

THE CORPORATION OF THE TOWNSHIP OF TERRACE BAY

BY-LAW NO. 3-2011

A By-law to regulate noise in the Township of Terrace Bay

WHEREAS Section 11(1) (6) of the *Municipal Act, 2001* provides that a Council may pass by-laws, subject to the rules set out in subsection (4) to provide for the health, safety and welfare of persons;

AND WHEREAS Council recognizes that individuals have a right to and should be ensured an environment free from unusual, unnecessary or excessive sound or vibration which may degrade the quality and tranquility of their life or cause nuisance;

AND WHEREAS the Council of the Corporation of the Township of Terrace Bay considers it desirable and necessary to control noise within the Municipality;

NOW THEREFORE the Council of The Corporation of The Township of Terrace Bay hereby enacts as follows:

1. Interpretation

1.01 Wherever a term set out below appears in the text of this bylaw with its initial letters capitalized, the term is intended to have the meaning set out for it in this Section 1.01. Wherever a term below appears in the text of this by-law in regular case, it is intended to have the meaning ordinarily attributed to it in the English language.

a) By-law means this By-law, including its recitals and schedules, which form integral parts of it, as amended from time to time.

b) Construction means the erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavation, blasting and detonation of explosive devices other than fireworks, 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, including any associated or related work.

c) 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.

d) Corporation means the Corporation of the Township of Terrace Bay.

e) Council means the Council of the Corporation of the Township of Terrace Bay.

f) Emergency means a situation or an impending situation, often dangerous, caused by the forces of nature, an accident, an intentional act or otherwise, which arises suddenly and calls for prompt action.

g) 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.

h) Motor Vehicle means an automobile, bus, truck, motorcycle, motor assisted bicycle, all-terrain vehicle, and any other vehicle propelled or

driven other than by muscular power, but does not include a traction engine, farm tractor, other farm vehicle or road-building machine.

i) Municipal Bylaw Enforcement Officer means any person duly appointed to enforce the provisions of this By-law or any member of the Ontario Provincial Police.

j) Municipal Service Vehicle means a Motor Vehicle operated by or on behalf of the Corporation or a local board of the Corporation while the Motor Vehicle is being used for the construction, repair or maintenance of a highway, including the clearing and removing of snow, the construction, repair or maintenance of a utility, the collection to transportation of waste, or other municipal purpose.

k) Municipality means the land within the geographic limit of the Municipality of Terrace Bay.

l) Noise means sound that is unusual or excessive, or that is reasonably unwanted by or disturbing to persons, in the circumstances within which it occurs.

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

n) Premises means any land or building which is not a Residence.

o) Utility means a system that is used to provide a utility service to the public, including water, sewage, electricity, communications network or cable services.

p) Utility Service Vehicle means a motor vehicle operated by or on behalf of the Corporation or any other companies or agencies that supply or manage a Utility within the Municipality of Terrace Bay, while the motor vehicle is being used for the construction, repair or maintenance of that Utility.

2. Zones

In this By-law,

2.01 a) Residential Area means those areas of the municipality specified as follows:

Those areas labeled "R-1", "R-1-1", "R-2", "RM", "RM-1", "C", "CH", "I", and "OS" on any valid zoning by-law map for the Municipality of Terrace Bay.

3. General Prohibitions

3.01 General Noise Prohibition: No person shall make, cause or permit the making of Noise within Terrace Bay that is likely to disturb the inhabitants of Terrace Bay.

3.02 Specific Noise Prohibitions: No person shall make, cause or permit the making of Noise within Terrace Bay that is the result of any of the activities described in Schedule "A" and that is audible to:

a) a person in a Premises or a Motor Vehicle other than the Premises or Motor Vehicle from which the noise is originating; or

b) a person in a Residence other than the Residence from which the Noise is originating.

3.03 Specific Noise Prohibitions by Time: No person shall make, cause or permit the making of Noise within Terrace Bay that is the result of any of the activities listed in the table in Schedule "A", that is audible to:

a) A person in a Premises or a Motor Vehicle other than the Premises or Motor Vehicle from which the Noise is originating; or

b) A person in a Residence other than the Residence from which the Noise is originating.

