for use in construction or material handling, including: air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers, trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment.
- (e) **Corporation** means The Corporation of the Township of O'Connor, a municipal corporation duly incorporated pursuant to the laws of the Province of Ontario.

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- (f) **Council** means the elected municipal council of the Corporation.
- (g) **Emergency** means a situation or an impending situation, often dangerous, caused by the forces of nature, an accident, an intentional act or otherwise, which arises suddenly and calls for prompt action.
- (h) **Motor Vehicle** means an automobile, bus, truck, motorcycle, motor assisted bicycle and any other vehicle propelled or driven other than by muscular power, but does not include a traction engine, farm tractor, other farm vehicle or road-building machine.
- (i) **Municipal Law Enforcement Officer** means any person duly appointed to enforce the provisions of this By-law or any member of the Ontario Provincial Police.
- (j) **Municipal Service Vehicle** means a Motor Vehicle operated by or on behalf of the Corporation while the Motor Vehicle is being used for the construction, repair or maintenance of a highway, including the clearing and removing of snow or other municipal purpose.
- (k) **Noise** means sound that is unusual or excessive, or that is reasonably unwanted by or disturbing to persons, in the circumstances within which it occurs.
- (l) **Premises** means any land or building which is not a Residence.
- (m) **Residence** means a room, suite of rooms, or dwelling, operating as a housekeeping unit that is lawfully used as a domicile.
- (n) **O'Connor** means the geographic area within the jurisdiction of the Corporation.
- (o) **Utility** means a system that is used to provide a utility service to the public, including electricity, telephone and communications networks.
- (p) **Utility Service Vehicle** means a Motor Vehicle operated by Hydro One, TBayTel, or any of their subsidiaries or other companies or agencies that supply or manage a Utility within O'Connor, while the Motor Vehicle is being used for the construction, repair or maintenance of that Utility.

1.02 **Legislation, By-laws:** Each reference to Provincial legislation in this By-law, unless otherwise specified, is a reference to the Revised Statutes of Ontario, 1990 edition, and, in every case, includes all applicable amendments to the legislation, including successor legislation. Each reference to another by-law in this By-law, unless otherwise specified, is a reference to a By-law of the Corporation, and, in every case, includes all applicable amendments to the By-law, including successor by-laws.

1.03 **Construing this By-law:** The captions, article and section names and numbers appearing in this By-law are for convenience of reference only and have no effect on its interpretation. This By-law is to be read with all changes of gender or number required by the context. The words “**include**”, “**includes**”, “**including**” and “**included**” are not to be interpreted as restricting or modifying the words or phrases which precede them.

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Article 2.00: Offences & Exemptions

2.01 **General Noise Prohibition:** It is an offence for a person to make, cause or permit the making of Noise, or to permit the persistent barking, calling, whining, or making other Noise, by animals and birds within O'Connor that is likely to disturb the inhabitants of O'Connor.

2.02 **Working Animals:** This By-law does not apply to prohibit persons using hearing-ear dogs, seeing-eye dogs, or other similar working animals, from allowing those animals to make the sounds required of them in the course of their working duties.

2.03 **Specific Noise Prohibitions by Time:** It is an offence for a person to make, cause or permit the making of Noise within O'Connor that is the result of any of the activities listed in the table in Schedule "A", during the days and between the hours specified in Schedule "A" for that activity, that is audible to:

- (a) A person in a Premises or a Motor Vehicle other than the Premises or Motor Vehicle from which the Noise is originating; or
- (b) A person in a Residence other than the Residence from which the Noise is originating.

2.04 **Compression Brakes:** It is an offence for a person to make, cause or permit the making of Noise through the operation of Compression Brakes on highways within O'Connor.

2.05 **Exemption for Emergencies:** This By-law does not prohibit Noise reasonably necessary resulting from measures undertaken in an Emergency for the immediate health, safety or welfare of the inhabitants of O'Connor or for preservation or restoration of property.

2.06 **Specific Exemptions:** This By-law does not prohibit Noise caused by any one or more of the following activities:

- (a) the operation of Municipal Service Vehicles and related equipment;
- (b) the operation of Utility Service Vehicles and related equipment;
- (c) the operation of Emergency Helicopters
- (d) the authorized use of fireworks;
- (e) special events that are sanctioned or approved by the Corporation, including: festivals, races, parades, midways, exhibitions, circuses, etc.;
- (f) the operation of bells, chimes, carillons and clocks on churches, schools, or public buildings;
- (g) cultural, recreational, educational and political events in parks or other public areas that are sanctioned or approved by the Corporation;
- (h) neighbourhood events on highways or other municipal property that have been sanctioned or approved by the Corporation;
- (i) activities normally associated with a lawful commercial or industrial use unless specifically prohibited elsewhere in this By-law.
- (j) Temporary exemptions may be issued upon conditions that assist in achieving the desired balance of interests as determined by Council.

