

THE CORPORATION OF THE TOWNSHIP OF GREATER MADAWASKA

BY-LAW 14-2016

A By-Law of the Township of Greater Madawaska respecting noise.
This By-Law shall be referred to as the **Noise By-Law**.

WHEREAS a local municipality may prohibit and regulate with respect to noise as provided and pursuant to Section 129 of the *Municipal Act*, S.O. 2001, c. 25 as amended;

AND WHEREAS it is in the public interest to regulate with respect to noise in the Township of Greater Madawaska so as to preserve, protect and promote public health, safety, welfare and the peace and quiet of inhabitants of the Township;

AND WHEREAS Council has enacted By-Law 32-2004 which has been amended by By-Laws 22-2005 and 45-2010;

AND WHEREAS Council wishes to consolidate and further amend the said By-Laws and deems it expedient to exercise the said powers vested in it by the said Act;

NOW THEREFORE the Council of the Corporation of the Township of Greater Madawaska enacts as follows:

1. **DEFINITIONS:**

1.01 In this By-Law:

By-Law Officer means a person appointed by the Council of the Township of Greater Madawaska as a Municipal By-Law Enforcement Officer to enforce the provisions of this By-Law;

CAO means the Chief Administrative Officer of The Corporation of the Township of Greater Madawaska

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, generators, off highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;

Council shall mean the Council of The Corporation of the Township of Greater Madawaska;

DBA means the sound level in decibels obtained when using a sound level meter with the A-weighting;

Effective Muffler means a muffler in good working order and in constant operation to prevent excessive or unusual noise but it does not include a cut-out muffler, straight exhaust, gutted muffler, Hollywood muffler, by-pass or similar device;

Equivalent sound level, sometimes denoted as L_{eq} , means the value of the constant sound level which would result in exposure to the same total A – weighted energy as would the specified time-varying sound if the constant sound level persisted over an equal time interval and is measured in dBA;

Facility means any developed area used accessory to a motor sport track and without limiting the generality of the foregoing, access roads, parking, buildings, spectator stands or grounds.

Ministry of the Environment means the Ministry of the Province of Ontario from time to time having jurisdiction over the regulation of noise in the Province of Ontario.

Motor cycle means a self-propelled vehicle having a seat or saddle for the use of the driver and designed to travel on not more than three (3) wheels in contact with the ground, and includes a motor scooter but does not include a motor assisted bicycle.

Motor sport track means a track used for the purpose of motor vehicle sports, education, training or testing whether competitive or not.

Motor vehicle or vehicle includes an automobile, motorcycle, motor assisted bicycle unless otherwise indicated in the Highway Traffic Act, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a streetcar 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 within the meaning of the *Highway Traffic Act*;

Noise level in dBA units means the reading of any precision sound level meter which meets the International Electro-technical Commission Publication 651 or the American National Standards Institute S1.4-1983.

Police means the Ontario Provincial Police or authorized representative.

Point of Reception means any point on the property of a person within the Township as defined by the Ministry of the Environment noise guidelines as may be amended from time to time.

Sound amplifying system means any system of loudspeakers, amplifiers, microphones or reproducers or any combination of such equipment, including electronic devices or electro-mechanical transducers used in the reproduction or amplification of music, speech or other sounds.

Sound reproduction device means a device intended primarily for the production or reproduction of sound, including, but not limited to, any musical instrument, radio receiver, television receiver, tape recorder, phonograph or sound amplification system.

Special Event means an exhibition, concert, festival and other organized amusements held for profit or otherwise at which one hundred (100) people or more attend.

Township means the municipal corporation of the Township of Greater Madawaska or the geographic area of the Township of Greater Madawaska as the context requires.

2. UNUSUAL NOISE, NOISE LIKELY TO DISTURB:

2.01 No person shall make or permit any unusual noise likely to disturb the inhabitants of the Township. For the purposes of this Section a noise is unusual if it is a noise which would not reasonably be anticipated. Where this By-Law sets a specific noise limit for a specific type of activity, the specific noise limit shall apply to that activity and no person shall make or permit any noise to exceed that specific noise limit.

