

The Corporation of The Township of Tyendinaga

By-law 2021-60

Being a by-law to prohibit regulate noise within the Township of Tyendinaga

Whereas Section 9 of the Municipal Act S.O. 2001 c. 25, as amended provides a municipality the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

Whereas Section 129 of the Municipal Act, 2001, as amended, provides that a municipality may prohibit noise and vibration unless a permit is obtained from the municipality and may impose conditions for obtaining, holding and renewing the permit; and

Whereas excessive sound and inadequately controlled noise may impair public health, safety and welfare and may become a nuisance;

Now therefore be it resolved that the Council of The Corporation of Township of Tyendinaga enacts as follows:

SHORT TITLE

1. This By-law may be cited as the "Noise By-law".

INTERPRETATION

2. For the purposes of this By-law the following terms shall have the corresponding meanings:

"construction equipment" includes a bulldozer, excavator, trencher, jackhammer, crane, loader, scraper, paver, compactor, roller, grader, concrete mixer and the like;

"Council" means the Council of the Municipality;

"enforcement officer" means a by-law enforcement officer appointed by the municipality or a member of the Ontario Provincial Police (OPP);

"municipality" means the Township of Tyendinaga;

"noise" means sound that is of such a volume or nature that it is likely to disturb the inhabitants of the municipality;

"person" includes a corporation, organization, association, partnership and the like.

GENERAL EXEMPTIONS

3. (1) This By-law does not apply:
 - (a) during an emergency, either declared or implied, involving the health, safety or welfare of the public;
 - (b) any activity that is integral to the operation of any railway or airport within the legislative authority of Parliament;
 - (c) where the Municipality, its employees, contractors or agents are carrying out municipal operations or operating, maintaining or installing municipally-owned infrastructure, facilities or the like;
 - (d) to noise created by the activity of snow removal;

- (e) to road or bicycle races, parades, annual fairs, entertainment activities in public parks, neighbourhood social activities or other special events between the hours of 7 a.m. and 11 p.m. when such events have an approved Special Event Permit and such activity or event is in compliance with the conditions set by the approval of such activity or event;
- (f) activities and noise as part of a Community Event if the Event is operating under written permission of the Municipality;
- (g) to sport or recreational events in public parks during the hours of 7 a.m. to 11 p.m.;
- (h) to the use of implements of husbandry in the operation of agricultural endeavours;
- (i) to the operation of excavation equipment when used in a cemetery in conjunction with interment services;
- (j) operation of bells, chimes, carillons and clocks in religious or public buildings;
- (k) to emergency equipment or vehicles;
- (l) to the ignition of fireworks between sunrise to 1 hour after sunset generally, and from sunrise to 11 p.m. on long weekends; or
- (m) with respect to noise made in the municipality in connection with the delivery of goods to any of the following:
 - i) Retail business establishments.
 - ii) Restaurants, including cafes and bars.
 - iii) Hotels and motels.
 - iv) Goods distribution facilities

EXEMPTIONS BY COUNCIL

4. (1) Despite the provisions of this by-law, any person may apply to Council for an exemption to any provision of this by-law with respect to any noise to allow such person to emit, cause or permit such noise for the period of time set out in such application, and Council may grant such exemption, grant an alternative exemption or refuse such exemption, and may set out conditions to be met as Council sees fit for any exemptions granted.
- (2) Where an exemption is granted by Council, breach of any of the terms or conditions of the exemption shall render the exemption null and void;
- (3) Every person applying for an exemption shall, at least 4 weeks prior to the event, and no later than 10 business days prior to the Council meeting at which the request for exemption is to be addressed, provide to the Clerk of the Municipality:
 - (a) a complete and accurate application form as provided by the municipality setting out the particulars respecting the exemption requested; and
 - (b) payment of the exemption processing fee in the amount set by Council and in effect at the time of such exemption request.

GENERAL PROHIBITIONS

5. (1) No person shall, at any time, emit, cause or permit to be emitted or caused any noise created by:
 - (a) the persistent barking, calling or whining of any domestic pet or any animal, except an animal used for, and located on, the property of an agriculture, livestock based use;
 - (b) the squealing of motor vehicle tires while such vehicle is on property other than a highway as set out in the Highway Traffic Act, R.S.O. 1990, Chap. H.8, or any successor thereof;

- (c) the use of a horn, whistle, alarm, bell, gong or the like, except for an auditory safety or warning device or chimes used in association with a religious establishment;
 - (d) the detonation of explosives including, but not limited to fireworks and firecrackers or other devices that cause a spectacular explosion when ignited;
 - (e) noise caused by a defective or improperly installed muffler system on a combustion engine;
 - (f) the loud operation of a vehicle or home radio, stereo or the like at a level to disturb others and can be heard at a loud level more than 50 feet from the source; or
 - (g) incessant yelling, shouting or the like.
- (2) No Construction equipment shall be in use in any manner so as to cause noise to disrupt the quiet enjoyment of the residents between 9 p.m. and 7 a.m., or as per an approved permit from the municipality.

PENALTY - OFFENCE

6. Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33.
7. No person shall interfere with an enforcement officer in the lawful exemption of their duty enforcing the provisions of this by-law.

SEVERABILITY

8. If, for any reason, any section, clause or provision of this by-law is deemed by a Court or competent jurisdiction to be invalid, the same shall not affect the validity of this by-law as a whole or any part thereof other than the part which was declared to be invalid.

REPEALS

9. By-law Number 82-14 is hereby repealed as of the date and time of this By-law coming into effect.

ENACTMENT


10. This By-law shall come into full force and effect on the date of its passing.

Read a first and second time this 4th day October, 2021.

Read a third and final time and finally passed this 4th day October, 2021.



Rick Phillips, Reeve



Carla Preston, CAO/Deputy Clerk

**Township of Tyendinaga
By-law 2021-60
Part I Provincial Offences Act**

| Item | Column 1 Short Form Wording | Column 2 Provision creating or defining offence | Column 3 Set Fine |
|-------------|---|--|------------------------------|
| 1 | Persistent animal noise | 5. (1) (a) | \$200 |
| 2 | Noise caused by squealing tires | 5. (1) (b) | \$200 |
| 3 | Noise caused by horns, bells, or whistles | 5. (1) (c) | \$200 |
| 4 | Noise caused by explosives | 5. (1) (d) | \$200 |
| 5 | Noise caused by defective muffler | 5. (1) (e) | \$200 |
| 6 | Noise caused by radio or stereo | 5. (1) (f) | \$200 |
| 7 | Incessant yelling or shouting | 5. (1) (g) | \$200 |
| 8 | Noise caused by construction equipment between 9 p.m. and 7 a.m. | 5. (2) | \$200 |

NOTE: the general penalty provision for the offences listed above is section 6 of By-law 2021-60, a certified copy of which has been filed.