

# THE CORPORATION OF THE TOWN OF GORE BAY

## BY-LAW 2020-39

### BEING A BY-LAW TO PROHIBIT AND REGULATE NOISE WITHIN THE TOWN OF GORE BAY

Whereas Section 11 of the *Municipal Act, S.O. 2001 c. 25* as amended, provides that a municipality may regulate matters involving the health, safety and well-being of others; and

Whereas Section 129 of the *Municipal Act, S.O. 2001 c. 25* as amended, provides that a municipality may prohibit and regulate with respect to noise; and

Whereas noise is recognized as a form of pollution under the *Environmental Protection Act, R.S.O. 1990, c. E.19* as amended; and

Whereas the residents have a right to and should be ensured an environment free from unusual, unnecessary, or excessive sound or vibration which may degrade the quality and tranquillity of their life or cause a nuisance; and

Whereas the Council of the Corporation of the Town of Gore Bay desires to preserve the peace and quiet of the residents of the Town of Gore Bay through the control, prevention and reduction of loud and excessive noise:

Now Therefore, the Council of the Corporation of the Town of Gore Bay enacts as follows:

#### 1.0 Definitions

- 1.1 “Construction” - includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, 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 of for any purpose, and includes any work in connection therewith.
- 1.2 “Construction Equipment” means any equipment or device designed and intended for use in construction or material handling, including but not limited to, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenches, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment.
- 1.3 “Conveyance” includes a vehicle and any other device employed to transport a person or persons or goods from place to place but does not include any such device or vehicle if operated only within the premises of a person.
- 1.4 “Council” means the Council of the Corporation of the Town of Gore Bay.
- 1.5 “Essential Services” means services that are vital to the health and welfare of a population and therefore are essential to maintain even in a disaster.
- 1.6 “Explosive Devices” means family fireworks, display fireworks, prohibited fireworks, firecrackers, or pyrotechnics.
- 1.7 “Highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicles.
- 1.8 “Motor Vehicle” includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power, but does not include the cars of electric or steam railways, or other motor vehicle 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, R.S.O. 1990, c. H.8* as amended.

- 1.9 “Motorized Conveyance” means a conveyance propelled or driven otherwise than by muscular, gravitational, or wind power.
- 1.10 “Noise” means unwanted sound or sound that is such a volume or nature that it is likely to disturb the residents of the Town.
- 1.11 “Nuisance Noise” means any loud, unnecessary or unusual sound or any sound whatsoever which annoys, disturbs, injures, endangers or distracts from the comfort, health, peace and/or safety of any reasonable person as determined by an officer.
- 1.12 “Owner” includes:
  - 1.12.1 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
  - 1.12.2 A lessee or occupant of the property.
- 1.13 “Persistent” means repetitive and lasting longer than one hour.
- 1.14 “Person” means an individual, association, firm, partnership or corporation.
- 1.15 “Point of reception” means any point on the premises of a person where sound or vibration originating from other than those premises is received.
- 1.16 “Power Device” means any powered device used in the servicing, maintenance or repair of any property.
- 1.17 “Premises” means a building or buildings including the associated land.
- 1.18 “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.
- 1.19 “Provincial Offences Officer” means a police officer, a constable appointed to any Act, a municipal law enforcement officer, a bylaw enforcement officer or a person Designated by a Minister of the Crown.

## 2.0 Prohibitions

- 2.1 No person shall emit, cause or permit the emission of sound or noise which is clearly audible at a Point of Reception anywhere or at any time within the municipality resulting from an act listed herein:
  - 2.1.1. The racing of any motorized conveyance other than in a racing event regulated by law.
  - 2.1.2. The operation of a motor vehicle in such a way that the tires squeal.
  - 2.1.3. The operation of a motor vehicle, motorized equipment, combustion engine, construction equipment or pneumatic device without an effective exhaust, intake-muffling device or other sound attenuation device of a type as specified by the manufacturer, which is in good working order and in constant operation.
  - 2.1.4. The operation of a motor vehicle or a motor vehicle with a trailer resulting in banging, clanking, squealing, or other like sound due to improperly secured load or equipment, or inadequate maintenance.
  - 2.1.5. The operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers,

and intended for the production, reproduction or amplification of sound, such as the operation of a radio, television, stereo or other electronic device including any amplification device or any musical or other sound producing instrument, in such a manner as to disturb the peace and comfort of a person or persons at a Point of Reception.

