

CORPORATION OF THE TOWNSHIP OF WARWICK

BY-LAW NO. 65 OF 2011

BEING A BY-LAW TO PROVIDE FOR THE PROHIBITION OF CERTAIN NOISES

WHEREAS Section 129 of The Municipal Act, R.S.O. 2001, states that a Municipality may pass by-laws for prohibiting or regulating noises:

AND WHEREAS it is deemed expedient and necessary to regulate or prohibit unusual noises, or noises likely to disturb the inhabitants of the municipality of the Township of Warwick;

NOW THEREFORE the Municipal Council of the Corporation of the Township of Warwick enacts as follows:

Part 1 - Definitions

“By-law Officer” means any person appointed by the municipality to act as a by-law enforcement officer.

“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 or for any purpose, and includes any work in connection therewith.

“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 and rollers, pumps, concrete mixers, graders or other material handling equipment.

“Council” means the Council of The Corporation of the Township of Warwick.

“Highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, via duct or trestle designed and intended for, or used by, the general public for the passage of vehicles.

“Minister” means the Minister of the Environment.

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“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, other motor vehicles running only upon rails, or a motorized snow vehicle, ATV, traction engine, farm tractor, self-propelled implement of husbandry or road building machine within the meaning of the Highway Traffic Act.

“Municipality” means the land within the geographic limit of the Township of Warwick.

“Noise” means unwanted sound.

“Police” means any member of the Ontario Provincial Police.

“Violator” means any person being an occupant, person of authority, owner or being in possession of a room, building, cabin or enclosed space, yard or lands appurtenant to a cabin, residence, building or motel from which a noise prohibited in Section 1 above is emitted, shall be deemed a violator of the said Par 2 whether or not he or she personally made or created the said noise, unless he or she proves affirmatively that the maker of the said noises was a trespasser on the said premises.

Part 2: NOISES – PROHIBITED

2.1 Likely to Disturb – Unusual – Prohibited

No person shall cause or permit to be caused any unusual noises or noises likely to disturb the inhabitants.

2.2 Likely to Disturb – Unusual – Set Out

For the purpose of Section 2 of this by-law, the noises or sounds deemed to constitute unusual noises or noises likely to disturb the inhabitants shall include, but are not limited to, those set out in sections 2.3 to 2.13 inclusive of this by-law.

2.3 Horn – Siren – Bell – Duration – Unreasonable

The sounding of a bell, horn, siren, or signal device for an unnecessary or unreasonable period of time is prohibited.

2.4 Radio – Loud Speaker – Other – Annoying – Disturbing

Unless specific permission is granted by the Municipality, the sound or noise from or created by any radio, phonograph, public address system, sound equipment, loud speaker, or similar device or devices, or any musical or sound producing instrument or whatever kind (amplified or not amplified), when such device or instrument is played or operated in such a manner or with such volume:

- (a) As to likely annoy or disturb the peace, quiet, comfort of repose of any individual in any type of residence; or
- (b) In the case of a device or instrument located in any commercial building or structure, as to be plainly audible upon the public streets at a distance of 8 metres (25 feet) from the building or structure in which such device or instrument is located:

is prohibited.

2.5 Dogs

No person who has the care, custody or control of a dog within the Municipal of Warwick Township shall permit such dog to indulge in prolonged yelping, howling, barking or other sounds during any time of the day or night.

2.6 Animal – Bird – Disturbing Peace – Quiet

Any sound made by any domestic pet, animal or bird, which is likely to disturb the peace, quiet, comfort or repose of any individual in any type of residence, is prohibited.

2.7 Vehicle – Rattling – In Disrepair – Maladjusted

The grating, grinding or rattling noises or sound caused by condition of disrepair or maladjustment of any motor vehicle, motorcycle, or other vehicle whatsoever or part or accessory thereof is prohibited.

2.8 Exhaust – Discharge – Without Muffler

The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorcycle, except through a muffler or other device that effectively prevents loud or explosive noises, is prohibited.

2.9 Construction – Excavation – 8 p.m. – 7 a.m.

Any noise arising between the hour of 8:00 o'clock p.m. of any day and 7:00 o'clock a.m. of the next following day from any excavation or construction work whatsoever, including the erection, demolition, alteration or repair of any building is prohibited, except in case of urgent necessity and then under a special permit from the Building Inspector.

2.10 Loud Speaker – Horn – Other – Advertising

The noise or sound created by the use or operation of any drum, horn, bell, radio or mechanical loudspeaker, or other instrument or device or sound-producing, or sound transmitting instrument or apparatus for the purpose of advertising or for attracting attention to any performance, show or sale or display of goods, wares or merchandise or which projects noise or sound into any street or other public place is prohibited, unless the Municipality has granted specific approval for same.

