

THE CORPORATION OF THE CITY OF WATERLOO

BY-LAW NUMBER 2010- 073

Being a by-law to prohibit and regulate noise

**WHEREAS** section 129 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "Act"), authorizes municipalities to pass by-laws to prohibit and regulate noise and vibration;

**AND WHEREAS** excessive or inadequately controlled sound or vibration may impair public health, safety and welfare and may become a nuisance;

**AND WHEREAS** a recognized body of scientific and technological knowledge exists by which sound may be reasonably and accurately measured and can be substantially reduced;

**NOW THEREFORE COUNCIL OF THE CORPORATION OF THE CITY OF WATERLOO ENACTS AS FOLLOWS:**

1. Interpretation

In this by-law, the following terms shall have the following meanings:

- (1) "Authorized Emergency Vehicle" includes any:
  - (a) ambulance;
  - (b) fire department vehicle;
  - (c) police vehicle;
  - (d) vehicle (including a snow plough) operated by or for the City;
  - (e) vehicle for a public utility company while actively engaged in the construction, maintenance or repair of any highway, or any equipment or facilities thereon; and,
  - (f) a snow plough or other maintenance vehicle operated by or for the Ministry of Transportation or the Regional Municipality of Waterloo;
- (2) "Background Sound Level" is the sound level that is present in the environment, produced by noise sources other than the source under impact assessment. Highly intrusive short duration noise caused by a source such as aircraft fly-over or a train pass-by is excluded from the

determination of the background sound level. Background sound level may also be referred to as "ambient sound level";

- (3) "City" means The Corporation of The City of Waterloo;
- (4) "Construction" includes erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and highway building, application of concrete, 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;
- (5) "Construction Equipment" means any equipment or device designed and intended for use in construction, or material handling, including but not limited to: hammers, saws, drills, augers, 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;
- (6) "Controlled Area" means those areas of the City designated C7 and C8 in the Zoning By-Law;
- (7) "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;
- (8) "Council" means the Council of the City;
- (9) "dBA" means the A-weighted sound pressure level;
- (10) "dBAI" means the A-weighted sound pressure level of an impulsive sound measured with a sound level meter set to "impulse" response;
- (11) "Designated Official" means the Director of by-law Enforcement of the City, or his or her designate;
- (12) "Highway" includes a common and public highway, street, avenue, parkway, square, place, bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicles;
- (13) "Leq" means one hour equivalent sound level;
- (14) "L<sub>im</sub>" means logarithmic mean impulse sound level;

- (15) "MLEO" means a person appointed by the City as a Municipal Law Enforcement Officer pursuant to s. 15 of the *Police Services Act*, R.S.O. 1990, c. P. 15, as amended;
- (16) "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 motor 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*;
- (17) "Motorized Conveyance" means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- (18) "Noise" means sound or vibration that is of such volume, level or nature that is likely to disturb the inhabitants of the City;
- (19) "Person" means an individual, firm, corporation, partnership, association or organization, including a charitable organization;
- (20) "Point of Reception":
- (a) means any point on the premises of a person where sound originating from other than those premises is received; or,
  - (b) for the purposes of prohibitions by time and place in Schedule 2, "point of reception" includes, any point, on public property, adjacent to the premises where sound is originating from and any point in the interior common living areas of multiple attached dwelling units adjacent to the premises where sound is originating from;
- (21) "Residential Area" means those areas of the City designated as residential in the Zoning By-Law;
- (22) "Residential Renovation" means work, other than work performed by a licensed contractor, consisting of construction at a residential property by a person residing at the property (with or without the assistance of other persons) that does not require a building permit;
- (23) "Sound" means an oscillation in pressure, stress, particle displacement or particle velocity, in a medium with internal forces (e.g., elastic, viscous), or the superposition of such propagated oscillations, which may cause an auditory sensation;
- (24) "Sound Level" is the A-weighted sound pressure level;

- (25) "Sound Level Meter" is an instrument which is sensitive to and calibrated for the measurement of sound;
- (26) "Stationary Source" means a source of sound, whether fixed or mobile, that exists or operates on the premises, property or facility, the combined sound levels of which are emitted beyond the property boundary of the premises, property or facility, unless the source is due to construction as defined in this by-law. Stationary source also includes the sound generated by back-up/reverse alarms mounted on vehicles when engaged in activities within a property, excluding those back-up/reverse alarms operated in connection with construction sites, road maintenance and emergency operations. Stationary source excludes noise sources addressed in a qualitative manner, that is clearly audible at a point of reception, such as dog barking, noisy parties, domestic power tools, radios, televisions, etc.; and,
- (27) "Zoning By-Law" means by-laws passed by the City pursuant to s. 34 of the *Planning Act*, R.S.O. 1990, P.13, as amended.

