

THE CORPORATION OF THE MUNICIPALITY OF MARKSTAY-WARREN

BY-LAW 2024-36

BEING A BY-LAW TO PROHIBIT AND REGULATE NOISES IN THE MUNICIPALITY OF MARKSTAY-WARREN and REPEAL BY-LAW 2019-21

WHEREAS authority is granted to the councils of all municipalities under Section 129 (a)(b) of the *Municipal Act, 2001, SO. 2001, c. 25*, to prohibit and regulate noises likely to disturb the inhabitants within the Municipality of MARKSTAY-WARREN;

AND WHEREAS the Municipal Council deems it expedient to pass a by-law to prohibit and regulate noise;

NOW THEREFORE the Council of the Corporation of the Municipality of MARKSTAY-WARREN enacts as follows:

SETION I – SHORT TITLE:

1.1 This By-Law may be cited as the “Noise Control By-Law”.

SECTIONS II – DEFINITIONS AND INTERPRETATION

2.1 In this By-Law,

“**Audio Device**” means a radio, stereo, CD player, MP3 player, television, public address system or other similar electronic device capable of emitting sounds, but does not include a two-way radio, weather radio or a device that can only be heard by using earphones/headphones.

“**Authorized Emergency Vehicle**” means any ambulance or hearse, any vehicle of the fire department, any vehicle of the provincial or federal police, any vehicle (including a snow plough) operated by or for the Municipality of a public unitality company while actively engaged in the construction, maintenance or repair of any highway, or any equipment or facilities thereon, or a snow plough or other maintenance vehicle operated by or for the corporation of the Municipality of MARKSTAY-WARREN;

“**Clearly Audible**” means that sound for the source in question is easily perceptible without undue effort, to a disinterested person with no hearing disability;

“**Constructions**” means 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 devise 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, derrick loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment;

“Council” means Council of the Municipality of MARKSTAY-WARREN;

“Emergency” means sudden and unexpected occurrence demanding immediate action to prevent possible injury, loss of life or substantial property damage;

“Excessive” in reference to barking, howling, whining, squawking, or other sound-making by an animal or bird, Has the same meaning as persistent;

“Manufacturing Industry” means the manufacturing goods from raw materials;

“Motor vehicle racing” means the operation of a motor vehicle over a set course, whether in competition with other vehicles, for racing, training, lapping, testing or instructional purposes, for recreational purposes, or for any other purpose and includes any warmup or testing done on the premise in preparation for such operation of a Motor Vehicle;

“Motorized Vehicle” means an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power or wind; but does not include the cars of electric or steam railways, or other Motor Vehicle 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 Highway Traffic Act as amended;

“Municipality” means the land within the geographic limit of the Corporation of The Municipality of MARKSTAY-WARREN;

“Municipal Law Enforcement Officer (MLEO)” means an officer appointed by the Council of the Municipality to enforce the Municipality’s by-laws;

“Noise” means unwanted sound. For the purpose of this by-law, sound in excess of the limits or specifically prohibited herein is defined to be noise;

“Persistent” in reference to barking, howling, whining, squawking or other sound-making by an animal or bird means continuously or intermittently for an aggregate period of at least 10 minutes out of any 60-minute period;

“Person” includes any individual, corporation, partnership, company, association or party and the heirs, executors, administrators, or other legal representative of such person, to whom the context can apply according to law, shall include any group of persons comprising a society or other organization and shall include the plural wherein the context requires;

“Place of worship” means a building dedicated to religious worship and includes a church, synagogue, temple, mosque, monastery or convent;

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

“Property” means a building or structure or part of a building or structure and includes the lands appurtenant thereto and all mobile homes, mobile buildings or mobile structures and vacant land;

“Quiet Zone” means an area in the municipality where quiet is of particular importance and as more particularly designated in Schedule “B”;

“Residential Area” means any property within the municipality which is zoned for residential uses by an applicable zoning by-law, or which is used in whole or in part of human habitation, in accordance with the zoning of the property or where human habitation is a legal non-conforming use.

