



The Municipality of Dutton/Dunwich

By-law No. 2011-10

A BY-LAW TO PROHIBIT AND REGULATE NOISE AND VIBRATION

WHEREAS Section 129 of the Municipal Act 2001 states that a Municipality may Prohibit and Regulate matters with respect to noise and vibration;

AND WHEREAS the Council wishes to list the By-law as an Offence under Part 1 of the Provincial Offences Act;

NOW THEREFORE the Municipal Council of the Corporation of the Municipality of Dutton/Dunwich enacts the following:

Section 1

Definitions

“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.

“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.

“Council” means the Council of the Corporation of the Municipality of Dutton/Dunwich

“Dwelling Unit” means a dwelling unit within the meaning of the Zoning By-law.

“Engine Brake” means a device commonly used in a truck, power unit, semi-trailer unit to slow or brake the vehicle by means of closing exhaust valves on the engine of the vehicle, or any similar device.

“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.

“Industrial District” means an industrial district as established by The Zoning By-law.

“Minister” means the Minister of the Environment and Energy (MOEE)

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“Motor vehicle” includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; 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.

“Motorized conveyance” means a conveyance propelled or driven otherwise than by a muscular, gravitational or wind power.

“Municipality” means the land within the geographic limit of the Corporation of the Municipality of Dutton/Dunwich.

“Noise” means unwanted sound at any time as regulated in the provisions of the By-law and includes but not limited to any unreasonably loud or excessive noise, noise which unreasonably disturbs, injures, or endangers the co-repose health, peace or safety of reasonable persons of ordinary standing within the jurisdictional limited of the Municipality of Dutton/Dunwich and /or noise which is so harsh, prolonged, unnatural, or unusual in time place as to occasion unreasonable discomfort to any persons with neighbourhood from which said noises emanate, or as their guests operators or customers of places of business, or as to detrimental adversely affect such residences or place of business.

“Outdoor Public Event” means an outdoor concert, sporting event, festival attraction or similar event, whether held on private or public property which the public-at-large is invited or admitted.

“Permitted Premises” means permitted premises within the meaning Alcohol and Gaming Regulations Act, 1997.

“Person” includes any company, corporation, owner, partnership, firm, association, society or party.

“Point of Reception” means any point on the premises of a person where sound or vibration originating from other than those premises is received.

“Police” means any member of the Ontario Provincial Police

“Municipal Enforcement Officer” means any person appointed by the municipality to act as a Municipal Enforcement Officer / Provincial Offenses Officer and or By-law Officer.

SECTION 2

General Prohibitions

Emissions – clearly audible – set out

No person shall emit or cause or permit the emission of sounds resulting from an act in so far as they are calculated to disturb the inhabitants of the Municipality of Dutton/Dunwich at any time or specifically described as factors for determining whether a sound is unreasonably loud or excessive include, but are not limited to the proximity of the sound to sleeping facilities, whether residential commercial, the land use, nature and zoning of the area from which the sound enters and the area where it is received or perceived, the time of day or night the sound occurs, the duration of the sound, the volume of the sound, the nature of the sound, whether the sound is recurrent, intermittent or constant, and the nature of the event or activity from which the sound emanates;

2.1 Racing – motorized conveyance – exception

No person shall emit or cause or permit the emission of sound as a result of Racing of any Motorized Conveyance other than in a racing event regulated by law.

2.2 Tires – squealing

No person shall emit or cause or permit the emission of sound as a result of the operation of a motor vehicle in such a way that the tires squeal.

2.3 Engine – pneumatic device – exhaust – ineffective

No person shall emit or cause or permit the emission of sound as a result of the operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in good working order and that is in constant operation.

2.4 Horn – use – other then warning

No person shall emit or cause or permit the emission of sound as a result of 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.

2.5 Construction equipment – operation

No person shall emit or cause or permit the emission of sound as a result of the operation any item of construction equipment in an area without effective muffling devices in good working order and that is in constant operation.

Section 3

PROHIBITIONS – BY TIME – PLACE

No person shall within the limits of the Municipality of Dutton/Dunwich make or permit to be made the following noises and vibrations in so far as they are calculated to disturb the inhabitants of those communities at any time.

3.1 Engine – combustion – toy – for amusement

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from the operation of a combustion engine which, is or, is used in, or is intended for use in a toy, or a model or replica of any device which model or replica has no function other than amusement and which is not a conveyance.

3.2 Loudspeakers – amplification sound equipment

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from the operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers, and intended for the production, reproduction or amplification of sound unless a Special Events Permit has been approved by permit issued by the Municipality of Dutton/Dunwich.

