

THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW NO. 2018 - 47

Being a By-law to provide for the Prohibition of Certain Noises and to repeal By-law 2005-66.

WHEREAS the *Municipal Act*, 2001 S.O., c.25, Sec.128(1), provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances; and

WHEREAS the *Municipal Act*, 2001 S.O., c.25, Sec.129(1), provides that a municipality may pass by-laws to prohibit and regulate noise, vibration, odour, dust and outdoor illumination; and

WHEREAS Council of the Corporation of the Township of Essa enacted By-law 2005-66 on September 21, 2005, to provide for the prohibition of certain noises during restricted times; and

WHEREAS Council of the Township of Essa deems it necessary and desirable to further regulate or prohibit unusual noises, or noises likely to disturb the health, safety, normal use and enjoyment of the inhabitants of the Township;

NOW THEREFORE Council of the Corporation of the Township of Essa hereby enacts as follows:

1. DEFINITIONS

“By-law Enforcement Officer” means the Municipal By-law Enforcement Officer appointed by the Council of the Township of Essa.

“Construction” includes erection, alteration, repair, dismantling, demolition, painting, moving, structural maintenance, land clearing, earth moving, grading, ploughing, excavating, the laying of pipe and conduit 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, ploughs, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment.

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

“Highway” includes a common and public highway, street, lane, road allowance, parkway, driveway, bridge, viaduct or trestle designed and intended for the public passage of vehicles.

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

“Noise” means unwanted sound including but not limited to those listed in Schedule “A” attached to this By-law.

“Public Safety” refers to any emergency service such as police, fire or medical services, and also pertains to municipal road construction and maintenance operations, and utilities (public or privately owned) including but not limited to snow removal and dewatering practices.

“Road Service Vehicle” means a vehicle being used for highway maintenance or construction purposes by or on behalf of the municipality or other authority with jurisdiction and control of the highway.

“Residential Area” means recreational and private dwellings in the settlement areas of Angus, Thornton, Baxter, Ivy, Utopia, Egbert or any other built up area.

“Township” means the land within the geographic limit of the Corporation of the Township of Essa;

2. GENERAL PROHIBITIONS

2.1 No person shall cause or permit to be caused any unusual noises or sounds, or excessive noise likely to disturb the inhabitants of the Township of Essa, including but not limited to the following:

- a. The sounding of a bell, horn, siren, or signaling device for an unnecessary or unreasonable period of time is prohibited, unless specifically required by the Occupational Health and Safety Act and Regulations, or other legislation.
- b. The noise or sound created by the use or operation of any drum, horn, bell, radio or mechanical loudspeaker, or other instrument or device, electrical sound-producing or 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 amplifies or projects noise or sound into any street or other public place is prohibited, unless the Township has granted specific approval for same.
- c. Unless specific permission is granted by the Township, 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, when such device or instrument is played or operated in such a manner or at such volume as to likely annoy or disturb the peace, quiet, comfort or repose of any individual in any type of residence, is prohibited.
- d. Any noise arising from any excavation or construction work whatsoever, whether caused by a large development or an individual, including the erection, demolition, alteration or repair of any building, and/or use of construction equipment, is prohibited between the hours of 8:00 p.m. and 7:00 a.m. Monday through Saturday, or at any time on Sundays or

Designated Public Holidays, except in the case of urgent necessity for public safety, and then with the approval of the Municipality. Dewatering equipment used for construction work(s) is exempted provided that the said equipment is contained in an enclosure that has adequate noise suppression in place to mitigate such noise(s).

- e. 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.
- f. 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 any of the built-up or Residential areas of the Municipality. This prohibition shall not apply to peace officers in the performance of their duties, or to agricultural operations in the protection of livestock.
- g. The noise or sound caused by excessive yelling, shouting, hooting, whistling or singing, 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.
- h. Persistent barking, whining, howling, calling or other similar noise caused by any domestic pet or any other animal kept or used for any purpose other than agricultural, which is likely to disturb the peace, quiet or comfort of the inhabitants, is prohibited.
- i. The grating, grinding or rattling noises or sound caused by condition of disrepair or maladjustment of any motor vehicle, motorcycle or other vehicle, or part or accessory thereof is prohibited.
- j. The noise or sound created by the use or operation of a lawnmower, chainsaw, power tools or any other noise generating domestic tool or device is prohibited between the hours of 10:00 p.m. of any day and 7:00 a.m. of the following day.
- k. No person shall emit, cause or permit the emission of sound resulting from any act or similar acts listed in Schedule "A" attached to this By-law during the prohibited times.
- l. Where approval has been granted by the Municipality and in accordance with the Township of Essa's Site Alteration and Fill By-law, no person shall cause or permit to be caused the emission of sound created by the performance of a site alteration or fill operation Monday through Friday between the hours of 7:00 p.m. and 7:00 a.m., or at any time on Saturdays, Sundays or Designated Public Holidays