SECTION III – PROHIBITIONS

3.1 No person shall cause or permit the creation of any noise or unusual sound that disturbs or are likely to disturb any inhabitant of the Municipality as outlined in Schedule “A” attached.

SECTION IV – EXEMPTIONS

4.1 None of the provisions for this By-Law shall apply to:

- (a) The use in a reasonable manner, any apparatus or mechanism for the amplification of the human voice or music, in a public park or any other commodious space in connection with any public election meeting, public celebration or other reasonable gathering, provided written permission from the Municipality has first been obtained.
- (b) Necessary municipal or public utility operations carried out in the interest of public necessity and convenience, including but not limited to snow clearing and snow removal, street cleaning, and garbage collection, undertaken by or on behalf of the Municipality.
- (c) Any authorized emergency vehicle or service animal of the Police or Fire Department, the Municipality or its agents, any ambulance or any public service or emergency vehicle while answering a call.
- (d) The use in a reasonable manner of vehicles and equipment when utilized for the clearing and removal of snow from private property.
- (e) Noise resulting from the measures undertaken in an emergency.

- (f) Any military or other band or any parade operating under written permission obtained from the Municipality.
- (g) The ringing of church bells, school bells, or the sounding of a public-address system on school property in connection with normal operation of educational institutions during regular business hours and/or during school or church authorized activities.
- (h) Signaling devices utilized as traffic and pedestrian control devices at intersections and crosswalks.
- (i) Any sound arising from the operation of any railway operated under the *Railway Act of Canada* as amended.
- (j) All licensed commercial forestry operations including sawmills.
- (k) Activities of a Normal Farm Practice carried out as part of an Agricultural Operation, as defined in the Farming and Food Production Protection Act 1998, SO 1998 as amended or any successor legislation and located on a property zoned for agricultural purposes in accordance with the *Municipal Zoning Bylaw* as amended.
- (l) Any noise necessary to the operation of equipment or designated industrial sites in accordance with the Municipal Zoning By-law as amended between the hours listed in Schedule "A".
- (m) Noises resulting from reasonable construction and maintenance operations between the hours listed in Schedule "A".
- (n) Generators producing electricity during power outages ONLY at permanent residences or businesses.

SECTION V – APPLICATION TO COUNCIL FOR EXEMPTION

- 5.1 Notwithstanding any other provisions of 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 noise or vibration for which he might be prosecuted an Council, by resolution, may refuse to grant any exemption, agree to grant lesser exemption 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.
- 5.2 The application shall contain:
 - (a) The name and address of the applicant.
 - (b) A description of the noise in respect of which the exemption is being sought.
 - (c) Payment of any applicable fees set out in the Municipality's Service Charges and Fees By-law.

- 5.3 The applicant must be submitted by By-law services no later than sixty (60) days before the event.
- 5.4 By-law services will review and comment on the application and present it to Council with recommendations.
- 5.5 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.
- 5.6 Breach by the applicant of any of the terms or conditions of any exemption granted by Council shall render the exemption null and void.

SECTION VI – ADMINISTRATION & ENFORCEMENT

- 6.1 This By-law shall be administered and enforced by the Municipal Law Enforcement Officer of the Municipality or such other person or persons as Council may, by By-law, appoint. Nothing herein shall be deemed to limit the ability of the Ontario Provincial Police or any police force with sufficient jurisdiction to enforce this By-law at anytime.
- 6.2 Any Municipal Law Enforcement Officer may enter on any property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the provisions of this By-law have been complied with.

SECTION VII – OFFENCES

- 7.1 Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33.
- 7.2 Upon registering a conviction for a contravention of any provision of this By-law, the Provincial Offences Court may, in addition to any other remedy and to any penalty imposed by this By-law, make an order prohibiting the continuation or repetition of the offence by the person convicted.
- 7.3 No person shall hinder or otherwise obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an Officer, an employee and/or agent of the Municipality in the lawful exercise of a power or duty under this By-law.
- 7.4 The Administrative Monetary Penalty System By-law applies to each administrative penalty issued pursuant to this By-law.

