

**BY-LAW NO. 02-09**

**OF**

**THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW**

**Being a By-law to prohibit or control noises within the Township of Clearview.**

**WHEREAS** Section 138 of the Municipal Act, R.S.O. 1990 c. M45, as amended, empowers the councils of the local municipalities to pass by-laws prohibiting public nuisances.

**AND WHEREAS** the Council of The Corporation of the Township of Clearview deems it necessary and expedient to pass a by-law to control activities which cause noises that substantially interfere with other people's health, safety or the normal use and enjoyment of their property.

**NOW THEREFORE BE IT RESOLVED THAT:**

**1. INTRODUCTION**

**1.1 Title and Scope**

- 1.1.1 This is a By-law to regulate activities that substantially interfere with any person's enjoyment or use of their own property. This by-law will be known as the "**Noise By-law**" for the Corporation of the Township of Clearview.

**1.2 Validity and Severability**

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

**1.3 Interpretation**

- 1.3.1 Words used in the singular shall have corresponding meanings when used in the plural.  
1.3.2 "May" shall be construed as permissive.  
1.3.3 "Shall" shall be construed as imperative.

**1.4 Force and Effect**

- 1.4.1 This By-law shall come into force and take effect on the day that it receives the approval of the Council of the Township of Clearview.

## **2. DEFINITIONS**

For the purposes of this By-law, the following words shall have the meaning ascribed herein:

- 2.1 **"Council"** means the Council of the Corporation of the Township of Clearview
- 2.2 **"Owner"** includes: an assessed owner, tenant, occupant or any person having an interest, whether equitable or legal, in the land.
- 2.3 **"Noise"** includes any sound as listed in Schedule "A" attached.
- 2.4 **"Person"** means any human being, association, firm, partnership, private club, incorporated company, corporation, agent or trustee and the heirs, executors, or other legal representatives of a person to who the context can apply according to the By-law.
- 2.5 **"Property Maintenance Equipment"** shall include, but is not limited to lawn mowers, leaf blowers or vacuums, lawn trimmers, chain saws, garden tractors, power sprayers and washers and other equipment powered by gasoline internal combustion engines normally used for or associated to household, lawn and garden maintenance
- 2.6 **"Township"** means the Corporation of the Township of Clearview".
- 2.7 **"Zoning By-law"** the prevailing Zoning By-law(s) in force and effect in the Township of Clearview.

## **3. OFFENCES**

- 3.1 No owner shall cause or permit the creation, presence or existence of any noise or unusual sound that disturbs or are likely to disturb any inhabitant of the Township of Clearview.
- 3.2 Section 3(1) does not apply to the exceptions or circumstances as outlined in Schedule "B" attached.

## **4. ADMINISTRATION, ENFORCEMENT AND INSPECTION:**

- 4.1 This By-law shall be administered by the Municipal Law Enforcement Officer(s) of the Township or such other person or persons as Council may, by by-law, appoint and all such persons shall be considered inspectors under the terms of the By-law.
- 4.2 This By-law shall be enforced by the Municipal Law Enforcement Officer(s) or such other person or persons as the Council may by by-law appoint under this By-law.
- 4.3 Any Municipal Law Enforcement Officer may enter on any property at any reasonable time for the purpose of enforcing this By-law

## **5. PENALTY**

- 5.1 Every person who:

- (a) hinders, disturbs or obstructs any Inspector in carrying out their duties under this By-law, or;
- (b) Contravenes any provision of this By-law

is guilty of an offence and, upon conviction, is subject to a penalty as provided under the Provincial Offences Act

## **6. Continuing Offence**

- 6.1 Each day that a situation as described in Sections 3.1 By-law is allowed to continue shall constitute a separate offence under this By-law and any Judge or Justice of the Peace adjudicating on such matter may assess a separate fine for each and every day that such situation has been allowed to continue.

## **7.0 CORPORATIONS**

- 7.1 Every person and an officer director, employee or agent of a corporation charged with committing an offence under this By-law is a party to the offence who;
- (a) actually commits it; or
  - (b) Does or omits to do anything for the purposes of aiding any person to commit it, or
  - (c) Abets any person in committing it. Where two or more persons form an intention in common to carry out an unlawful purpose, and to assist each other therein, each of those who knew or ought to have known that the commission of an offence under this By-law would be a probable consequence of carrying out the common purpose is a party to the offence.

BY-LAW NUMBER 02-09 read a first, second and third time and finally passed this 5<sup>th</sup> day of March 2001

Original Signed by:  
Mayor  
Clerk

Schedule A  
Noise By-law  
By-Law No. 02-09  
Township of Clearview

Without limiting the generality of Section 3.1, the following are sounds that are deemed to be noises that will disturb or are likely to disturb an inhabitant of Clearview Township.

A/ The noise or sound made or created by any radio, phonograph, public address system, sound equipment, loud speaker, musical instrument or other sound-producing equipment, when the equipment is played or operated in such a manner that the sound or noise made or created thereby disturbs the peace, comfort or repose of any person, or a police officer or Municipal Law Enforcement Officer acting in accordance with their duties, shall be deemed to be noises likely to disturb.

B/ The noise or sound caused or made by an amplifier to loud speaker carried in or attached to a motor vehicle being operated or standing on a public highway shall be deemed to be a noise likely to disturb.

C/ The sound made by an animal or bird under the care, custody or control of a person which disturbs the peace, comfort or repose of any person in another occupied dwelling house shall be deemed to be noises likely to disturb.

D/ The noise or sound caused by the discharge into the open air or the exhaust from any steam engine, boiler, or stationary internal combustion engine, otherwise than through a muffler or other device which effectively prevents unnecessary noise shall be deemed to be noises likely to disturb.

