

**THE VILLAGE OF BURK'S FALLS
BY-LAW NO. 05-2018**

**BEING A BY-LAW TO PROHIBIT AND REGULATE NOISE
WITHIN THE VILLAGE OF BURK'S FALLS**

WHEREAS Section 128 of the Municipal Act, 2001 authorizes the Village of Burk's Falls to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of the Council of the Village of Burk's Falls, are or could become public nuisances; and

WHEREAS in the opinion of the Council of the Village of Burk's Falls, certain kinds of noise are or could become a public nuisance; and

WHEREAS Section 129 of the Municipal Act, 2001 as amended, provides that a local municipality may prohibit and regulate with respect to noise, odour, and vibration; and

WHEREAS Section 425 of the Municipal Act, 2001 further authorizes the Village of Burk's Falls to pass by-laws providing that a person who contravenes a by-law of the Village of Burk's Falls passed under that Act is guilty of an offence; and

WHEREAS Section 444 of the Municipal Act, 2001 further authorizes the Village of Burk's Falls, requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity, and any person who contravenes such an order is guilty of an offence; and

WHEREAS the Council for the Village of Burk's Falls deems it necessary to update the noise control regulations of the Village;

NOW THEREFORE the Council of the Village of Burk's Falls enacts as follows:

1. SHORT TITLE

- 1.1 This by-law may be cited as the "Noise By-law".

2. DEFINITIONS

- 2.1 "Authorized Emergency Vehicle" includes any ambulance or hearse, any vehicle of the fire department, any vehicle of the local, provincial or federal police, any vehicle (including a snow plough) operated by or for the Village or a public utility company while actively engaged in the construction, maintenance or repair of any highway, or any equipment or facilities thereon, or a snow plough or other maintenance vehicle operated by or for the Ministry of Transportation;
- 2.2 "Conveyance" means the operation of any Motor Vehicle, Off road vehicle and any other vehicle used to transport a person or goods from place to place and includes any operation on the same property;
- 2.3 "Council" means the Council of the Village of Burk's Falls;
- 2.4 "Noise" means sound that is of such a volume or nature that it is likely to disturb the inhabitants of the Municipality and/or that creates a public nuisance.
- 2.5 "Person" means an individual, sole proprietorship, partnership, limited partnership, trust, corporate body, organization, charity and/or an individual in his or her capacity as a trustee, executor, administrator or other legal representative;
- 2.6 "Premises" includes the area of a building and/or parcel of property or in a multiple unit building occupied by more than one (1) business, each business area shall be considered a separate premises and each dwelling unit shall also be considered a separate premises.
- 2.7 "Public nuisance" means an event, activity, or occurrence that is objectively and generally accepted as disturbing the inhabitants of the municipality and shall consider locality, severity of harm, sensitivity and utility.
- 2.8 "Village" means the Village of Burk's Falls.

3 GENERAL PROHIBITIONS

- 3.1 No person shall emit or cause or permit the emission of sound resulting from the following, which sound is clearly audible to neighbouring premises at any time;
- a) The racing of any motorized conveyance other than in a racing event regulated by law.
 - b) The operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in good working order and in constant operation.
 - c) The persistent ringing of any bell, blow or sound any horn in a residential area.
 - d) The persistent barking, whining or other similar noise by any domestic pet.
 - e) The discharge of a firearm.

4 PROHIBITIONS BY TIME AND PLACE

- 4.1 No person shall emit or cause or permit the emission of sound resulting in noise that is clearly and unreasonably audible to neighbouring premises as set out in Schedule "A"

5 EXEMPTIONS

- 5.1 Notwithstanding any other provision of this by-law, this by-law shall not apply to a person who emits or causes or permits the emission of sound in connection with any of the following activities:

- (a) Operation of Authorized Emergency Vehicles;
- (b) Undertaking of emergency measures for the immediate health, safety or welfare of any person or the preservation or restoration of property;
- (c) Operation of snow plowing and removal equipment while in the operation of snow clearing
- (d) Operation of bells, chimes, carillons, and clocks in religious buildings.
- (e) Operation of gravel pit operations that may begin no earlier than 6:00 am

- 5.2 Notwithstanding any other provision of this by-law, this by-law shall not apply to any persons or organizations in possession of a Noise Permit issued by the Village, subject to:

- i. A written application to the Village outlining the dates and times, location and reason for noise bylaw variance must be provided to the Village as soon as possible and not less than 10 business days prior to the exemption date requested;
- ii. Council shall consider impact and concerns of the neighbourhood and duration when making their decision;
- iii. Council reserves the right to apply conditions to any approval exemption;
- iv. Breach of any terms or conditions of the approval shall render the permit invalid and void.