7.5 Each person who contravenes any provision of this By-law shall, upon issuance of a Penalty Notice in accordance with the Administrative Monetary Penalty System By-law. Be liable to pay the Municipality and administrative monetary penalty.

SECTION VIII – SEVERABILITY

8.1 Should a court of competent jurisdiction declare a part or whole of any provision of this By-law to be invalid or of no force and effect, the provision or part is deemed severable from this By-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under law.

SECTION IX – SCHEDULES

9.1 Schedules “A”, “B”, “C”, “D”, “E”, shall be deemed to form party of this By-law.


SECTION X – AUTHORITY

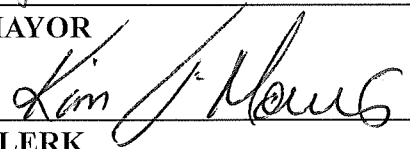
10.1 By-law 2019-21 is hereby repealed and all other by-laws inconsistent with this by-law are hereby repealed.

10.2 This By-law shall come into force and take effect on the day it is passed.

READ A FIRST, SECOND TIME)

18th DAY OF NOVEMBER 2024)




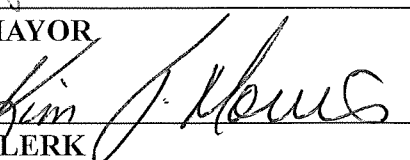
MAYOR


CLERK

READ A THIRD AND FINAL TIME)

18 DAY OF NOVEMBER 2024)



MAYOR


CLERK

MUNICIPALITY OF MARKSTAY-WARREN NOISE CONTROL BY-LAW 2024-36

SCHEDULE "A" – PROHIBITED ACTS

Item	Prohibited Act	Quiet Zones		Residential (WR, R1, R2, R3)		All Other Zones	
		Monday – Friday and non-holidays	Saturday Sunday and Statutory Holidays	Monday – Friday and non-holidays	Saturday Sunday and Statutory Holidays	Monday – Friday and non-holidays	Saturday Sunday and Statutory Holidays
1.	The operation of any auditory signaling device including by not limited to ringing of bells, gongs, sirens, horns, whistles, motor vehicle horn or other warning device and the production or reproduction of any similar sound by electronic means except where authorized or required by law.	At any time	At any time	At any time	At any time	Between 9:00 pm to 7:00 am the next day	Between 9:00 pm to 9:00 am the next day
2.	Excessive noises made by a human. This shall include noise arising from the banging of drums or another unamplified musical instrument.	At any time	At any time	Between 9:00 pm to 7:00 pm the next day	Between 9:00 pm to 9:00 am the next day	Between 11:00 pm to 7:00 am the next day	Between 11:00 pm to 9:00 am the next day
3.	Racing of a motor vehicle other than in municipally approved racing event	At any time	At any time	At any time	At any time	At any time	At any time
4.	Operation of any combustion engine or pneumatic device or construction equipment without an effective exhaust or intake muffling device in good working order and in constant operation. This will include but not limited to the operation of a motor vehicle, off road vehicle, motorized snow vehicle or other similar motorized conveyance for recreational purposes.	At any time	At any time	At any time	At any time	At any time	At any time
5.	Operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sound due to improperly secured load or equipment or inadequate maintenance.	At any time	At any time	At any time	At any time	Between 9:00 pm to 7:00 am the next day	9:00 pm to 9:00 am the next day
6.	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 (also known as idling), unless:	At any time	At any time	At any time	At any time	Between 9:00 pm to 7:00 am the next day	9:00 pm to 9:00 am the next day