3. EXEMPTIONS

- 3.1 Notwithstanding any other provision of this By-law, this By-law:
- a. Does not apply to the performance of any use permitted in an Industrial Zone as set out in any By-law in force from time to time passed pursuant to s. 34 of the Planning Act, R.S.O. 1990, p.13, or any predecessor or successor of that section, and further that the noise generated is pursuant to work done in the normal manner, and that the work does not contravene any federal or provincial laws or regulations.
 - b. Does not apply to a person or agricultural operation that emits, causes or permits the emission of sound or vibration in connection with an established agricultural function.
 - c. Does not apply to a commercial procedure that emits, causes or permits the emission of sound or vibration in connection with an established commercial operation.
 - d. Does not apply to any military or other band or to a parade operating under written approval from the Municipality.
 - e. Does not apply to an emergency vehicle of the police or fire department of the municipality, or any ambulance, public service, municipal operation, road service vehicle, private or public utility or emergency vehicle while responding to an emergency or carrying out their duties for the purposes of public health and safety.
- 3.2 No person shall cause or permit sound from the operation of a combustion engine in conjunction with the reasonable use of any amusement ride at a fair or event within the restricted hours except with permission (written approval) from the Municipality.
- 3.3 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 large open space in connection with any public election meeting, public celebration or other lawful gathering within the times specified in Schedule "A" attached, and provided written approval of the Municipality has first been obtained.
- 3.4 Permanent or temporary premises which are licensed for the sale of alcoholic beverages will be governed by the permitted hours of sale in accordance with the terms of their liquor license and business permits, where applicable. This restriction applies to indoor or outdoor establishments.

4. APPLICATION FOR EXEMPTION FROM COUNCIL

- 4.1 Upon receipt of a written request, Council may, by Resolution, grant an exemption to provisions of this By-law for a specified period of time, up to a limit of six months, subject to such terms and conditions as are deemed advisable. The request shall include:
- a. the name and address of the applicant;

- b. a description of the source of the sound in respect of which an exemption is being sought;
 - c. the period of time for which the exemption is being sought;
 - d. the reasons why an exemption is being sought.
- 4.2 Such request shall be accompanied by proof of publication, within the preceding ten days, in a newspaper of general circulation within the applicable service area of the Township of Essa, of a notice of intention to apply for an exemption to this by-law, containing the information required in clauses (i) through (iv) above, and stating the date upon which the application to Council is intended to be made in order to provide public comment on the request.
- 4.3 A copy of the request shall be provided to the Municipal Law Enforcement Officer who will conduct a site inspection and prepare a report to Council which includes details of any complaint history or corrective measures to be taken.
- 4.4 In deciding whether to grant the exemption, Council will review the request, the staff report, and any written submissions, and will provide the applicant and any person opposed an opportunity to speak in accordance with Council's Procedure By-law.
- 4.5 Where an exemption is granted, any breach of the terms or conditions renders the exemption null and void.

5. ENFORCEMENT AND PENALTIES

- 5.1 Every person who contravenes a section of this By-law is, upon conviction, guilty of an offence and subject to a penalty as provided under the *Provincial Offences Act*.
- 5.2 Each new day of a continuing offence will be considered a new offence and punishable for each day the violation continues.
- 5.3 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.

6. GENERAL PROVISIONS

- 6.1 If any court of competent jurisdiction finds that any sections or provisions of this By-law, or parts thereof, are ultra vires, or are invalid for any reason, such section or provision shall be deemed to be severable and shall not invalidate any of the other sections or provisions of the By-law which are separate and independent from each other and shall remain in full force and effect.
- 6.2 Where the context permits, words importing the singular also include more than one person, party or thing of the same kind.
- 6.3 The word "may" shall be construed as permissive and the word "shall" shall be construed as imperative.

6.4 That By-law 2005-66 be and is hereby repealed.

6.5 The short form title of this By-law shall be The Township of Essa "Noise By-law".

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY
PASSED on this the 6th day of June, 2018.