E/ The wheel or tire noise, caused by the deliberate and unnecessary acceleration, rapid turning or rapid braking of a motor vehicle shall be deemed to be noises likely to disturb.

F/ The noise caused by the unnecessary racing of a motor of a standing motor vehicle shall be deemed to be noises likely to disturb.

G/ The noise caused by the erection, demolition, alteration or repair of a building or by construction or earth-moving equipment working upon a site within 500 feet of an occupied dwelling house on any day between the hours of 10:00 o'clock in the afternoon and 7:00 o'clock in the forenoon the next day, excepting Sundays, when no such noise shall be created before the hour of 12:00 noon and no such noise shall be made after 9:00 o'clock in the afternoon on a Sunday shall be deemed to be noises likely to disturb.



H/ The noise made by a property maintenance equipment within 100 feet of an occupied dwelling unit shall be deemed to be noises likely to disturb between the hours of 9:00 o'clock in the afternoon and 7:00 o'clock in the forenoon the next day on any day except Saturday or Sunday

I/ The noise made by a property maintenance equipment within 100 feet of an occupied dwelling unit shall be deemed to be noises likely to disturb between the hours of 9:00 o'clock in the afternoon on Friday until 9:00 o'clock in the forenoon on Saturday or between the hours of 9:00 afternoon on Saturdays and 12:00 o'clock noon on a Sunday.

J/ The noise made by air conditioning equipment which is likely to disturb the peace, comfort or repose of any person in a dwelling house shall be deemed to be noises likely to disturb.

Schedule "B"  
Noise By-law  
By-law No. 02-09  
Clearview Township

The following are exceptions to Section 3(1) of the By-law:

- A/ the noises made by a parade
- B/ the call of a newsboy, peddler, hawker or tradesman plying his/her trade
- C/ the sound from a radio or tape recorder in a motor vehicle if such sound is not audible at a distance of more than 8 metres (25 feet).
- D/ the sound of outdoors hymn singing or caroling.
- E/ the sound from an outdoor concert or band when approved by Council
- F/ the sound of church bells or chimes
- G/ the noise caused by the erection, demolition, alteration or repair of a building or by construction or earth-moving equipment working upon a site or highway when such work is undertaken by forces of the Corporation of the Township of Clearview, any Provincial road authority or County of Simcoe road authority or by any public utility.
- H/ the sirens or noises created by an emergency vehicle

Schedule "C"

Township of Clearview		By-law No.. 02-09	A By-law prohibiting excessive noise	
ITEM	COLUMN 1 Description of Offence	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine	
1.	Cause or permit excessive noise by (insert nature of noise)	Section 3.1	\$75.00	
2.	Interfere with Inspector carrying duty	Section 7(a)	\$100.00	

Note: The penalty provision for the offence listed above is Section 5.0 of By-law No. 02-09, a certified copy of which has been filed.

THE HONOURABLE RAYMOND P. TAILLON  
REGIONAL SENIOR JUSTICE OF THE ONTARIO COURT OF JUSTICE  
CENTRAL EAST REGION



L'HONORABLE JUGE RAYMOND P. TAILLON  
JUGE PRINCIPAL RÉGIONAL DE LA COUR DE L'ONTARIO  
RÉGION DU CENTRE-EST

440 KENT STREET WEST  
LINDSAY, ONTARIO K9V 6G8

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LINDSAY (ONTARIO K9V 6G8  
TELEPHONE/TÉLÉPHONE (705) 324-1410  
FAX/TÉLÉCOPIEUR (705) 324-1411

May 13<sup>th</sup>, 2002

Mr. Wes Prosser  
By-law Enforcement  
Township of Clearview  
217 Gideon Street  
P.O.Box 200  
Stayner, Ontario  
L0M 1S0

Dear Mr. Prosser:

**Re: Set Fines – Part I – Township of Clearview**

Enclosed herewith is a copy of an Order and a copy of a schedule of set fines for By-law No. 02-09, as amended for the By-law indicated in the schedule.

The setting of the fines does not constitute my approval of the short form of the wording used to describe the offences.

I have forwarded a copy of the Order and the schedule of the set fines to the Ontario Court of Justice in Barrie, together with a certified copy of the By-law.

Yours truly,

A handwritten signature in black ink, appearing to read 'R. P. Taillon'.

Justice R. P. Taillon  
Regional Senior Justice  
Central East Region

/gs

Enclosures



**PROVINCIAL OFFENCES ACT**

**PART I**

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the attached schedule of offences under the Provincial Statutes and Regulations thereunder and the By-law No. 02-09 as amended, of the Township of Clearview; attached hereto is the set fine for those offences. This Order is to take effect May 13<sup>th</sup>, 2002.

DATED at Lindsay

This 13<sup>th</sup> day of May, 2002.



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Justice R. P. Taillon  
Regional Senior Justice  
Central East Region  
Ontario Court of Justice

**THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW**  
**BY-LAW NO. 02-09,**  
**Part 1 – Provincial Offences Act**

**SET FINE SCHEDULE**

**SCHEDULE "A"**

ITEM #	Column 1 SHORT FORM WORDING	Column 2 OFFENCE CREATING PROVISION	COLUMN 3 SET FINE INCLUDING COSTS
1.	Permit noise which disturbs inhabitant	Section 3.1	\$90.00
2.	Hinder Inspector carrying out duties	Section 5.1 (a)	\$120.00
3.	Disturb Inspector carrying out duties	Section 5.1 (a)	\$120.00
4.	Obstruct Inspector carrying out duties	Section 5.1 (a)	\$120.00

NOTE: The penalty provision for the offences indicated above is Section 5.1(h) of By-law 02-09, a certified copy of which has been filed