	<p>a. 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</p> <p>b. 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</p> <p>c. 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</p> <p>d. prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or</p> <p>e. the idling is for the purpose of cleaning and flushing the radiator and associated circulation system for seasonal change of antifreeze, cleaning of the fuel system, carburetor or the like, when such work is performed other than for profit.</p>						
7.	Operation of any electronic device or group of connected electronic devices incorporation one or more loudspeakers or other electro-mechanical transducers and intended for the production, reproduction or amplification of sound in a stationary installation or in a motor vehicle.	At any time	At any time	Between 11:00 pm to 7:00 am the next day	Between 11:00 pm to 9:00 am the next day	Between 11:00 pm to 7:00 am the next day	Between 11:00 pm to 9:00 am the next day
8.	Operation of a generator persistently unless;	Between 7:00 pm to 7:00	Between 7:00 pm to 9:00 am	Between 7:00 pm to 7:00 am	Between 7:00 pm to 9:00	Between 11:00 pm to 7:00	Between 11:00 pm to 9:00

	<p>a. recharging an off-grid, solar system or equivalent;</p> <p>b. they are producing electricity for a residence or business during a power outage.</p>	am the next day	the next day	the next day	am the next day	am the next day	am the next day
9.	Excessive barking, calling, whining, squawking or other similar noise making by any domestic pet or any other animal or bird kept or used for any purpose other than agricultural or other authorized work.	At any time	At any time	At any time	At any time	At any time	At any time
10.	Noises or sounds created by the repairing, wrecking, dismantling or modifying of any vehicle, motor, machine or any part of parts.	At any time	At any time	Between 9:00 pm to 7:00 am the next day	Between 9:00 pm to 9:00 am the next day	Between 9:00 pm to 7:00 am the next day	Between 9:00 pm to 9:00 am the next day
11.	Noises arising out of any manufacturing industry which has the effect of disturbing the repose of any person, unless permission has been granted by Council	At any time	At any time	Between 7:00 pm to 7:00 am the next day	Between 7:00 pm to 7:00 am the next day	Between 7:00 pm to 7:00 am the next day	Between 7:00 pm to 7:00 am the next day
12.	Operation of an engine which, i) is, or ii) is used in, or iii) is intended for use in, a toy, model, drone or replica of any device which model or replica has no function other than amusement, and which is not a conveyance.	At any time	At any time	At any time	At any time	Between 9:00 pm to 7:00 am the next day	Between 9:00 pm to 9:00 am the next day
13.	Operation of any equipment in connection with construction	Between 7:00 pm to 7:00 am the next day	Between 7:00 pm to 9:00 am the next day	Between 7:00 pm to 7:00 am the next day	Between 7:00 pm to 9:00 am the next day	Between 9:00 pm to 7:00 am the next day	Between 9:00 pm to 9:00 am the next day
14.	Operation of any tool or powered device such as but not limited to a lawnmower, chain saw, generator or pressure washer for domestic purposes other than snow removal.	Between 9:00 pm to 7:00 am the next day	Between 9:00 pm to 9:00 am the next day	Between 9:00 pm to 7:00 am the next day	Between 9:00 pm to 9:00 am the next day	Between 11:00 pm to 7:00 am the next day	Between 11:00 pm to 9:00 am the next day
15.	Noise associated with loading, unloading, delivery packing, unpacking or otherwise handling of any containers, products, materials, or refuse, whatsoever, unless necessary for the maintenance of essential services or the moving of private household effects.	Between 7:00 pm to 7:00 am the next day	Between 7:00 pm to 7:00 am the next day	Between 7:00 pm to 7:00 am the next day	Between 7:00 pm to 7:00 am the next day	Between 11:00 pm to 7:00 am the next day	Between 11:00 pm to 9:00 am the next day

16.	Discharge of a firearm	At any time	At any time	At any time	At any time	Between 9:00 pm to 7:00 am the next day*	Between 9:00 pm to 9:00 am the next day*
17.	Detonation of Fireworks.	Please refer to the Municipality's By-law Regulating the setting off of Fireworks as amended.\					
18.	Unusual noise or noises likely to disturb the inhabitants of the Municipality.	At any time	At any time	At any time	At any time	At any time	At any time

*Provincial/Federal legislation supersedes the provisions outlined in this by-law relating to prohibited times for the discharge of firearms.

