

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW NO. 2023-40

Being a By-law to Control Noise

WHEREAS pursuant to Section 10 (2) of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, a municipality may regulate matters involving health, safety and well-being of others;

AND WHEREAS pursuant to Section 129 of the *Act*, a local municipality may prohibit and regulate with respect to noise;

AND WHEREAS pursuant to Section 425 of the *Act*, a municipality may pass By-laws providing that a person who contravenes a By-law of the Municipality passed under this *Act* is guilty of an offence;

AND WHEREAS pursuant to Section 426 of the *Act*, no person shall hinder or obstruct, or attempt to hinder or obstruct any person who is exercising a power or performing a duty under a By-law passed under this *Act*;

AND WHEREAS pursuant to Section 429 of the *Act*, a municipality may establish a system of fines for offences under a By-law of the Municipality passed under this *Act*;

AND WHEREAS pursuant to Section 436 of the *Act*, a Municipality has 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 whether a By-law of the Municipality passed under the *Act* is being complied with;

AND WHEREAS noise is recognized as a form of pollution under the *Environmental Protection Act, R.S.O. 1990, CHAPTER E-19*;

AND WHEREAS the Municipality of Magnetawan deems it necessary and expedient to regulate or prohibit noise within the Municipality which is likely to disturb the inhabitant and become a public nuisance;

NOW THEREFORE the Council of the Corporation of the Municipality of Magnetawan enacts as follows:

1.0 THAT this By-law may be cited as "The Noise By-law"

2.0 GENERAL PROHIBITIONS

- 2.1 No person within the Municipality of Magnetawan shall make, create, cause, or permit to be made any sound or noise which reasonably would cause a nuisance or to disturb other person(s).
- 2.2 Without limiting the generality of the foregoing, the noise or sound created by the use or operation of maintenance equipment, chainsaws, power tools or any other noise generating domestic tool or device is prohibited after 11:00 p.m. of any day or before 7:00 a.m. of the following day.

3.0 GENERAL EXEMPTIONS

- 3.1 The following sounds and noises are exempt from the By-law, and shall not constitute a contravention of this By-law:
 - a. sound arising from normal farm practices as defined by the *Farming and Food Production Protection Act, 1998, S.O. 1998 c.1*.
 - b. sound arising from construction undertaken in accordance with a valid building permit.
 - c. Emergency vehicles of the Police or Fire Department of the Municipality, or any ambulance, public service, municipal operation, road service vehicle, private or public utility vehicle while responding to an emergency or carrying out their duties for the purpose of public health and safety.
 - d. sound arising from non-motorized sporting and equestrian events.

- e. sound arising from fireworks only on these specific days: Victoria Day, Memorial Day, Canada Day, Independence Day, Civic Holiday, and Labour Day before 11:59 p.m.
- f. aircraft, airports, trains, and railways subject to regulation by the Government of Canada.
- g. audible pedestrian signals.
- h. any sound arising from Municipally run events.
- i. any sound for which the Municipality has granted an exemption from this By-law pursuant to Section 4.

4.0 EXEMPTION APPLICATION PROCESS

- 4.1 Written applications to Council must be made on the prescribed form along with any applicable fees as per the Current Fees and Charges By-law, Sixty (60) days prior to the proposed sound being made. The prescribed form will include site plans, suitable onsite parking (if required), duration of the noise and/or event, number of attendees, and any other information that the Municipality requires. The application will form part of the Public Agenda Package for review by Council.
- 4.2 The Municipality of Magnetawan may provide exemptions to this By-law, by motion, for the purposes of Section 3(i), having regard to such matters as Council may deem appropriate, including but not limited to the frequency of exemption requests, the character of the particular part of the Municipality for which the request is being made, the proposed sound, the zoning of the lands and the proposed methods of control over the kind and level of sound.
- 4.3 At the discretion of Council, the Municipality of Magnetawan may hold a public meeting prior to considering the request for exemption. If Council deems it appropriate to hold a public meeting, notice of the public meeting shall be circulated to all landowners as determined by Council of the perimeter of the lands where the sound in question is proposed to be made.
- 4.4 Any exemption granted by Council shall be provided as a one-time only exemption and shall specify the date(s), time(s), type and level of noise permitted and may include any other Council direction deems appropriate including notification by the Applicant to neighbouring properties as a courtesy.
- 4.5 Where an exemption is granted, any breach of the terms of conditions set by Council renders the exemption null and void and the property owner will be deemed in contravention of this Bylaw and shall be guilty of an offence.

