

THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES

BY-LAW NUMBER:.....2609-14.....

Being a By-law to prohibit and regulate noise within the Township of North Dumfries and to repeal By-law No. 2249-07.

WHEREAS subsection 129(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the “*Municipal Act, 2001*”), authorizes a municipality to pass a by-law to prohibit and regulate noise;

AND WHEREAS subsection 129(2) of the *Municipal Act, 2001* authorizes a municipality to issue a permit for prohibited noise and the municipality may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS the Council of The Corporation of the Township of North Dumfries deems it necessary to prohibit and regulate noise within the municipality;

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

1. SHORT TITLE:

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

2. DEFINITIONS:

2.1. For the purpose of this by-law the following terms shall have the corresponding meaning:

(a) “Council” shall mean the municipal Council of the Township;

(b) “Emergency Vehicle” shall mean, but not limited to, a fire department vehicle, a police vehicle, an emergency response vehicle, or an ambulance, used by a person in the lawful performance of his or her duties;

(c) “Construction Equipment” shall mean any equipment or device designed and intended for use in the movement, storage, control and protection of materials, goods and products throughout the process of manufacturing, distribution and disposal, including but not limited to air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, off-highway haulers or trucks, ditchers, compactors and rollers, concrete mixers, graders or other industrial or commercial equipment;

(d) “Fees and Charges By-law” means the by-law passed by Council pursuant to section 391 of the *Municipal Act, 2001* establishing the fees and charges for

services or activities provided by or on behalf of the Township, as amended or replaced from time to time;

- (e) "Municipal Law Enforcement Officers" means a person appointed by Council pursuant to section 15 of the Police Services Act, R.S.O. 1990, c. P.15;
- (f) "Noise" shall mean an unwanted sound;
- (g) "Permit" shall mean a permit under section 5 of this by-law;
- (h) "Statutory Holiday" shall mean a legal holiday set aside by Federal or Provincial statute for recreation, the cessation of work, or religious observance;
- (i) "Township" shall mean The Corporation of The Township of North Dumfries.

3. GENERAL PROHIBITIONS:

- 3.1. No person shall make, cause or permit Noise or vibration, at any time, which is likely to disturb an inhabitant of the Township, which may include disturbing the quiet, peace, rest, enjoyment, comfort or convenience of the inhabitant.
- 3.2. Noise arising from the use of Construction Equipment is prohibited before 7:00am and after 7:00pm on Mondays to Saturdays, and is prohibited at all times on Sundays and on Statutory Holidays.

4. GENERAL EXEMPTIONS:

4.1. None of the provisions stated in Part 3 shall apply to the following:

- (a) the operation of any Emergency Vehicle while in the performance of their duties, and any siren or similar device attached thereto;
- (b) any sound arising from the operation of any railway which operates under the *Railway Safety Act*, R.S.C., 1985, c. 32 (4th Supp.), as amended, or from any plant or work in connection with such a railway;
- (c) the use of farm machinery or equipment used in connection with agricultural or farming operations;
- (d) the maintenance or repairs to roads or infrastructure carried out by the Township, Region of Waterloo, or any Provincial or Federal agency, agents or contractors thereof;
- (e) the use in a reasonable manner of any apparatus or mechanism for the purpose of amplification of the human voice or of music in a park or recreational area under the control and management of the Township in connection with any public

election meeting, public celebration or other lawful gathering, provided that permission of Council has first been obtained pursuant to section 5 below;

- (f) any band, parade or special event operating under written authority from the Regional Municipality of Waterloo or the Township;
- (g) the use of bells or chimes normally associated with places of religious worship;
- (h) any place of work located in a legal construction or industrial site within the limits of the Township, except section 3.2 shall continue to apply; or,
- (i) any emergency measures undertaken (i) for the immediate health, safety or welfare of the public, or (ii) for the preservation, restoration or maintenance of equipment, services or facilities of required public services within the Township.