MUNICIPALITY OF MARKSTAY-WARREN NOISE CONTROL BY-LAW 2024-36

SCHEDULE “B” – QUIET ZONES

SCHOOLS

École St Thomas 14 Warren Avenue Warren
École publique Camille Perron 13 Church Street Markstay
Markstay Public School 7 Pioneer Street East Markstay
St Marc Catholic School 13 Church Street Markstay

PLACE OF WORSHIP

Paroisse St Thomas Parish 17 Rutland Avenue Warren
Paroisse St Mark Parish 17 Church Street Markstay
Riverside Community Church 12 Millichamp Street Markstay
Markstay Union Church 20 Main Street South Markstay

PUBLIC PARKS/BALLFIELDS/PLAYGROUNDS

Markstay Memorial Site Pioneer Street West Markstay
Warren Cenotaph 39 Lafontaine Street Warren
Markstay Baseball Field 8 Church Street Markstay
Warren Baseball Field 39 Lafontaine Street Warren
Rainbow’s Edge Playground 8 Church Street Markstay
Fairview Playground 17 Warren Avenue Warren
Hagar Park St Jean Street Hagar

CEMETERIES

St Thomas Cemetery 70 Warren Avenue Warren
Warren Public Cemetery 61 Warren Avenue Warren
Warren Protestant Cemetery 71 Warren Avenue Warren
St Mark Cemetery Pioneer East Markstay
Pinehill Cemetery Legion Street Markstay
Royal Cemetery Boundary Road Loughrin Township

MUNICIPALITY OF MARKSTAY-WARREN NOISE CONTROL BY-LAW 2024-36

SCHEDULE "C" – SPECIAL EVENTS

NIL

MUNICIPALITY OF MARKSTAY-WARREN NOISE CONTROL BY-LAW 2024-36

SCHEDULE “D” – SET FINES

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 PROVISION CREATING OR DEFINING OFFENCES	COLUMN 3 SET FINE
1.	Cause/allow noise from the operation of an auditory signaling device.	Section 3.1 Sch A (1)	\$125.00
2.	Cause/allow excessive noise made by a human	Section 3.1 Sch A (2)	\$125.00
3.	Cause/allow prohibited racing.	Section 3.1 Sch A (3)	\$200.00
4.	Cause/allow the operation of an engine without muffling device.	Section 3.1 Sch A (4)	\$125.00
5.	Cause/allow noise from a motorized vehicle or part.	Section 3.1 Sch A (5)	\$125.00
6.	Cause/allow excessive noise from idling	Section 3.1 Sch A (6)	\$125.00
7.	Cause/allow the use of an electronic audio device during prohibited hours.	Section 3.1 Sch A (7)	\$125.00
8.	Cause/allow noise from use of generators excessively	Section 3.1 Sch A (8)	\$125.00
9.	Allowing persistent noise from a domestic animal	Section 3.1 Sch A (9)	\$125.00
10.	Cause/allow excessive noise while repairing machinery	Section 3.1 Sch A (10)	\$125.00
11.	Cause/allow excessive noise from any manufacturing industry	Section 3.1 Sch A (11)	\$300.00
12.	Cause/allow excessive noise from a model, toy or drone	Section 3.1 Sch A (12)	\$85.00
13.	Cause/allow noise from a construction operation	Section 3.1 Sch A (13)	300.00
14.	Cause/allow noise operating a domestic tool or device	Section 3.1 Sch A (14)	\$85.00
15.	Cause/allow noise from Loading or delivering items outside of allowed hours	Section 3.1 Sch A (15)	\$85.00
16.	Cause/allow the discharge of fireworks when prohibited	Section 3.1 Sch A (17)	\$300.00
17.	Cause/allow unusual noise	Section 3.1 Sch A (18)	\$300.00

NOTE: Penalty provisions for the offences indicated above is Section 7 of the By-law 2024-36 a certified copy of which has been filed.