5.0 OFFENCES AND PENALTIES

- 5.1 Every person and/or owner who contravenes any of the provisions of this By-law is guilty of an offence and is subject to set fines and/or administrative monetary penalties.
- 5.2 Every person who violates any provision of this By-law or causes or permits a violation shall be guilty of an offence and may be subject to fees under the Administrative Monetary Penalties By-law and/or fined as per the current Fees and Charges By-law.
- 5.3 Every person and/or owner who is convicted of an offence under this By-law shall be subject to a fine of not more than Five Thousand Dollars (\$5,000) for each offence. Such fines shall be recoverable under the *Provincial Offences Act, R.S.O. 1990, c. P.22*, as amended.
- 5.4 The provisions of this By-law may be enforced pursuant to the provisions of the *Provincial Offences Act, R.S.O. 1990, c. P.33* as amended, and where any provision of this By-law is contravened and a conviction entered, in addition to any other remedy and to any other penalty the person convicted may also be prohibited from continuing or repeating the offence in accordance with the provisions of section 442 of the *Municipal Act*.
- 5.5 Each subsequent contravention that results in a conviction will yield a higher fine (doubling each time) to a maximum of \$5,000 for a person and \$10,000 for every director, officer, or employee of a corporation.
- 5.6 Pursue any other collection mechanisms available to the Municipality pursuant to the Regulations or a law which may include deeming the outstanding amount to be unpaid taxes and adding this outstanding amount to the tax roll and collecting it in the same manner as Municipal Taxes.

5.7 Fees, fines, penalties, and/or charges are as Schedule "A" attached for 2023 and are to be incorporated into the current Fees and Charges By-law. Any changes to Schedule "A" will be made during the annual updating of the Fees and Charges By-law and will be contained therein.

6.0 ENTRY AND INSPECTION

6.1 A By-law Enforcement Officer or their designate may at any time enter onto a property to determine whether this By-law is being complied with.

6.2 Every Person shall permit a By-law Enforcement Officer to inspect any land for the purpose of determining compliance with this By-law.

7.0 OBSTRUCTION

7.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this By-law.

7.2 Any person who has been alleged to have contravened any of the provisions of this By-law, shall identify themselves to the By-Law Enforcement Officer and/or designate upon request, failure to do so shall be deemed to have obstructed or hindered the By-Law Enforcement Officer and/or designate in the execution of their duties.

8.0 MUNICIPALITY NOT LIABLE

8.1 The Municipality assumes no liability for property damage or personal injury resulting from remedial action or remedial work undertaken with respect to any person or property that is subject.

9.0 VALIDITY AND SEVERABILITY

9.1 Should any section, subsection, clause, paragraph, or provision of this bylaw be declared by a Court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity of the enforceability of any other provision of this By-law, or of the By-law as a whole.

10.0 SEPARATE OFFENCE

10.1 For the purpose of this by-law, each event, complaint, or call shall be deemed to be a separate offence.

10.2 Each day an offence occurs is considered a new offence.

11.0 ENFORCEMENT

11.1 Nothing herein shall be deemed to limit the ability of the Ontario Provincial Police to enforce this By-law at any time.

11.2 The By-law Enforcement Officer or their designate will not provide afterhours services and noise complaints that are received after hours will be responded to on the next scheduled business day.

12.0 FORCE AND EFFECT

12.1 This By-law comes into effect on the date of its passing.


12.2 That By-law 2018-31 and any previously conflicting Bylaws are hereby repealed.

READ A FIRST, SECOND, AND THIRD TIME, passed, signed and the Seal of the Corporation affixed hereto, this 23rd day of August 2023.

**THE CORPORATION OF THE
MUNICIPALITY OF MAGNETAWAN**



Mayor



CAO/Clerk



**FEES, FINES, PENALTIES, AND/OR CHARGES SCHEDULE
SCHEDULE "A"
TO BY-LAW 2023-40**

Item	Short Word Form Wording	Provision Creating/Defining Offence	Set Fine Within a Twelve (12) Month Period
1	Making, creating, causing, or permitting any sound or noise causing a nuisance.	2.1	First Offence \$500 Second Offence \$750 Third Offence \$1,000
2	Noise or sound created by the use or operation of maintenance equipment after 11:00 pm or before 7:00 am	2.2	First Offence \$500 Second Offence \$750 Third Offence \$1,000

Fees, fines, penalties, and/or charges are as Schedule "A" attached for 2023 and are to be incorporated into the current Fees and Charges By-law. Any changes to Schedule "A" will be made during the annual updating of the Fees and Charges By-law and will be contained therein.