

**THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES
BY-LAW NUMBER ____-23**

**BEING A BY-LAW TO PROHIBIT AND REGULATE NOISE WITHIN THE TOWNSHIP
OF NORTH DUMFRIES AND TO REPEAL BY-LAW NUMBER 2609-14**

WHEREAS it is recognized that people will be exposed to Noise in the course of their daily lives;

AND WHEREAS it is recognized that people have a right to and should be provided, to the extent possible, an environment free from unusual, unnecessary or excessive Noise which may unreasonably degrade the quality and tranquility of their life or cause a nuisance;

AND WHEREAS Council is authorized by Sections 11(2), 128 and 129 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, to enact by-laws for prohibiting or regulating Noises that are likely to disturb, cause a nuisance, or affect the health and general well-being of the inhabitants of the Municipality;

AND WHEREAS, a local municipality may prohibit the matters described in clause 129 (a) of the Municipal Act, 2001, S.O. c. 25, unless a permit is obtained from the municipality for those matters and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans.

AND WHEREAS Section 391 of the Municipal Act, 2001 authorizes Council to pass bylaws imposing fees and charges on any class of persons for services or activities provided or done by or on behalf of it;

AND WHEREAS Subsection 398(1) of the Municipal Act, 2001 states that fees and charges imposed by a municipality on a person constitute a debt of the person to the municipality;

AND WHEREAS Section 429 of the Municipal Act, 2001 provides that a municipality may establish a system of fines for an offence under a by-law passed under the Act;

AND WHEREAS Subsection 434.1 of the Municipal Act, 2001 provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that a person has failed to comply with a by-law of the municipality passed under the Municipal Act;

AND WHEREAS Subsection 434.2(1) of the Municipal Act, 2001 provides that an administrative penalty imposed by a municipality on a person constitutes a debt of the person to the municipality;

AND WHEREAS this by-law does not regulate traffic noise;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES ENACTS AS FOLLOWS:

1. SHORT TITLE

This by-law may be cited as the “Noise by-law.”

2. DEFINITIONS

- a) **“Agricultural Zone”** means a zone identified as an Agricultural Zone in the Township of North Dumfries Zoning by-law.
- b) **“Amplified Sound”** means Sound made by any electronic device or a group of connected electronic devices incorporating one or more loudspeakers or other electromechanical transducers, and intended for the production, reproduction or amplification of Sounds;
- c) **“Clerk”** means the Clerk for the Township of North Dumfries
- d) **“Construction”** includes erection, alteration, repair, dismantling, demolition, structural maintenance, 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 or for any purpose, and includes any work in connection therewith.
- e) **“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, 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.
- f) **“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.
- g) **“Council”** means the Council of The Corporation of the Township of North Dumfries.
- h) **“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.

- i) **“Incidental Noise”** means extraneous sound which can be heard while listening to or monitoring other sounds.
- j) **“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 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.
- k) **“Motorized Conveyance”** means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power.
- l) **“Municipality”** means the land within the geographic limits of the Township of North Dumfries
- m) **“Municipal Parks”** means parks owned and operated by the Township of North Dumfries.
- n) **“Noise”** means sound and vibration arising therefrom, emitted in such a manner or with such volume as to likely disturb local inhabitants.
- o) **“Noises likely to Disturb”** includes a Noise which disturbs an Officer investigating complaints that are received in regard to enforcement of this by-law.
- p) **“Officer”** means a municipal law enforcement officer of the Township of North Dumfries or a Waterloo Regional Police officer.
- q) **“Point of Reception”** means any point on the premises of a person where sound or vibration originating from other than those premises is received.
- r) **Singular - plural - present - future tense** Words in the singular include the plural; words in the plural include the singular number; and words in the present tense include the future.
- s) **“Special Event”** means a gathering of persons on municipal property or other property or a combination thereof and those events that impact municipal services, generally lasting from a few hours to a few days, which may include but is not limited to a concert, gathering, ceremony, procession, cycling event, filming, fair, sports/athletic event, dance, exhibit, party, festival, parade, picnic, fireworks, walk-a-thon, road race, concert, fair or any combination thereof or other event that requires one or more approvals of the Township of North

Dumfries local board or municipal official, including but not limited to a noise by-law exemption.

3. GENERAL PROHIBITIONS

- a)** No person shall emit or cause or permit the emission of Noise resulting from any act listed in Schedule 'A' of this by-law, from any point located on land within the geographical limits of the Township of North Dumfries, within a prohibited time shown in said Schedule 'A' if said emission is clearly audible at any point of reception located on land within the geographical limits of the Township of North Dumfries.
- b)** No person shall emit or cause or permit the emission of Noise resulting from an act listed in this Article, and which Noise is clearly audible at a point of reception within the geographical limits of the Township of North Dumfries.
- c)** Racing of any motorized conveyance other than in a racing event regulated by law is prohibited.
- d)** The operation of a motor vehicle in such way that the tires squeal is prohibited.
- e)** 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 is prohibited.
- f)** The operation of a vehicle with a trailer resulting in banging, clanking, squealing or other like Noises due to improperly secured load or equipment, or inadequate maintenance is prohibited.
- g)** 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 is prohibited.
- h)** The operation of any item of construction equipment without effective muffling devices in good working order and in constant operation is prohibited.
- i)** The Noise or sounds caused or made by an amplifier or loudspeaker carried in or attached to a motor vehicle being operated or standing on a public highway is prohibited.

