

# THE CORPORATION OF THE TOWN OF THESSALON

## BY-LAW NUMBER 1738

**BEING A BY-LAW** to control noises.

### **WHEREAS:**

- i) The making, creation or maintenance of excessive and unreasonable noise within The Corporation of the Town of Thessalon (the “municipality”) affects and is a detriment to public health, comfort, convenience, safety and welfare of the people of the municipality;
- ii) It is in the public interest to reduce the noise level within the municipality, so as to preserve, protect and promote the public health, safety, welfare and peace and quiet of the inhabitants therefore; and
- iii) The Council has authority under s. 129 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, to pass this by-law.

**NOW THEREFORE**, the Council of the Corporation of the Town of Thessalon hereby enacts as follows:

### **1. Interpretation**

(1) In this by-law,

- (a) “construction equipment” means any equipment or device designed and intended for use in construction or material handling, including, but not limited to, hand tools, power tools, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generator, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment;
- (b) “construction work” includes, but is not limited to, erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, the laying of pipe and conduit, whether above or below ground level, street and highway building, application 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 with construction;
- (c) “conveyance” includes a vehicle and any other device employed to transport a person or persons or goods from place to place;
- (d) “Council” means the Council of the Corporation of the Town of Thessalon;
- (e) “Fire Chief” means the Fire Chief of the Thessalon Volunteer Fire Department as appointed from time to time;
- (f) “highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is designed and intended for or used by the general public;
- (g) “inhabitants” means one or more persons who reside in the Corporation of the Town of Thessalon;
- (h) “motor vehicle” includes an automobile, motorcycle, motor assisted bicycle and any other vehicles propelled or driven other than by muscular power but does not include the cars of electric or steam railways, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine with the meaning of the Highway Traffic Act, R.S.O. 1990, c. H. 8 as amended;
- (i) “motorized conveyance” means a conveyance propelled or driven by other than muscular, gravitational or wind power;
- (j) “motorized equipment” means any equipment or device than contains an engine or motor essential to the basic function of such equipment or device;
- (k) “municipality” means the land within the geographic limit of the Corporation of the Town of Thessalon;
- (l) “noise” means unwanted sound;

- (m) “nuisance noise” means any loud, unnecessary or unusual sound or any sound whatsoever which annoys, disturbs, injures, endangers or distracts from the comfort, repose, health, peace and/or safety of any reasonable person as determined by an officer;
- (n) “officer” means any member of the Ontario Provincial Police force and any other police force, police constable, By-law Enforcement Officer, designated officer or other person appointed and employed by the Town of Thessalon for preservation and maintenance of the public peace;
- (o) “owner” includes:
  - (i) the person who for the time being manages or receives the rent for the land or premises in connection with which the land is used, whether on the person’s own account or as agent or trustee of any other person, or who would receive the rent if the land and premises were let; and
  - (ii) a lessee or occupant of the property;
- (p) “person” means any individual and includes firm, partnership, association, corporation, company or groups of persons;
- (q) “premises” means a building or buildings including the associated land;
- (r) “point of reception” means any point on the premises of a person where noise originating from other than those premises is received;
- (s) “power device” means any powered device used in the servicing, maintenance or repair of any property, excluding devices driven by muscular power and snow blowers;
- (t) “property” means a building or structure or part of a building or structure, the lands appurtenant to the building or structure, all mobile homes, mobile buildings or mobile structures and includes vacant land; and
- (u) “residential area” means any property within the municipality which is zoned for residential use by an applicable zoning by-law or which is used in whole or in part for human habitation;
- (v) “sound” means an oscillation in pressure, particles displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium and the description of sound may include any characteristic of such sound, including duration, intensity and frequency.

## **2. Prohibitions**

- (1) No person shall emit, cause or permit the emission of sound which is clearly audible at a point of reception anywhere within the municipality resulting from any of the following acts:
  - (a) the racing of any motorized conveyance other than in a racing event regulated by law;
  - (b) the operation of a motor vehicle in such a way that the tires squeal;
  - (c) the operation of a motor vehicle, motorized equipment, construction equipment or pneumatic device without an effective exhaust, intake-muffling device or other sound attenuation device of a type specified by the manufacturer, which is in good working order, and in constant operation;
  - (d) the operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sound due to improperly secured load or equipment or inadequate maintenance;
  - (e) the operation of a motor vehicle horn or other warning device except where required or authorized by law or in accordance with good highway traffic safety practices;
  - (f) the operation of any electronic device incorporating one or more loudspeakers or other electro-mechanical transducers intended for the production, reproduction or amplification of sound except in connection with any public election meeting, public celebration or other reasonable gathering that has been authorized by Council;
  - (g) the operation of any auditory signaling device including but not limited to the ringing of bells or gongs or 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 exempted by Council;