3. BELLS, HORNS, SHOUTING:

3.01 No person shall ring any bell, sound any horn, or shout in a manner likely to disturb the inhabitants of the Township provided that nothing herein contained shall prevent:

- (a) the ringing of bells in connection with any church, chapel, meeting house or religious service,
- (b) the making of any noise in any form of alarm for the purpose of giving notice of any danger, emergency or unlawful act for a continuous period of time of twenty (20) minutes or less.

4. CONSTRUCTION:

4.01 No person shall, between 2100 hours of one day and 0600 hours of the next day operate or cause to be operated, any construction equipment in connection with the construction of any building, structure or highway.

4.02 Despite Subsection 4.01, no person shall operate or cause to be operated any construction equipment in connection with the construction of any building, structure or highway before 0900 hours on any Sunday, statutory or public holiday.

4.03 Internal combustion engines of construction equipment shall be silenced with an effective muffler.

5. MOTOR SPORT:

5.01 No person shall operate or permit the operation of a motor sport track or facility on a property within the Township, unless there be compliance with each of the following:

- (a) the motor sport track or facility is a permanent track or facility,
- (b) the motor sport track is used only by motor vehicles;
- (c) all motor vehicles used are properly equipped with effective mufflers;
- (d) there shall be no site wide public address or sound amplifying system installed or operating at the facility;
- (e) the sound levels generated by the activities on the motor sport track or at the facility and measured at any point of reception shall not exceed Ministry of Environment noise guidelines as may be amended from time to time and without limiting the generality of the foregoing, the following:
 - (i) Ministry of Environment Publication NPC-205, Sound Limits for Stationary Noise Sources in Class 1 & 2 Areas (Urban), October, 1995,
 - (ii) Ministry of Environment Publication NPC-232, Sound Limits for Stationary Noise Sources in Class 3 Areas (Rural), October, 1995
- (f) the motor sport track is not used between 1900 hours of one day and 0700 hours of the next day unless the next day is Sunday in which case the motor sport track shall not be used until 0900,
- (g) the motor sport track and facility are used in strict compliance with all zoning and land uses of the Township applicable to the property;
- (h) a permit is obtained from the CAO of the Township in accordance with this By-Law and there by compliance with the conditions of issuance and holding of the permit provided for in Section 5.04.

5.02 An application for the permit provided for in Section 5.01 (h) shall be made to the CAO who is the delegated authority to grant the said permit and no permit shall be issued save and except in compliance with the terms hereinafter set out:

- (a) a permit shall issue for a period not to exceed three (3) years;
- (b) the use or operation of the motor sport track and/or facility will comply with the provisions of this By-Law.

5.03 The application referred to in Section 5.02 shall be made in writing by the owner of the motor sport track and facility or an authorized representative of the owner at least

sixty (60) days prior to the commencement of the operation proposed and shall include the following information:

- (a) the name, address and telephone number of the applicant,
- (b) the name, address and telephone number of the applicant's representative, if any, and the written authority signed by the owner to make the application;
- (c) the date and time of commencement of the operation for which the permit is sought;
- (d) a description of the operation and the duration of same for which the permit is sought;
- (e) the location of the motor sport track and facility including municipal address and legal description for which the permit is sought;
- (f) the name of the contact person or persons including contact information and telephone numbers of the person or persons who will be managing the facility and activities;
- (g) documentary evidence which may in the discretion of the CAO include the report or reports of third party experts to confirm that the operation of the motor sport track and facility will comply with the provisions of this By-Law;
- (h) payment of the application fee as described on Schedule "A" attached hereto;
- (i) payment of any third party professional fees incurred by the Township to administer the application.

