

THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON

BY-LAW 2007 - 071

Being a By-law to prohibit noises likely to disturb the inhabitants of the Municipality of Clarington and to repeal By-law 89-184 and its amendments

WHEREAS Section 129 of *the Municipal Act, 2001*, S.O. 2001, Chapter 25 states that a local municipality may prohibit and regulate noise matters;

AND WHEREAS The Council of the Corporation of the Municipality of Clarington deems it appropriate to enact a by-law to regulate and control noise levels within the Municipality of Clarington;

NOW THEREFORE the Council of the Corporation of the Municipality of Clarington enacts as follows:

1. GENERAL PROVISIONS

- 1.1 No person shall ring any bell, blow or sound any horn or cause the same to be rung, blown or sounded, or shout or create, cause or permit any unusual or excessive noises likely to disturb any other inhabitant of the Municipality of Clarington.
- 1.2 Without limiting the generality of section 1.1 the following are deemed to be noises likely to disturb the inhabitants of the Municipality of Clarington:
 - (a) the ringing of bells, blowing of horns or sounding of sirens on any motor vehicle except to the extent that such ringing, blowing or sounding is required by law or by the requirements of safety;
 - (b) the sound or noise from or created by a radio or phonograph, or any musical or sound-producing instrument of whatsoever kind when such radio or phonograph or instrument is played or operated in such manner or with such volume as to annoy or disturb the peace, quiet, comfort or repose of any individual in any dwelling house, apartment house, hotel or other type of residence outside the premises where the instrument is being played;
 - (c) the grating, grinding or rattling noise or sound caused by a condition of disrepair or maladjustment of any motor vehicle, motorcycle, or other vehicle whatsoever or part or accessory thereof;

- (d) the blowing of any steam or air whistle attached to or used in connection with any stationary boiler or other machine or mechanism, except for the purpose of giving notice to workmen of the time to commence or cease work or as a warning of danger;
- e) the noise made by power lawnmowers, outboard motors or similar power motors;
- (f) the noise made by 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 which effectively prevents loud or explosive noise;
- (g) any noise which may be heard beyond the lot upon which it is made at sufficient volume to disturb persons beyond such lot;
- (h) the persistent barking, calling or whining, or other similar persistent noise made by any domestic pet, or any other animal kept, or used for any purpose other than agriculture.

2. EXEMPTIONS

2.1 Notwithstanding the other provisions of this By-law, the restrictions listed in sections 1.1 and 1.2 shall not apply to prevent:

- (a) the use, in a reasonable manner, of any apparatus or mechanism for the amplification of the human voice or music in a public place within the limits of the Municipality;
- (b) any military or other band or any parade operating with written permission having been first obtained from the Municipality;
- (c) any police, fire, public or emergency service vehicle or ambulance in the lawful discharge of its assigned duties;
- (d) any sound arising from the operation of any railway which operates under the Railway Act of Canada or from any plant or work in connection with any such railway;
- (e) the sound of church bells or carillons; and

- (f) the making by any person upon his or her own property, noise which is reasonable and necessary taking into account the volume and time of day, for his or her enjoyment and use of such property provided that such noise does not interfere with the lawful enjoyment of any adjoining property owner or occupant.

2.2 Notwithstanding the other provisions of this By-law, the restrictions listed in sections 1.1 and 1.2 shall not apply to a person who permits or causes the emission of sound in connection with any traditional, festive, or religious activities, and to such activities listed hereunder;

- (a) the Bowmanville Foundry Co. Ltd., manufacturing;
- (b) Goodyear Canada Inc., manufacturing;
- (c) Oshawa Ski Club, recreational snowmaking;
- (d) Mosport Park, automobile and motorcycle racing;
- (e) Blue Circle Canada Inc., its licensed pit and quarry operations and all accessory uses related thereto.

3. CURFEWS

3.1 A noise curfew shall apply to the following operations and/or businesses within the Municipality of Clarington:

- (a) the Orono Fish and Hunt Club, shooting range;
- (b) the Union Rod and Gun Club, shooting range; and
- (c) the Marksman Club of Oshawa, shooting range.

This curfew shall commence at 11:00 p.m. and continue until 7:00 a.m. the following morning, Sunday night through Saturday morning, then commence again at 11:00 p.m. Saturday night and continue until 10:00 a.m. Sunday morning.