5. EXEMPTION BY COUNCIL:

5.1. A person may apply for a Permit exempting a person or event from the provisions of this by-law by submitting an application to Council no later than sixty (60) days prior to the date of the event for which the exemption is sought.

5.2. The application shall include:

- (a) the name and address of the applicant;
- (b) the name and address of the organization represented by the applicant, if applicable;
- (c) the source of the Noise for which an exemption is sought;
- (d) the details of the event, including but not limited to: the time, the date, the location, and the reason why an exemption is being sought; and,
- (e) the application fees pursuant to the Fees and Charges By-law.

5.3. Notice of the application shall be published in a newspaper of general circulation in the Township ten (10) days before the application goes before Council. The Notice shall include the information outlined in section 5.2 and the date the application will be heard by Council.

5.4. The Council, at its sole discretion and by way of resolution, may:

- (a) issue a Permit, subject to such terms and conditions as Council deems necessary;
- (b) alter the application and issue a Permit, subject to such terms and conditions as Council deems necessary; or,

(c) refuse to grant a Permit.

5.5. The Permit shall only be valid for the date, time, place and event as set out in the Permit. The Permit shall not be transferrable.

5.6. No person shall fail to comply with any terms or conditions of a Permit.

6. Fees and Charges:

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

7. ENFORCEMENT:

7.1. This by-law may be enforced by Municipal Law Enforcement Officers or by the Waterloo Regional Police Service.

8. OFFENCE:

8.1. Every person who contravenes any of the provisions of this by-law is guilty of an offence and pursuant to section 429 of the *Municipal Act, 2001*, all contraventions of this by-law are designated as continuing offences.

8.2. Every person who is convicted of an offence is liable to a minimum fine of One Hundred and Thirty-Five Dollars (\$135.00) and a maximum fine of Twenty-Five Thousand Dollars (\$25,000.00) for the first offence and a maximum fine of Fifty Thousand Dollars (\$50,000.00) for a subsequent offence.

8.3. In addition to the fine amounts set out in section 8.2 of this by-law, for each day or part of a day that an offence continues, the minimum fine shall be One Hundred and Thirty-Five Dollars (\$135.00) and the maximum fine shall be Ten Thousand Dollars (\$10,000.00). The total of all daily fines for the offence is not limited to One Hundred Thousand Dollars (\$100,000.00).

8.4. In addition to the provisions of sections 8.2 above, upon conviction a person is liable to a set fine as provided pursuant to the *Provincials Offences Act*, R.S.O 1990, c. P. 33, as amended.

9. SEVERABILITY:

9.1. In the event any section or sections of this by-law or parts of it are found by a Court to be illegal or exceed the power of the 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 and shall continue in full force.

10. BY-LAW REPEAL:

10.1. Except as provided by section 10.2 hereof, By-Law No. 2249-07, as amended, is repealed on the date this by-law comes into force and effect.

10.2. Notwithstanding section 10.1, By-Law No. 2249-07, as amended, is deemed to continue in force and effect with respect to any and all orders, appeals or prosecutions issued, filed or commenced under that by-law, and any assessment, rate, charge, tax, fee, liability or penalty outstanding under By-Law No. 2249-07 may be collected as if such by-law had not been repealed.

11. COMING INTO FORCE:

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

Enacted this 20 day of January, 2014.



Mayor – Robert Deutschmann



CAO-Clerk – Roger Mordue

THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES
PART II PROVINCIAL OFFENCES ACT
BY-LAW NO.

SET FINE SCHEDULE

NOISE BY-LAW

<u>COLUMN 1</u> <u>SHORT FORM WORDING</u>	<u>COLUMN 2</u> <u>PROVISION</u> <u>CREATING</u> OR <u>DEFINING OFFENCE</u>	<u>COLUMN 3</u> <u>SET FINE</u>
1. Make or cause noise likely to disturb the inhabitants	Section 3.1	\$135.00
2. Fail to Comply with a Permit	Section 5.6	\$250.00

NOTE: the general penalty provision for the offences listed above is section 7.1 of the Bylaw _____, a certified copy of which has been filed.