4. EXEMPTIONS

- a)** Notwithstanding any other provisions of this by-law, it shall be lawful to emit or cause or permit the emission of Noise in connection with emergency measures undertaken.
- b)** Incidental Noise for the immediate health, safety or welfare of the inhabitants or any of them is permissible.
- c)** Incidental Noise 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 is permissible.
- d)** Normal farming operations as governed by the *Farming and Food Production and Promotion Act*.

5. GRANT OF EXEMPTION

- a)** Notwithstanding anything contained in this by-law, any person may make application to the Clerk, in a form and with such content as required by the Clerk, to be granted an exemption from any of the provisions of this by-law with respect to any source of Noise for which such person might be prosecuted. The application shall be taken to Council who may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect, and any exemption so granted shall specify the time period, not in excess of six (6) months, during which said exemption shall be effective, and may contain such terms and conditions as Council sees fit.
- b)** The Chief Administrative Officer and/or the Director of Leisure and Community Services may provide at their discretion approval for exemptions for reoccurring events that have received prior approval from Council and are in good standing.
- c)** The Chief Administrative Officer and/or Director of Engineering and Public Works may provide at their discretion approval for exemptions for activities related to infrastructure construction works undertaken by Township authorized public authorities.
- d)** Breach by the applicant for any exemption granted shall render the exemption null and void.
- e)** Those seeking an exemption under this by-law shall provide written notice to all properties located within one hundred and twenty (120) metres of the proposed

location, and at least sixty (60) days prior to the proposed date(s) wherein the Noise will be emitted. The required notification shall be in a form and with such content as required by the Township. A copy of the notice, along with confirmation of the required distribution may be requested for submission to the Township.

- f) If an application for exemption is approved, the Clerk shall issue a permit to the applicant providing for the Noise exemption and noting the period of time to which the exemption shall apply, as well as any conditions attached to said exemption. The applicant shall display said permit in a conspicuous location at the premises where the Noise will be emitted, so that said permit is visible to the general public. The permit shall remain displayed in the manner required pursuant to this subsection until such time as said permit expires.

6. ACTIVITIES EXEMPTED

- a) Notwithstanding any other provisions of this by-law, this by-law does not apply to a person who emits or causes or permits the emission of Noise in connection with any of the activities set out in Sections 6(b) through 6(g) inclusive.
- b) Incidental Noise from any parade duly authorized by the Township of North Dumfries is permissible.
- c) Church activities Incidental Noise from the use of bells or chimes normally associated with Church activities is permissible.
- d) Incidental Noise from any carnival, midway or circus is permissible.
- e) Incidental Noise up to 11:00 p.m. from any sporting, recreational, musical, entertainment or other event, activity or performance in municipal parks, or municipal buildings for which permission has been issued by the Township of North Dumfries is permissible.
- f) Noise generated during permitted park activities and/or special events held in municipal parks.
- g) Incidental Noise from all activities of The Township of North Dumfries, or its servants or agents, associated with the provision of maintenance and essential services is permissible.
- h) Incidental Noise from the detonation of fireworks duly authorized by the Township of North Dumfries is permissible.

- i) Any place of work located in a general construction or industrial site within the limits of the Township, except for those times set out in Schedule “A” shall still apply.

7. FEES AND CHARGES

- a) Council may impose fees and charges to recover its costs in relation to the administration and enforcement of this by-law.

8. ENFORCEMENT

- a) The provisions of this by-law shall be enforced by Municipal Law Enforcement Officers designated by Council, and by members of the Waterloo Regional Police Service.

9. OFFENCE

- a) Every person who contravenes any of the provisions of this by-law is guilty of an offence and, upon conviction thereof, is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.
- b) Each day on which a person contravenes any provision of this bylaw shall be deemed to constitute a separate offence under this bylaw as provided for in section 429(2) of the Municipal Act, S.O. 2001, c. 25.

10. SEVERABILITY

- a) If any section or sections of this by-law or parts thereof shall be found by any Court to be invalid or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent therefrom and continue in full force and effect unless and until similarly found and this by-law shall be enacted as such.

11. BY-LAW REPEAL

- a) By-law 2609-14, as amended, is repealed on the date this by-law comes into force and effect.

12. COMING INTO FORCE

- a) This by-law shall come into force and effect on the final passing of this by-law.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS __ DAY
OF _____, 2023.**

Susan Foxtan, Mayor

Ashley Sage, Clerk

SCHEDULE

Schedule 'A' - Prohibitions by time and place

The detonation of fireworks or explosive devices not used in construction.	At all times other than those days in By-law 3325-22.
The noise or sound made or created by any radio, phonograph, public address system, sound equipment, loudspeaker, 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 unreasonably disturbs the peace, comfort or repose of any person in a dwelling house, or a police officer acting in accordance with their duties under the Police Services Act, or successor.	At all times
Persistent barking, calling or whining or other similar persistent noise making by any domestic pet or any other animal kept or used for any purpose other than agriculture.	At all times
The operation of a commercial car wash with air drying equipment	2100 hrs one day to 0700 hrs the next day
Yelling, shouting, hooting, whistling or singing	2100 hrs one day to 0700 hrs the next day
All selling or advertising by shouting or outcry or amplified sound.	2100 hrs one day to 0700 hrs the next day
Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials, or refuse, whatsoever, unless necessary for the maintenance of essential services, the moving of private household effects, or in connection with the delivery of goods to retail business establishments, restaurants including cafes and bars, hotels, motels and goods distribution facilities.	2100 hrs one day to 0700 hrs the next day
The operation of any equipment in connection with construction.	1900 hrs one day to 0700 hrs the next day At all times on Sundays and Statutory Holidays other than September 30 and November 11

The operation or use of any tool for domestic purposes other than snow removal.

1900 hrs one day to 0700 hrs the next day. All times on Sundays