2.1.6. 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.

2.2. No person shall emit, cause or permit the emission of sound or noise which is clearly audible at a Point of Reception anywhere within the municipality on any day at any time between the hours of 11:00 p.m. and 7:00 a.m., inclusive, resulting from an act listed herein:

2.2.1. 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.

2.2.2. 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.

2.2.3. Any loud, abusive, obscene language or singing, shouting, speaking, hooting or whistling which is likely to disturb any inhabitant.

2.2.4. The operation of a motorized conveyance other than on a Highway or authorized snowmobile trail.

2.2.5. The operation of any power device or any tool for domestic purposes other than snow removal, except in the case of short-term emergency.

2.2.6. The operation of any construction equipment or in connection with construction.

2.2.7. The operation of a combustion engine generator used to provide electrical power.

2.2.8. The operation of an engine or motor in, or on, any motor vehicle or items of attached auxiliary equipment for a continuous period exceeding five minutes, while such vehicle is stationary unless:

2.2.8.1. The original equipment manufacturer specifically recommends a longer idling period for normal and efficient operation of the motor vehicle in which case such recommended period shall not be exceeded.

2.2.8.2. Operation of such engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to, lift platforms and refuse compactors.

2.2.8.3. Prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine.

2.2.8.4. The idling is for the purpose of cleaning and flushing the radiator and associated circulation systems for seasonal change of antifreeze, cleaning of the fuel systems, carburettor or the like, when such work is performed other than for profit.

2.2.8.5. The operation of a motor vehicle horn or other warning device except where required or authorized by law or in accordance with good safety practices.

2.2.8.6. The operation of any items of construction equipment without effective muffling devices in good working order and in constant operation.

2.2.9 No person shall set off explosive devices consisting of family fireworks, display fireworks, prohibited fireworks, fire crackers or pyrotechnics during the prohibited hours.

### 3.0 Owner/Occupier Responsibilities

3.1 The owner, lessee, occupier or person in control of a premises is responsible for the 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 owner, lessee, occupier or person in control of the premises establishes that due diligence has been exercised in a bona fide effort to control and abate such nuisance noise.

### 4.0 Exemption – Public Safety

4.1 Notwithstanding any other provision of this Bylaw it shall not be unlawful during an emergency to emit or cause or permit the emission of sound or vibration in connection with emergency measures undertaken:

4.1.1 For the immediate health, safety or welfare of the inhabitants.

4.1.2 For the preservation or restoration of property, unless such sound or vibration is clearly of a longer duration or nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

4.1.3 For the noise, sound or vibration created by the operation of snow plowing or snow removal equipment for the clearing of sidewalks or streets.

4.1.4 For the noise or sound of any bell, horn, siren or other signaling device associated with any emergency or essential services.

4.1.5 For the operation of Generators for the purpose of power outages.

### 5.0 Exemption – Cultural, Religious, Traditional or Other Activities

5.1 Notwithstanding any other provision of this Bylaw it shall not be unlawful during any event to emit, cause or permit the emission of sound or vibration in connection with the event duly authorized by Council held on Town property.

5.2 For the activities of the event unless such sound or vibration is clearly of a longer duration or nature more disturbing, than is reasonably necessary.

5.3 For the ringing or sounding of church bells or chimes and the honking of a motor vehicle horn after a wedding.

5.4 For the noise, sound or vibration caused by farm equipment in the pursuit of normal farm practices.

### 6.0 Grant of Exemption by Council

#### 6.1 Application to Council

6.1.1 Notwithstanding anything contained in this Bylaw, any person may make application to Council to be granted an exemption from any of the provisions of this Bylaw with respect to any source of sound or vibration for which he/she might be prosecuted. Council, by Resolution, may grant or refuse to grant an exemption. Any exemption shall specify an in-effect time period, not in excess of six months and may contain such terms and conditions as Council sees fit.