- (h) allowing the persistent barking, calling, whining or other similar persistent noise making by any domestic pet or any other animal kept or used for any purpose other than agriculture;
  - (i) the sound caused by the lighting and/or setting off of any explosive noise making device, including a firecracker or other fireworks, unless specifically authorized by the Fire Chief;
- (2) No person shall emit, cause or permit the emission of sound, clearly or audible at a point of reception located anywhere within the municipality on any day at any time between the hours of 10:00 p.m. and 7:00 a.m., both inclusive, resulting from any of the following acts:
- (a) the operation of a combustion engine which is in or is used in or is intended for use in a toy or a model or replica of any device which model or replica has no function other than amusement and which is not a conveyance;
  - (b) any loud, abusive, obscene language or singing or shouting or speaking or hooting or whistling likely to disturb any inhabitant;
  - (c) loading, unloading, delivering, packing, unpacking or otherwise handling any containers, product materials or refuse unless necessary for the maintenance of essential services or moving of private household effects;
  - (d) the operation of any motorized equipment except in a case of short term emergency;
  - (e) the operation of any power device or any tool for domestic purposes other than snow removal except in the case of short term emergency; and
  - (f) construction work.

3. The property/owner, lessee, occupier or person in control of a premises is responsible for nuisance noise created by invitees, guests or other persons on the premises in the same manner as the person actually creating the nuisance noise unless the property owner, lessee, occupier or person in control of the premises establishes that he exercise due diligence in a bona fide effort to control and abate such nuisance noise.

**4. Permitted Noises**

None of the provisions of this By-law shall apply to:

- (a) sound emanating from any band stand, street festival, event, block party or similar function;
- (b) snow clearing, road maintenance and road construction vehicles and equipment operated by the Town or their agents and/or contractors;
- (c) grass and field of play maintenance vehicles and equipment operated by the Town and/or their agents and/or contractors;
- (d) sound emanating from the clearing of snow from private parking lots and driveways;
- (e) sound emanating from the Fire Hall alarm, or the sirens of any emergency vehicle while engaged in providing emergency work or responding to an emergency or during testing of the emergency measures civil defense or warning siren;
- (f) the use of any bell, chime or similar sound for the purpose of calling persons to church and/or similar school services;
- (g) the use, in a reasonable manner, of any apparatus, mechanism or device for the amplification of the human voice or of music on public property in connection with any duly approved public meeting, celebration or other public gathering.

**5. Exemptions**

- (1) Despite any other provision of this by-law, it shall be lawful for the municipality, the Province of Ontario, the Government of Canada or any of their authorized agents, to emit, cause or permit the emission of sound in connection with measures undertaken for the:
  - (a) immediate health, safety or welfare of the inhabitants of the municipality; or
  - (b) preservation, restoration or demolition of any highway.
- (2) Despite anything contained in this by-law, any person may, no later than thirty (30) days prior to the date of which an exemption is being requested, make a request to the Council in writing for an exemption from any of the provisions of this by-law.

- (3) The Council of the municipality may, following a review of the request for exemption at a Council meeting, at the applicant's expense, cause a notice of the request for exemption to be published in a newspaper having general circulation within the municipality, setting out a date and time when the request for exemption will be considered.
- (4) The Council may, by resolution, grant the exemption applied for or any exemption of lesser effect, or refuse to grant the exemption. Any exemption granted shall specify the time period during which it is effective and may contain such terms and conditions as the Council sees fit.

**6. Breach**

A breach by the applicant of any of the terms or conditions of an exemption granted by the Council or the failure of the applicant to pay any required fee shall render the exemption null and void.

**7. Offence**

Every person who contravenes any provision of this by-law is guilty of an offence and, on conviction, is liable to a fine, exclusive of costs and every such fine is recoverable under the Provincial Offences Act, R.S.O. 1990 , c. P.33, as amended.

**8.** By-law number 1732 is hereby rescinded.

**9.** That this by-law shall come into force and take effect immediately upon the final passing thereof.

**READ A FIRST AND SECOND TIME THIS 9<sup>th</sup> DAY OF SEPTEMBER, 2010.**

**READ A THIRD TIME AND FINALLY PASSED THIS 9<sup>th</sup> DAY OF SEPTEMBER, 2010.**

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MAYOR

Seal

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CLERK-TREASURER