6 ENFORCEMENT AND ADMINISTRATION

- 6.1 This by-law may be enforced by a Municipal Law Enforcement Officer or a police officer.
- 6.2 If a Municipal Law Enforcement Officer or a police officer is satisfied that this by-law has been contravened, the officer may make an Order to Discontinue Activity, requiring the person who contravened the by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravention.
- 6.3 An Order to Discontinue Activity shall set out:
- (a) The municipal address of the property on which the contravention occurred;
 - (b) The date of the contravention;
 - (c) The reasonable particulars of the contravention of the by-law; and
 - (d) The date and time by which there must be compliance with the Order.

- 6.4 The Order to Discontinue Activity may be served personally on the person to whom it is directed or by regular mail to the last known address of that person, in which case it shall

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be deemed to have been served on the third day after it is mailed. Service on a corporation can be effected by registered mail to the corporate mailing address and will be deemed to have been served on the third day after it is mailed.

6.5 No person shall contravene an Order to Discontinue Activity.

6.6 Any person who contravenes any provision of this by-law is guilty of an offense and upon conviction is liable to a fine not to exceed the maximum provided under the Provincial Offences Act, exclusive of costs, and every such fine shall be recoverable under the Provincial Offences Act.

6.7 If this by-law is contravened and a conviction is entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction is entered and any court of competent jurisdiction, may make an Order prohibiting the continuation or repetition of the offence by the person convicted.

6.8 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this by-law.

7 SEVERABILITY

7.1 Should any section, clause or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the by-law as a whole or any part thereof, other than the part which was declared to be invalid.

8 REPEALS

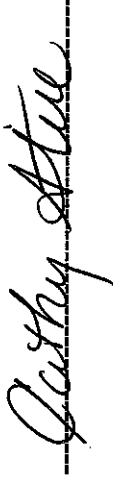
8.1 That By-law 17-98 be hereby repealed.

9 ENEACTMENT

9.1 This By-law shall come into force and take effect on the date it is passed.

AS READ A FIRST AND SECOND AND A THIRD TIME AND FINALLY PASSED IN OPEN COUNCIL THIS 20th DAY OF FEBRUARY 2018.

Seal



REEVE, CATHY STILL



CLERK, NICKY KUNKEL

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SCHEDULE A

NOISE CREATED FROM THE FOLLOWING ACTIVITIES IS PROHIBITED	PROHIBITED TIME OF DAY	PROHIBITED AREA
The operation of a radio, television, stereo or other electronic device including any amplification device, or any musical or other sound producing instrument.	At all times ----- 11:00pm to 8:00am	Residential ----- Other
Yelling, shouting or the like	10:00pm to 7:00am (to 8:00am on Saturdays, Sundays and holidays)	Residential and Other
The operation of a car wash	9:00pm to 7:00am (to 8:00am on Saturdays, Sundays and holidays)	Residential and Other
The venting or releasing of steam, the operation of a generator or air filtration system, noise from grinding, milling, the operation of machinery, or the like	9:00pm to 7:00am (to 8:00am on Saturdays, Sundays and holidays) ----- 11:00pm to 7:00am (to 8:00am on Saturdays, Sundays and holidays)	Residential ----- Other
The operation of waste collection machinery or refuse compacting equipment	9:00pm to 7:00am (to 8:00am on Saturdays, Sundays and holidays) ----- 11:00pm to 7:00am (to 8:00am on Saturdays, Sundays and holidays)	Residential ----- Other
Loading, unloading, packing, delivering or otherwise handling any container, product or material unless necessary for the maintenance of essential services for the moving or private household effects.	9:00pm to 7:00am (to 8:00am on Saturdays, Sundays and holidays) ----- 11:00pm to 7:00am (to 8:00am on Saturdays, Sundays and holidays)	Residential ----- Other
The operation of any tool including a hammer, saw, nail gun, lawnmower, staple gun, hedge trimmer, drill or the like	9:00pm to 7:00am (to 8:00am on Saturdays, Sundays and holidays)	Residential And Other
The operation of a combustion engine for a toy or a replica of a larger device such as a remote-controlled toy Aeroplane	9:00pm to 8:00am	Residential And Other
The operation of construction equipment	8:00pm to 7:00am (to 8:00am on Saturdays, and at all times on Sundays and holidays)	Residential And Other
The operation of duct cleaning devices, machinery or the like	11:00pm to 7:00am (to 8:00am on Saturdays, and at all times on Sundays and holidays)	Residential And Other