Terry Dowdall, Mayor

Lisa Lehr, Clerk

**TOWNSHIP OF ESSA BY-LAW NO. 2018-47
SCHEDULE 'A'
TIME PROHIBITIONS**

	Prohibited Activity	Prohibited Period of Time
1.	Discharge of firearms. Exception: police services, security and agricultural for the protection of livestock.	All times in any Residential area.
2.	Persistent barking, whining, howling, calling or other similar noise caused by any domestic pet or any other animal kept or used for any purpose other than agricultural.	All times
3.	The operation of a combustion engine which 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.	All times
4.	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.	11 p.m. to 7 a.m.
5.	The operation of any auditory signaling device, including but not limited to the ringing of bells or gongs, the playing of music, and the blowing of horns, sirens, whistles or the production, reproduction or amplification of any similar sounds by electronic means except where required or authorized by law or in an accordance with public safety practices.	11 p.m. to 7 a.m.
6.	The operation of any motorized conveyance other than on a highway or other place intended for its operation including all Commercial vehicles over one ton, except for limited designated deliveries.	11 p.m. to 7 a.m.
7.	Excessive yelling, shouting, hooting, whistling or singing.	All times
8.	Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials, or refuse whatsoever, unless necessary for essential services, designated industrial uses, public safety or the moving of private household effects.	8 p.m. to 7 a.m.
9.	The operation of any equipment in connection with construction.	8 p.m. to 7 a.m. Monday through Saturday At no time on Sundays or on Designated Holidays
10.	Site alteration or fill operation pursuant to Essa's Site Alteration and Fill By-Law	7:00 p.m. and 7:00 a.m. Monday through Friday At no time on Saturdays, Sundays or Designated Public Holidays.
11.	The operation or use of any tool, machine or motor for domestic purposes other than snow removal	10 p.m. to 7 a.m.

	Prohibited Activity	Prohibited Period of Time
12.	Cause or allow the emissions of any unreasonable or unusual noise or vibration by means of the use of operation of any electrical motor, electrical, mechanical, hydraulic or pneumatic device, internal combustion engine or other mechanical or like device within a residential area.	10 p.m. to 7 a.m.

**Corporation of the Township of Essa
By-law 2018-47
Noise Control By-law**

PART 1 PROVINCIAL OFFENCES ACT

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision for Creating or Defining Offence	COLUMN 3 Set Fine
1.	Cause or permit unusual or excessive sound from a bell, horn, siren or signaling device	2.1 (a)	\$100.00
2	Cause or permit unusual or excessive sound created by the use or operation of any drum, horn, bell, radio or mechanical loudspeaker, electrical sound-producing or transmitting instrument or apparatus.	2.1 (b)	\$100.00
3.	Cause or permit unusual or excessive sound from any radio, phonograph, public address system, sound equipment, loud speaker, or similar device, or any musical or sound producing instrument during.	2.1 (c)	\$100.00
4.	Cause or permit sound from excavation or construction work during prohibited hours	2.1 (d)	\$100.00
5.	Cause or permit sound from use or operation of mechanical loudspeaker or amplifier or other device or sound-producing, sound-reproducing or sound-transmitting instrument or apparatus in or upon any vehicle.	2.1 (e)	\$100.00
6.	Cause or permit sound caused by the discharge of any gun or other firearm, air gun and spring-gun, or any class or type thereof in any built-up or residential areas of the municipality	2.1 (f)	\$100.00
7.	Cause or permit sound by excessive yelling, shouting, hooting, whistling or singing.	2.1 (g)	\$100.00
8.	Cause or permit persistent barking, whining, howling, calling or other similar noise caused by any domestic pet or any other animal kept or used for any purpose other than agricultural	2.1 (h)	\$100.00
9.	Cause or permit sound grating, grinding, rattling noises caused by motor vehicle, motorcycle or other vehicle.	2.1 (i)	\$100.00

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision for Creating or Defining Offence	COLUMN 3 Set Fine
10.	Cause or permit sound from operation of lawnmower, chainsaw, power tools, or any other noise generating domestic tool or device during prohibited hours.	2.1 (j)	\$100.00
11.	Cause or permit sound from site alteration or fill operations during prohibited hours.	2.1 (l)	\$100.00
12.	Cause or permit sound from the operation of a combustion engine	3.2	\$100.00

NOTE: The Penalty Provision for the offences indicated above is Section 5 of By-law 2018-47, a certified copy of which has been filed, and s. 61 of the *Provincial Offences Act*, R.S.O., 1990, c. P. 33.