2.11 Loud Speaker – Other – In Vehicle – Use – Restricted

The noise or sound created by the use or operation of any radio or mechanical loudspeaker or amplifier or other instrument or device or sound-producing, sound-reproducing, or sound transmitting instrument or apparatus in or upon any vehicle is prohibited, unless the Municipality has granted specific approval for same.

2.12 Firearms – Discharge – Exception – Peace Officers

The noise or sound caused by the discharge of any gun or other firearm, air gun and spring-gun or any class or type thereof is prohibited in the urban areas of the Municipality. This prohibition shall not apply to peace officers in the performance of their duties.

2.13 Shouting – Verbal Sounds

The noise or sound caused by loud shouting, or excessive sounds generated by a human voice, which is likely to disturb the peace, quiet, comfort or repose of any individual in any type of residence is prohibited.

2.14 Highways – Prohibitions – Exceptions

The prohibitions imposed by the following sections do not apply to noises occurring on any street to which the Highway Traffic Act applies:

- (a) Section 2.7 (relating to vehicle noises arising from vehicles not in a proper state of repair);
- (b) Section 2.8 (relating to vehicle discharge noises other than through a noise muffling device); and
- (c) Section 2.11 (relating to devices for broadcasting amplified sound from vehicles).

Part 3 – EXEMPTIONS

3.1 Public Celebration – Election – Gathering – Authorized

None of the provisions of this by-law shall apply to the use in a reasonable manner of any apparatus or mechanism for the amplification of the human voice or of music in a public park or any other commodious space in connection with any public election meeting, public celebration or other lawful gathering, provided written permission of the Municipality has first been obtained.

3.2 Parade – Band – Authorized

None of the provisions of this by-law shall apply to any military or other band or to a parade operating under written permission from the Municipality.

3.3 Emergency Vehicle – Police – Fire – On Duty

None of the provisions of this by-law shall apply to any vehicle of the police or fire department or any ambulance or any public service or emergency vehicle while answering a call.

3.4 Radio – Private – Motor Vehicle – Conditions

None of the provisions of this by-law shall apply to any sound from any private radio in a motor vehicle, installed for the sole benefit or entertainment of the operator and occupants of such vehicle when same is not audible at a distance of 8 metres (25 feet) from such vehicle.

Part 4 – ENFORCEMENT

4.1 Offence

Every person who breaches a section of the by-law is guilty of an offence and subject to a penalty as provided under the “Provincial Offences Act”.

4.2 Continuation – New Offence

Each new day of a continuing offence will be considered a new offence.

4.3 Continuation – Repetition – Prohibited – By Order

The court in which the conviction has been entered and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

4.4 Other By-laws – Enforcement

This By-law is in conjunction with and also enforced under the provisions of the following by-laws: Official Plan, Zoning, Property Standards, Cleaning of Land, and Animal Control.

Part 5 – SEVERABILITY

5.1 Validity – Severable

It is declared that notwithstanding that any section or sections of this by-law, or parts thereof, may be found by any court of law to be bad or illegal or beyond the power of the Council to enact, such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this by-law are separate and independent therefrom and enacted as such.

Part 6 – CONFLICTING WITH THE HIGHWAY TRAFFIC ACT

6.1 Conflict

In the event of a conflict between the provisions of this by-law and the Highway Traffic Act, the Highway Traffic Act will prevail.

Part 7 – HEADINGS NOT PART OF THE BY-LAW

7.1 Headings

The headings in the body of this by-law are used for convenience or reference only and do not form part of the by-law.

Part 8 - SHORT TITLE: NOISE CONTROL BY-LAW

Part 9 – FORCE AND EFFECT

9.1 In Effect

This by-law shall come into force and effect on October 26th, 2011.

Part 10 – PREVIOUS BY-LAWS REPEALED

10.1 Any previous by-laws regulating noise passed by the Corporation of the Township of Warwick or its predecessors are hereby repealed.

READ A FIRST AND SECOND TIME THIS 26th DAY OF OCTOBER, 2011.

READ A THIRD TIME AND FINALLY PASSED THIS 26th DAY OF OCTOBER, 2011.

MAYOR – Todd Case

CLERK – Frances Woods

**The Corporation of the Township of Warwick
Part 1 Provincial Offences Act
By-law No. 65 of 2011**

Title: A By-law to provide for the prohibition of certain noises

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision or Defining Offence	COLUMN 3 Set Fine (including costs)	COLUMN 4 VSC	COLUMN 5 CC	COLUMN 6 Total
1.	Cause a noise likely to disturb the inhabitants	Section 2	\$ 300.00	\$ 60.00	\$ 5.00	\$ 365.00
2.	Permit to be caused a noise likely to disturb the inhabitants	Section 2	\$ 300.00	\$ 60.00	\$ 5.00	\$ 365.00

The penalty provision for the offence indicated above is Section 4.1 of By-law No. 65 of 2011, a certified copy of which has been filed.