3.2 With respect to a licensed canine kennel there shall be a noise curfew imposed, to wit:

- (a) evenings - Sunday to Friday inclusive, there shall be a curfew commencing at 11:00 p.m. and continuing until 7:00 a.m. of the following day; Saturday, the curfew shall commence at 11:00 p.m. and shall continue until 8:00 a.m. Sunday morning;
- (b) during the periods identified as the curfew hours, any kennel noise, more particularly the barking of dogs, which carries beyond the boundary of the property upon which the licensed kennel is situated shall be deemed to be a contravention; and
- (c) that during non-curfew hours, that is from 7:00 a.m. to 11:00 p.m., Monday to Saturday inclusive, and from 8:00 a.m. to 11:00 p.m. Sunday, continuous barking for a period in excess of 1 hour at any time shall be deemed to be a contravention.

3.3 A noise curfew shall apply to any noise from any excavation or construction work whatsoever, including the erection, demolition, alteration or repair of any building;

- (a) arising between the hours of 11:00 p.m. until 7:00 a.m. the following day, Monday through Saturday, 11:00 p.m. Saturday night until 10:00 a.m. Sunday and 5:00p.m. Sunday until 7:00 a.m. Monday morning.
- (b) except in the case of urgent necessity and then only under prior authorization from the Municipality.

3.4 During the time when construction, excavation or demolition work is permitted on Sunday as outlined in Section 3.3 above, such work shall not include the operation of any mechanically powered excavation or earth moving equipment.

3.5 A noise curfew shall apply to the use of propane guns and other such similar devices used to protect agricultural produce from predation by any animal, reptile or bird. This curfew shall be commence at 11:00 p.m. and continue until 7:00 a.m. seven days per week.

3.6 Time restrictions as set out above in this by-law for Sundays shall apply in the same manner for all statutory holidays.

3.7 No person shall cause, create or permit any noise in contravention of the curfew times as outlined throughout Section 3.

4. ENFORCEMENT

- 4.1 This By-law shall apply to all property within the limits of the Municipality and shall be enforced on a complaint basis only by the Durham Regional Police Service and the Clarington Municipal Law Enforcement Officers and, where applicable, the Clarington Animal Services Officers.
- 4.2 The complaint shall include the name, address and telephone number or other contact information of the complainant. Failure to provide the required complainant information shall render the complaint incomplete and it will not be investigated.
- 4.3 Anonymous complaints or third party complaints which attempt to obscure the identity of the complainant will not be investigated.
- 4.4 Where an officer has determined that a complaint has been filed for a malicious or vexatious reason or as part of an ongoing pattern of harassment, the officer may, after conferring and confirming with the Manager of Municipal Law Enforcement, cease the investigation and close the file with no further action taken. The officer shall then advise the complainant of this in writing.
- 4.5 Where the subject matter of an investigation is the same or the circumstances are substantially similar to that for which charges or other court actions have already been initiated, no additional court action pursuant to this By-law will be initiated by the Municipality.
- 4.6 Nothing in this By-law prevents any individual from privately initiating a charge for an alleged offence.

5. PENALTY

- 5.1 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction liable to a fine as set out in the *Provincial Offences Act*.
- 5.2 Should any section, clause, or provision of this By-law be declared by a court of 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 so declared to be invalid.

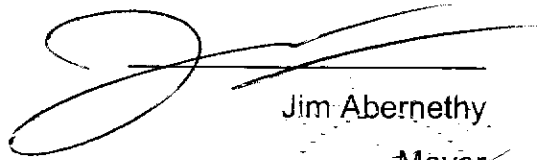
5.3 The provisions of this by-law shall come into full force and effect immediately upon its final passing by Council.

5.4 By-law 89-184 and its amendments are hereby repealed.

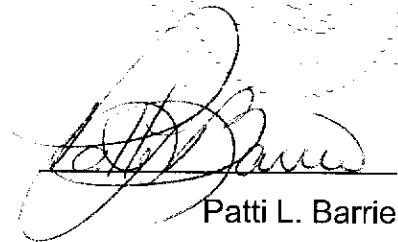
Read a first time this 2nd day of April, 2007

Read a second time this 2nd day of April, 2007

Read a third time and finally passed this 2nd day of April, 2007



Jim Abernethy
Mayor



Patti L. Barrie
Municipal Clerk