

By-law 2018-148

**A By-law of the City of Greater Sudbury to Amend By-law 2018-29
Being a By-law of the City of Greater Sudbury to Regulate Noise**

Whereas Council for the City of Greater Sudbury deems it advisable to amend By-law 2018-29 being a By-law of the City of Greater Respecting Noise, in order to supplement the enforcement proceedings;

Now therefore Council of the City of Greater Sudbury hereby enacts as follows:

1. By-law 2018-29 being a By-law of the City of Greater Respecting Noise is hereby amended by repealing section 19 and enacting the following sections 19A to 19I in its place and stead:

"Enforcement - No Obstruction, Etc.

19A.-(1)This By-law may be enforced by any Municipal Law Enforcement Officer.

(2) No person shall hinder or obstruct, or attempt to hinder or obstruct, any Person exercising a power or performing a duty under this By-law.

Offence

19B.-(1)Every Person who contravenes any of the provisions of this By-law and any director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*.

(2) For the purposes of subsection 19B(1), each day on which a Person contravenes any of the provisions of this By-law shall be deemed to constitute a separate offence under this By-law.

(3) The levying and payment of any fine as provided for under the *Provincial Offences Act* shall not relieve a person from the necessity of compliance with the obligations under this By-law.

(4) The making of a false or intentionally misleading statement or representation in any agreement or request for permission provided for by this By-law shall be deemed to be a violation of the provisions of this By-law.

Right of Entry - Inspection

19C. A Municipal Law Enforcement Officer may enter on private property at all reasonable times to ascertain whether there is compliance with:

- (a) the provisions of this By-law;
- (b) a direction or order or notice given under this By-law; or
- (c) the conditions of a Permit issued under this By-law.

Order to Discontinue

19D. Where a Municipal Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Municipal Law Enforcement Officer may make an order requiring the Person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity. The order shall set out reasonable particulars of the contravention, the location of the land on which the contravention is occurring and the date by which there must be compliance.

Order to Comply

19E.-(1) Where a Municipal Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, an order may be made requiring the Person who contravened this By-law or who caused or permitted the contravention or the Municipal Law Enforcement Officer to correct the contravention. The order shall set out:

- (a) reasonable particulars of the contravention;
- (b) particulars of the location where the contravention occurred;
- (c) any work to be done or steps to be taken to comply with this By-law;
- (d) the date by which the work must be done or steps taken; and
- (e) provide that if any work specified is not completed by the date specified to the satisfaction of the Municipal Law Enforcement Officer, that the Municipal Law Enforcement Officer may cause the work to be done at the expense of the Person.

(2) Pursuant to subsection 445(3) of the *Municipal Act, 2001*, as amended, an order pursuant to subsection 19E(1) may require the work to be done even though the facts

which constitute the contravention of the By-law were present before this By-law making them a contravention came into force.

Service of Orders

19F. Service of an order issued under section 19D or subsection 19E(1) shall be given to each Person, by delivering personally to the Person or where the order affects a particular property, by registered mail to the Person at the mailing address for the owner of the property as set out in the tax records for the City, or in the case of an order affecting a Permit Holder, by mailing to each Permit Holder by registered mail at the address recorded for that Permit Holder Operator in the application for the Permit or to the address of the property to which the Order relates.

Comply with Order

19G. Every Person who is served with an order under this By-law shall comply with the requirements of the order within the time period specified in the order and every Person who fails to comply shall be guilty of an offence.

Remediation by City

19H. Where a Person fails to comply with the requirements of the order under subsection 19D or subsection 19E(1) within the time period specified in the order, the Municipal Law Enforcement Officer may cause such work to be done or take such steps as are necessary to meet the requirements of the order, and the cost thereof including interest thereon at the rate established under the User Fee By-law as applicable to debts to the City of Greater Sudbury, from the date the costs were incurred until payment in full and may be recovered by any means open to the City of Greater Sudbury, including without limitation by action and where land is owned in the name of the Person subject to the order, by adding same to the property tax rolls for that land and collecting the amount in the same manner as property taxes.

Attendance Fee

19I.-(1) An enforcement attendance fee in an amount determined in accordance with the User Fee By-law shall be payable on a time spent basis:

(a) for the second and each subsequent inspection conducted by a Municipal Law Enforcement Officer to ascertain compliance with a notice, direction or order pursuant to this By-law, which is conducted after the specified date for compliance; and

(b) in the event that a Municipal Law Enforcement Officer attends any remediation directed by or conducted by the City, pursuant to this By-law as a result of a failure to comply with an order made pursuant to this By-law.

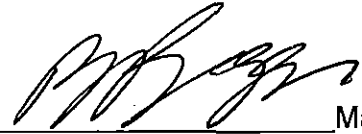
(2) Any fee under subsection 19I.(1) shall be payable:

(a) in accordance with the provisions of the User Fee By-law; and

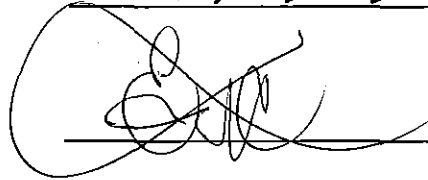
(b) in addition to any fine levied upon conviction of an offence under this By-law, and whether or not there is a charge laid, and whether or not any charge laid leads to a conviction."

2. This By-law comes into effect upon passage.

Read and Passed in Open Council this 14th day of August, 2018



Mayor



Clerk