5.04 As a condition of the issuance and holding of any permit, the CAO may in his or her discretion require:

- (a) monitoring and/or audit from time to time of sound levels of any activity of the motor sport track or facility and the monitoring and/or audit shall be conducted by an independent and qualified acoustical monitoring service as approved by the CAO-Clerk/Treasurer at the applicant's expense.
- (b) noise testing from time to time of all vehicles using the motor sport track and facility so as to identify and avoid any contraventions of this By-Law and in so doing the Owner, Applicant or Operator shall perform the following:

(i) Sound Measuring Instrumentation:

For the noise testing of vehicles, the operator of the track will use a Type 2 sound level meter, or better, as set out in Ministry of Environment Publication NPC-103. Instruments shall be field calibrated on a daily basis when in use. Instruments and field calibrators shall be calibrated at an accredited acoustical laboratory on an annual basis. Records of laboratory calibrations shall be maintained.

(ii) Stationary Sound Level Test:

The sound level meter shall be set to record the maximum instantaneous sound level, Lmax and be set to "fast" response, A-weighted.

The sound level shall be measured 5m in front and 5m behind a stationary vehicle with its engine operating at maximum allowable rpm (revolutions per minute) or the red line on the tachometer.

The following shall be recorded for each test: date, make, model, colour, identification (license number of vehicle serial number) and the sound measurement results.

For a vehicle to be permitted to use the track, the average sound level shall not exceed 100 dBA and no individual reading shall exceed 104 dBA.

(iii) **Pass-by Sound Level Test:**

The sound level meter shall be set to record the maximum instantaneous sound level, Lmax and be set to "fast" response, A-weighted.

The vehicle to be tested shall be moving along a straight section of the track at maximum acceleration.

The pass-by sound level, Lmax, shall be recorded at a location to the side of the track which is 15m from the center line of the vehicle travel path. The vehicle shall have travelled at least 75m at maximum acceleration by the time it passes the measurement location. There shall be no obstructions between the microphone of the sound level meter and the vehicle.

The following shall be recorded for each test: date, make, model, colour, identification (license number of vehicle serial number) and the pass-by sound level.

The pass-by sound levels of individual vehicles are to be used to determine the limit of the number of vehicles allowed to simultaneously use the track.

(iv) **Period of Validity of Noise Tests for an Individual Vehicle:**

The stationary and pass-by sound level results for an individual vehicle shall be conducted at least once in every six (6) month period save and except that if there are changes or modifications to the vehicle which affect noise output, the vehicle shall be retested. The fitting of a new muffler or a different make or model of tire shall require retesting of the vehicle.

(c) **Log of Track Use**

A daily log of track use shall be kept which records the date, time and period of track use of individual vehicles using the track. For each period of track use, the pass-by sound level of the loudest vehicle on the track shall be recorded.

(d) **Noise Complaints and Investigations:**

The owners of any motor sport track and facility shall keep records of all noise complaints received. These records shall include: name of the complainant, address of the complainant, date and time the complaint was received, the nature and details of the complaint including the time that disturbing noise was noticed by the complainant. The weather, including an estimate of wind direction and speed at the time of the disturbing noise shall be recorded.

The records should include the results of any follow-up investigation and action as a result of the complaint.

(e) **Record Retention and Availability of Records to the Township of Greater Madawaska:**

The following records shall be retained by the owners of any motor sport track and facility for a minimum of two years from the date of their creation: individual vehicle stationary and pass-by sound level tests, log of track use, records of noise complaints and investigations.

The records shall be available for review by the staff of the Township. Copies of the records shall be provided to the Township upon request.

(f) Noise Control Protocol

The owners of any motor sport track and facility shall develop and maintain a Noise Control Protocol for the facility. This document should be used by the owners and operators as a procedures manual for the management of noise from the motor sport track and facility according to the terms of this Agreement. The document should provide detailed descriptions for the implementation of vehicle inspection and noise testing, procedures for controlling the overall noise from the track, procedures for regulating the maximum numbers of vehicles permitted to simultaneously use the track, procedures for noise complaints and investigations, and, record keeping.