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Article 3.00: Enforcement & Penalties

3.01 **Enforcement:** This By-law may be enforced by the Municipal By-Law Enforcement Officer, or by way of private information sworn in accordance with the *Provincial Offences Act*.

3.02 **Penalties:** Every person who commits an offence under this By-law is, upon conviction, liable to a fine or penalty as provided for in the *Provincial Offences Act*.

Article 4.00: Miscellaneous Matters

4.01 **Repeals:** The following by-laws of the Corporation are repealed:

(a) By-law #839

4.02 **Effective Date:** This By-law shall come into force and take effect upon approval of the set fines associated with it by the Regional Chief Justice in accordance with Part I of the *Provincial Offences Act*, and Rule 6 of Regulation 200 passed pursuant to the *Courts of Justice Act*.

Enacted and passed this 13th day of July, 2009 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

The Corporation of the
Township of O'Connor

Ron Nelson

Mayor

Lorna Buob

Clerk-Treasurer

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Schedule "A"

Prohibitions During Specific Times

	Noise-Causing Activity	Prohibited Times
1.	Make, cause or permit the making of Noise through Construction, including the operation of Construction Equipment during prohibited time.	From 11:00 p.m. any day until 7:00 a.m. the following day, unless the following day is a Sunday or a statutory holiday, in which case the prohibition continues until 9:00 a.m.
2.	Make, cause or permit the making of Noise through the operation of any device or group of connected devices intended for the production, reproduction, or amplification of voices or sound during prohibited time.	From 11:00 p.m. any day until 7:00 a.m. the following day, unless the following day is a Sunday or a statutory holiday, in which case the prohibition continues until 9:00 a.m.
3.	Make, cause or permit the making of Noise through the operation of a Motor Vehicle other than on a place intended for its operation during prohibited time.	From 11:00 p.m. any day until 7:00 a.m. the following day, unless the following day is a Sunday or a statutory holiday, in which case the prohibition continues until 9:00 a.m.
4.	Make, cause or permit the making of Noise through the outdoor operation of any powered or non-powered tool for domestic purposes other than snow removal during prohibited time.	From 11:00 p.m. any day until 7:00 a.m. the following day, unless the following day is a Sunday or a statutory holiday, in which case the prohibition continues until 9:00 a.m.
5.	Make, cause or permit the making of Noise through the operation of a pit or quarry during prohibited time.	From 11:00 p.m. any day until 7:00 a.m. the following day, and all day on Sundays and statutory holidays.
6.	Make, cause or permit the making of noise through yelling, shouting, hooting, whistling, singing or the playing of musical instruments, including percussion instruments during prohibited time.	From 11:00 p.m. any day until 7:00 a.m. the following day, unless the following day is a Sunday or a statutory holiday, in which case the prohibition continues until 9:00 a.m.

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Schedule "B"

**THE CORPORATION OF THE TOWNSHIP OF O'CONNOR
PART I PROVINCIAL OFFENCES ACT
BY-LAW NUMBER 2009-09: NOISE REGULATION**

Item #	Short form Wording	Provision Creating or Defining Offence	Set fines
1.	Cause noise likely to disturb inhabitants.	Section 2.01	\$110.00
2.	Permit noise by animals likely to disturb inhabitants.	Section 2.01	\$110.00
3.	Cause noise by construction during prohibited time.	Section 2.03 and Schedule A, Section 1	\$110.00
4.	Cause noise by sound production, reproduction or amplification during prohibited time.	Section 2.03 and Schedule A, Section 2	\$110.00
5.	Cause noise by the operation of a motor vehicle during prohibited time.	Section 2.03 and Schedule A, Section 3	\$110.00
6.	Cause noise by use of domestic tool during prohibited time.	Section 2.03 and Schedule A, Section 4	\$110.00
7.	Cause noise by the operation of a pit or quarry during prohibited time.	Section 2.03 and Schedule A, Section 5	\$110.00
8.	Cause noise by yelling, shouting, hooting, whistling, singing or playing of musical instruments during prohibited time.	Section 2.03 and Schedule A, Section 6	\$110.00

Note: the general penalty provision for the offences listed above is section 3.02 of By-law 2009-09, a certified copy of which has been filed.