3.04 Exemption for Emergencies: This By-law does not prohibit Noise reasonably necessary resulting from measures undertaken in a Emergency for the immediate health, safety or welfare of the inhabitants of Terrace Bay or for preservation or restoration of property.

3.05 This By-law does not prohibit Noise for which Council approve has been granted.

3.06 This By-law does not prohibit Noise caused by any one or more of the following activities:

- a) the operation of Municipal Service Vehicles and related equipment;
- b) the operation of Utility Service Vehicles and related equipment;
- c) special events that are sanctioned or approved by the Corporation, including: festivals, races, parades, etc.;
- d) the operation of bells, chimes, carillons and clocks on churches, schools or public buildings;
- e) cultural, recreational, educational and political events in parks or other public areas that are sanctioned or approved by the Corporation;
- f) the operation of a fire alarm system

Article 4 Grant of Exemption by Council

4.01 Grant of Exemption

Notwithstanding anything contained in this By-law, any person may make application to Council to be granted an exemption from any of the provisions of this By-law with respect to any source of sound or vibration for which he might be prosecuted and Council, by resolution, may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect and any exemption granted shall specify the time period, not in excess of six months, during which it is effective and may contain such terms and conditions as Council sees fit.

4.02 Decision

In deciding whether to grant the exemption, Council shall give the applicant and any person opposed to the application an opportunity to be heard and may consider such other matters as it sees fit.

4.03 Breach

Breach by the applicant of any of the terms or conditions of any exemption granted by Council shall render the exemption null and void.

Article 5 Enforcement & Penalties

5.01 Enforcement: This By-law may be enforced by any Municipal Law Enforcement Officer, or by way or private information sworn in accordance with the Provincial Offences Act.

5.02 Penalties: Every person who commits an offence under this By-law is, upon conviction, liable to a fine or penalty as provided for in the Provincial Offences Act.

Article 6 Repeal

6.01 By-law 369 is hereby repealed.

- 6.02 This By-law shall come into force and take effect upon approval of the set fines associated with it by the Regional Chief Justice in accordance with Part I of the Provincial Offences Act, and Rule 6 of Regulation 200 passed pursuant to the Courts of Justice Act.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS
24th DAY OF JANUARY, 2011.



Mayor

Chief Administrative Officer/Clerk

Schedule A General Noise Prohibitions

1. Racing of any motorized conveyance other than in a racing event regulated by law.
2. The operation of a motor vehicle in such a way that the tires squeal.
3. Operation of a stereo system or other similar device within a vehicle in such a manner that the sound, or vibration caused by the sound, is perceptible outside the vehicle.
4. 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.
5. The operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to improperly secured load or equipment, or inadequate maintenance.
6. The operation of any item of Construction Equipment without an effective exhaust muffling device that is in good working order and in constant operation,
7. The operation of an engine or motor in, or on, any motor vehicle or item of attached auxiliary equipment for a continuous period exceeding five minutes, while such vehicle is stationary in a Residential Area unless:
 - i. the original equipment manufacturer specifically recommends a longer idling period for normal and efficient operation of the motor vehicle in which case such recommended period shall not be exceeded; or
 - ii. operation of such engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to, operation of ready-mixed concrete trucks, lift platforms and refuse compactors; or
 - iii. weather conditions justify the use of heating or refrigerating systems powered by the motor or engine for the safety and welfare of the operator, passengers or animals, or the preservation of perishable cargo, and the vehicle is stationary for purposes of delivery or loading; or
 - iv. prevailing lower temperatures make longer idling periods necessary immediately after starting the motor or engine; or
 - v. the idling is for the purpose of cleaning and flushing the radiator and associated circulation system for seasonal change or antifreeze, cleaning of the fuel system, carburetor or the like, when such work is performed other than for profit; or
 - vi. 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; or
 - vii. the operation of any item of construction equipment in a Residential area without effective muffling devices in good working order and in constant operation.
8. Permitting the persistent barking, calling, whining, or making other Noise, by animals or birds.
9. Permitting, causing or making Noise by shouting, yelling, hooting, whistling, or singing.
10. The venting, release or pressure relief of air, steam or other gaseous material, product or compound from any autoclave, boiler, pressure vessel, pipe, valve, machine, device or system.
11. All selling or advertising by shouting or outcry or amplified sound.
12. Disturb the peace by use of [radio][phonograph][cassette player][compact disc player][piano][musical instrument][other instrument][public address system].
13. Use of public address system in public without permission