A copy of the Noise Control Protocol is to be provided to the Township. The Noise Control Protocol shall be updated from time to time to ensure compliance with this By-Law. The Township is to be provided with updated versions of the Noise Control Protocol whenever these are issued.

(g) Acoustical Audit of the Facility

Within the first year of the operation of any motor sport track and facility, an acoustical audit shall be conducted according to the procedures in Ministry of Environment Document NPC-233, Information to be submitted for Approval of Stationary Sources of Sound, October 1995.

The purpose of the audit is to confirm that noise from the facility does not exceed sound level limits at nearby noise sensitive receptors as set out in Ministry of Environment Documents NPC-205 and NPC-232.

The audit is to be conducted by an independent acoustical consultant, that is, a consultant not associated with the development of the facility as set out in NPC-233.

The audit report may recommend changes to the Noise Control Protocol.

The audit is to be conducted, as far as possible, taking into account the following:

- (i) the audit should demonstrate the effectiveness of the noise control procedures set out in the Noise Control Protocol.
- (ii) The audit shall include use of the track by motorcycles as well as cars.
- (iii) The activities audited should be representative of those activities which are estimated to produce the most noise.
- (iv) The potentially adverse effects of weather, especially wind, shall be considered in the audit.
- (v) For demonstration purposes during the audit, the track may, for brief periods, be operated under conditions which exceed the noise control procedures set out in the Noise Control Protocol.

6. EXEMPTION – SPECIAL EVENT

6.01 No person shall conduct or permit a Special Event without a permit issued in accordance with this Section 6 of this By-Law and which is in accordance with any By-law of the Township respecting land use and the Special Events By-Law.

6.02 An Applicant for a permit provided for in Section 6.01 shall apply to the CAO and no such permit shall be issued except under the authority or grant of Council upon representation by the CAO that the Applicant has otherwise satisfied the provisions of this By-Law. Council may grant a permit subject to the following conditions:

- (a) the Special Event shall not create noise likely to cause a nuisance or exceed 65 dBA Lmax when measured at the point of reception;
- (b) the Special Event shall not exceed four (4) calendar days in length; and no greater than four (4) permits shall be issued in any calendar year to any applicant and/or Facility.
- (c) a Special Event shall not continue between 2300 hours on one day and 0900 hours on the following day;
- (d) Notwithstanding the provisions of subsection (c), Council may authorize continuance of a Special Event beyond 2300 hours on one day to a time not later than 0200 hours on the next day provided that the Applicant demonstrates to Council that the Event is of significant advantage to the Township and that the extension of the event will not adversely affect the public or those at the point of reception in a significant or material manner.
- (e) Notwithstanding the provisions of subsection (b) of this Section 6.02 and Section 9 of this By-Law, the number of permits available to an applicant or to a Special Event shall be reduced by the number of previous contraventions of subsection (a) of this Section 6.02.

6.03 An application for a permit for a special event shall be made in writing to the CAO at least sixty (60) days prior to the event for which the exemption is sought and shall include the following:

- (a) the name and address of the applicant;
- (b) the name and address of the organization represented by the Applicant, if applicable;
- (c) the name of the contact person or persons who will be supervising the event;
- (d) the source of the sound or vibration in respect of which the exemption is sought;
- (e) the provisions of this By-Law from which the exemption is sought;
- (f) the date and time of commencement of the event for which the exemption is sought;
- (g) the time of conclusion for each day of the event for which the exemption is sought;
- (h) the duration of the event for which the exemption is sought;
- (i) the location of the event for which the exemption is sought;
- (j) rationale for granting an exemption;
- (k) payment of the application fee as described in Schedule A.

6.04 The CAO may require the applicant to provide documentation confirming that notification of the event has been given to the affected parties including but not limited to community associations, business improvement areas and adjacent residents and businesses.