6.2 Decision

6.2.1 In deciding whether to grant the exemption, Council shall give the applicant and any person opposed to the application an opportunity to be heard and may consider such other matters as it sees fit.

6.3 Breach

6.3.1 Breach by the applicant of any of the terms or conditions of any exemption granted by Council shall render the exemption null and void.

6.3.2 No person shall breach any terms or conditions of any exemption granted by Council.

7.0 Severability

7.1.1 If a court of competent jurisdiction should declare any section or part of a section of this Bylaw to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the Bylaw and it is hereby declared that the remainder of the Bylaw shall be valid and shall remain in force.

8.0 Enforcement and Penalties

8.1 This Bylaw shall be enforced by the Municipal Bylaw Enforcement Officer or a Provincial Offences Officer.

8.2 Any person who contravenes or fails to comply with any provision of this Bylaw is guilty of an offence and upon conviction is liable to a fine as provided by the Provincial Offences Act, R.S.O. 1990, chapter P.33 as amended.

8.3 No person shall hinder or obstruct or attempt to hinder or obstruct an officer who is exercising a power or performing a duty under this Bylaw.

9.0 Administration

9.1 This Bylaw repeals the Corporation of the Town of Gore Bay Bylaw 2012-28

9.2 This Bylaw will come into effect the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED  
THIS \_\_\_ DAY OF \_\_\_\_\_ 2020.

\_\_\_\_\_  
Dan Osborne, Mayor

\_\_\_\_\_  
Stasia Carr, CAO/Clerk

**Corporation of the Town of Gore Bay  
Part 1  
Provincial Offences Act  
By-Law 2020-39  
Prohibit and Regulate Noise By-Law**

Item	Short Form Wording	Provision creating or defining offence	Set Fine
1	Cause/Permit Noise- racing a motorized conveyance	2.1.1	\$125.00
2	Cause/Permit Noise- squealing motor vehicle tires	2.1.2	\$125.00
3	Cause/Permit Noise- operate motor vehicle without effective muffler	2.1.3	\$125.00
4	Cause/Permit Noise- operate motorized equipment without effective muffler	2.1.3	\$125.00
5	Cause/Permit Noise- operate pneumatic device without effective exhaust/muffler	2.1.3	\$125.00
6	Cause/Permit Noise- operate combustion engine without effective exhaust/muffler	2.1.3	\$125.00
7	Cause/Permit Noise- operate vehicle causing noise	2.1.4	\$125.00
8	Cause/Permit Noise- operate vehicle and trailer causing noise	2.1.4	\$125.00
9	Cause/Permit Noise- operate loudspeaker or electro-mechanical transducer	2.1.5	\$125.00
10	Cause/Permit Noise- playing musical or other sound producing instrument	2.1.5	\$125.00
11	Permit Noise- noise caused by domestic animal	2.1.6	\$125.00
12	Cause/Permit Noise- detonation of fireworks or explosive devices	2.1.9	\$125.00
13	Cause/Permit Noise- operate combustion engine associated with model or toy during prohibited times	2.2.1	\$125.00
14	Cause/Permit Noise- handling of materials during prohibited times	2.2.2	\$125.00
15	Cause/Permit Noise- singing, shouting, hooting or whistling during prohibited times	2.2.3	\$125.00
16	Cause/Permit Noise- shouting during prohibited times	2.2.3	\$125.00
17	Cause/Permit Noise- operate motorized conveyance during prohibited times	2.2.4	\$125.00
18	Cause/Permit Noise- operate tool for domestic purposes during prohibited times	2.2.5	\$125.00
19	Cause/Permit Noise- construction work during prohibited times	2.2.6	\$125.00
20	Cause/Permit Noise- operate generator during prohibited times	2.2.7	\$125.00
21	Cause/Permit Noise- operate engine in excess of five minutes during prohibited times	2.2.8	\$125.00
22	Breach condition or exemption granted by Council	6.3.2	\$125.00
23	Hinder or obstruct Officer	8.3	\$500.00

Note: The penalty provision for the offences indicated above is section 8.2 of this Bylaw 2020-39 of which a certified copy has been filed.