Schedule A
General Noise Prohibitions cont'd

14. Make unusual noise.
15. Make noise liable to disturb the inhabitants.
16. Make noise by false alarm of fire.
17. Make, cause or permit the making of noise through operation of outdoor auditory signaling device.
18. Make, cause or permit the making of noise through inadequately maintained air conditioning devices, venting systems or fans.
19. Make, cause or permit the making of noise through operation of a motor vehicle other than on a place intended for its operating.
20. Make, cause or permit the making of noise through operation of tools for domestic purposes.
21. Make, cause or permit the making of noise through the operation of compression brakes on a highway.

Schedule "B"

ITEM	COLUMN 1 - Short Form Wording	COLUMN 2 Provision creating or defining Offence	COLUMN 3 Set Fine
1	Disturb the peace by use of [radio][phonograph][cassette player][compact disc player][piano][musical instrument][other instrument][public address system]	Section 3.02 Sch. A (12)	\$55.00
2	Use of public address system in public without permission	Section 3.02 Sch. A (13)	\$55.00
3	Make unusual noise	Section 3.02 Sch. A (14)	\$55.00
4	Make noise liable to disturb the inhabitants	Section 3.02 Sch. A (15)	\$55.00
5	Make noise by false alarm of fire	Section 3.02 Sch. A (16)	\$55.00
6	Make, cause or permit the making of noise likely to disturb the inhabitants	Section 3.01	110.00
7	Make, cause or permit the making of noise by squealing of the tires of a motor vehicle	Section 3.02 Sch. A (2)	110.00
8	Make, cause or permit noise and/or vibration outside a vehicle caused by the operation of a stereo or similar device within the vehicle	Section 3.02 Sch. A (3)	110.00
9	Make, cause or permit the making of noise through operation of an engine without a working muffling device	Section 3.02 Sch. A (4)	110.00
10	Make cause or permit the making of noise through operation of construction equipment without a working muffling device	Section 3.02 Sch. A (6)	110.00
11	Make, cause or permit the making of noise through inadequately maintained motor vehicle	Section 3.02 Sch. A (5)	110.00
12	Make, cause or permit the making of noise through inadequately secured load on a motor vehicle	Section 3.02 Sch. A (5)	110.00
13	Make, cause or permit the making of noise through operation of outdoor auditory signaling device	Section 3.02 Sch. A (17)	110.00
14	Make, cause or permit the making of noise through inadequately maintained air conditioning devices, venting systems or fans	Section 3.02 Sch. A (18)	110.00
15	Make, cause or permit the making of noise by shouting, yelling, hooting, whistling or singing	Section 3.02 Sch. A (9)	110.00
16	Make, cause or permit the making of noise by idling any stationary vehicle or equipment for a continuous period of more than five minutes	Section 3.02 Sch. A (7)	110.00
17	Make, cause or permit the making of noise through construction in prohibited area	Section 3.02 Sch. A (7) (vii)	110.00
18	Make, cause or permit the making of noise through operation of a motor vehicle other than on a place intended for its operating	Section 3.02 Sch. A (19)	110.00
19	Make, cause or permit the making of noise through operation of tools for domestic purposes	Section 3.02 Sch. A (20)	110.00
20	Make, cause or permit the making of noise through the operation of compression brakes on a highway	Section 3.02 Sch. A (21)	110.00

NOTE: The general penalty provision for the offences listed above is Article 5 of bylaw no. _____, a certified copy of which has been filed.