6.05 The CAO may require monitoring of sound levels resulting from the special event and if so, the monitoring shall be conducted at the applicant's expense as outlined in Schedule A attached hereto.

7. **EXEMPTIONS:**

7.01 The provisions of this By-Law shall not apply to the Township or any local board thereof, the Province of Ontario, the Government of Canada or any of their agents or to any activity upon property owned by the foregoing.

7.02 The provisions of this By-Law shall not apply to agricultural operations and agricultural processing activities.

7.03 The provisions of this By-Law shall not apply to snow removal activities for hire, nor to any snow making machinery.

8. **ENFORCEMENT:**

8.01 This By-Law shall be enforced by the Police or by the By-Law Officers of the Township.

8.02 In the event of any contravention of the provisions of this By-Law or any permit issued, a permit may be revoked by the CAO provided:

(a) written notice shall be sent to the applicant for the permit by first class mail or by personal service at the address provided in the application for permit and if sent by first class mail, it shall be deemed to be received five (5) days after it is mailed;

(b) the written notice shall set out a brief summary of the facts which support the alleged contravention and shall provide two (2) days' notice within which the contravention may be remedied;

(c) if the contravention referred to herein is not remedied within the two (2) days provided for in subsection (b), or if the contravention is similar to a contravention which has occurred on two or more previous occasions within the sixty (60) days preceding the last and subject contravention, the CAO may revoke the permit.

8.03 Notwithstanding Section 8.02, in addition to the enforcement provided by Section 8, the Township may enforce the provisions of this By-Law and any contravention thereof including any permit by prosecution under Section 9.

9. **OFFENCE AND PENALTIES:**

9.01 Every person who contravenes any of the provisions of this By-Law is guilty of an offence.

9.02 Every person who is convicted of an offence under this By-Law is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, Chap. P33.

9.03 When a person has been convicted of an offence under this By-Law:

(a) the Ontario Court (Provincial Division), or

(b) any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed toward the continuation or repetition of the offence.

10. **INTERPRETATION:**

10.01 The words importing singular number only shall include the plural, and vice versa, and words importing the masculine gender shall include the feminine gender, and words importing persons shall include firms and corporations and vice versa.

10.02 Words which have been defined in Section 1.01 or elsewhere in this By-Law or any schedule attached hereto shall have that defined meaning when the said words, singular or plural are used elsewhere in this By-Law or any schedule attached hereto.

10.03 It is declared that if any section, subsection or part or parts thereof of this By-Law be declared by any Court of Law to be unenforceable, illegal or ultra vires, such section, subsection or part or parts thereof shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

11. **SCHEDULES:**

11.01 Schedule A to this By-Law shall form part of this By-law.

12. **SHORT TITLE:**

12.01 This By-Law may be referred to as the Noise By-Law.

13. **EFFECTIVE DATE:**

13.01 This By-Law shall come into effect on the 22nd day of March, 2016.

14. **REPEAL**

14.01 On the Effective Date, By-Laws 32-2004, 22-2005 and 45-2010 shall and the same are hereby repealed.

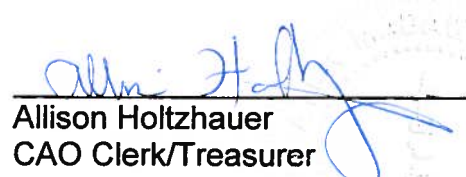
BE IT FURTHER ENACTED that all or parts thereof and all or any Resolutions of Council contrary thereto, or inconsistent herewith, be and the same are hereby repealed.

READ a first and second time this 22nd day of March, 2016

READ a third time and passed this 22nd day of March, 2016



Glenda McKay
Mayor



Allison Holtzauer
CAO Clerk/Treasurer

SCHEDULE A

Fees:

Application Fee (Section 5)	\$150.00
Application Fee (Section 6)	\$100.00
Application Fee (Section 6 – Non-Profit)	\$ 5.00
Inspection Fee chargeable for administrative or Township Staff	\$60.00 per hour