3.3 Signaling device – use other than for safety

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from the operation of any auditory signaling device, including but not limited to the ringing of bells or gongs and the blowing of horns, the use of drums, or sirens or whistles, or the production, reproduction or amplification of any similar sounds by electronic means except where required or authorized by law or in accordance with good safety practices.

3.4 Barking – calling – other – animal – pet

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from the 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.

3.5 Selling – advertising – by shouting

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from selling or advertising by shouting or outcry or amplified sound.

3.6 Construction equipment – use

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from the operation of any equipment in connection with construction between 9:00pm to 7:00am, unless in the commission of work connected with an emergency.

3.7 Tools – domestic use – exception – snow removal

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from the operation or use of any tool for domestic purpose other than snow removal between 9:00pm to 7:00am.

3.8 Refuse – compacting equipment – other

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from the operation of solid waste bulk lift or refuse compacting equipment between 9:00pm to 7:00am.

3.9 Vehicles

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception caused by any licensed or unlicensed motorized vehicle, including trucks, motor cars, snow

mobiles, motor bikes, and ATV's, in starting up or driving said motorized vehicle, truck, motor car, snow mobile, motor bike, and ATV's.

3.10 Yelling and shouting

No person shall emit or cause or permit the emission of sound that is clearly audible at point of reception caused by excessive yelling and or shouting.

SECTION 4

Exceptions

4.1

Exceptions are to be made during emergencies such as power outages and or a declaration of an emergency by officials.

4.2

Council for the Municipality may grant special permits for exemptions for special events approved within the municipality as listed:

- i) Wallacetown Agricultural Society Annual Fair;
- ii) Any parade duly authorized by Council;
- iii) Any fireworks display duly authorized by Council;
- iv) Any fireworks display safely detonated on private property on festive holidays such as Victoria Day (May), Canada Day (Juy) and New Years Eve.
- v) Annual Street Dance

4.3

Any farm machinery used in normal farm operations.

SECTION 5

Penalty Section

5.1

Every Person who contravenes any provision of this By-law is guilty of an offence and on conviction may be subject to a fine as provided for in the Provincial Offences Act.

See Set Fine "Schedule A" attached

SECTION 6

Enforcement

6.1

For the purposes of this By-law, this By-law is enforced by the Ontario Provincial Police, By-law officer, Provincial Offences Officer, or any person appointed by the Municipality to enforce said By-law.

SECTION 7

Investigation

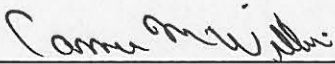
7.1 For the purpose of this By-law an appointed person such as the Ontario Provincial Police, Municipal Enforcement Officer, Provincial Offences Officer may enter onto private property at any time to determine the source of a Sound or Noise.

SECTION 8


Repeal

8.1 That any By-laws or provisions of By-laws found to be inconsistent with the provisions found in this By-law shall be and are hereby repealed.

By-law read a first and second time the 23rd day of February, 2011.

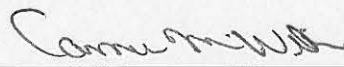


Mayor




Clerk

By-law read a Third Time and finally passed this 27th day of April, 2011



Mayor



Clerk

Municipality of Dutton-Dunwich

SCHEDULE "A" to

BY-LAW No. 2011-10

TITLE: Noise By-law

PART 1 – Provincial Offences Act

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1	Emit Sound from Racing – motorized conveyance	Sec. 2.1	\$250.00
2	Emit Sound from Squealing Tires	Sec. 2.2	\$350.00
3	Emit Sound from Ineffective Exhaust	Sec. 2.3	\$250.00
4	Emit Sound from Use of Horn other than warning	Sec. 2.4	\$250.00
5	Emit Sound from Ineffective Muffling device – construction equipment	Sec. 2.5	\$250.00
6	Emit Sound from Engine Combustion on toy device not used for conveyance	Sec. 3.1	\$250.00
7	Emit Sound from Loudspeakers - amplifiers	Sec. 3.2	\$500.00
8	Emit Sound from Signaling Device other than when required	Sec. 3.3	\$250.00
9	Emit Sound from Barking, Calling or Whining of domestic pet	Sec. 3.4	\$250.00
10	Emit Sound from selling/advertising by shouting	Sec. 3.5	\$350.00
11	Emit Sound from Use of Construction equipment after hours	Sec. 3.6	\$250.00
12	Emit Sound from Use of Domestic equipment after hours	Sec. 3.7	\$250.00
13	Emit Sound from Use of waste or refuse equipment after hours	Sec. 3.8	\$250.00
14	Emit Sound from Noise from licensed or unlicensed motorized vehicles	Sec. 3.9	\$250.00
15	Emit Sound from excessive yelling and shouting	Sec. 3.10	\$250.00

NOTE: The penalty section for offences cited above is Section 5.1 of By-law No. 2011-10, a certified copy of which has been filed.