2. General Prohibitions

- (1) No person shall emit, or cause or permit the emission, of sound resulting from an act listed in Schedule 1 to this by-law, which sound is clearly audible at a point of reception.

3. Prohibitions by Time and Place

- (1) No person shall emit or cause or permit the emission of sound:
  - (a) resulting from any act listed in Column 1 of Schedule 2 to this by-law;
  - (b) if clearly audible at a point of reception in an area set out in Column 2 to Schedule 2 to this by-law; and,
  - (c) during a prohibited period of time, as outlined in Column 2 to Schedule 2 to this by-law.
- (2) Notwithstanding subsection (1), the noises listed in #12 and #15 of Column 1 of Schedule 2 shall be governed by this section for those times specified in Schedule 2, but section 4(1) shall apply at all other times.

4. General Limitations on Sound Levels

- (1) No person shall emit, or cause or permit the emission, of sound from a Stationary Source such that the level of sound from that source at a point of reception located in a Controlled Area or Residential Area, when measured with a sound level meter by a person empowered to enforce this by-law, exceeds both the background sound level and exceeds the maximum permitted sound level limit for the time prescribed in Publication NPC-205 – Sound Level Limits for Stationary Sources in Class 1 and Class 2 areas (Urban).
- (2) Subsection (1) does not apply to specific sources that are governed by section 5, during the times specified in section 5.

5. Limitations Applicable to Specific Sources

- (1) No person shall, at any time, emit, cause or permit the emission of sound, which meet all of the following criteria:
  - (a) the sound is from the operation of a residential air conditioning device or a residential pool pump;
  - (b) the point of reception must be in a Controlled Area or Residential Area; and,
  - (c) the sound is in excess of both the background sound level and in excess of an Leq of 50 dBA when measured with a sound level meter by a person empowered to enforce this by-law.

For greater certainty, this subsection does not apply to air conditioning units used in connection with institutional, commercial and industrial applications or multi-family dwellings sharing a common air conditioning device.

- (2) No person shall, at any time, emit, cause or permit the emission of, any sound from any blasting operations without the prior approval of Council.
- (3) No person shall emit, cause or permit the emission of sound, which meet all of the following criteria:
  - (a) the sound being emitted is from a sound reproduction device;
  - (b) the sound occurs in any dwelling house, apartment or other residence or a business operation;

- (c) the sound occurs between 07:00 hours (09:00 hours on Sundays) and 17:00 hours (19:00 hours in a Controlled Area) of the same day;
  - (d) the sound from the sound reproduction device is clearly audible in another dwelling unit within the same residence outlined in subsection (b); and,
  - (e) the sound has an Leq greater than both the background sound level and in excess of 45 dBA when measured in another dwelling within the same residence outlined in subsection (d) with a sound level meter by a person empowered to enforce this by-law.
- (4) No person shall emit, cause or permit the emission of sound, which meet all of the following criteria:
- (a) the sound being emitted is from a sound reproduction device;
  - (b) the sound occurs in any dwelling house, apartment or other residence or a business operation;
  - (c) the sound occurs between 07:00 hours (09:00 hours on Sundays) and 17:00 hours (19:00 hours in a Controlled Area) of the same day; and,
  - (d) the sound has an Leq greater than both the background sound level and in excess of:
    - (i) 55 dBA when measured outside any dwelling house, apartment or other residence or a business operation at the property line with a sound level meter by a person empowered to enforce this by-law; or,
    - (ii) 45 dBA when measured inside a business operation with a sound level meter by a person empowered to enforce this by-law.
- (5) No person shall emit, cause or permit the emission of sound, which meet all of the following criteria:
- (a) the sound being emitted is from an unamplified musical instrument;
  - (b) the sound occurs in any dwelling house, apartment house, hotel or other residence; or a business

- (c) the sound occurs between 07:00 hours (09:00 hours on Sundays) and 17:00 hours (19:00 hours in a Controlled Area) of the same day;
- (d) the sound has an Leq greater than both the background sound level and in excess of:
  - (i) 55 dBA when measured outside any dwelling house, apartment or other residence or a business operation at the property line with a sound level meter by a person empowered to enforce this by-law; or,
  - (ii) 45 dBA when measured inside a business operation with a sound level meter by a person empowered to enforce this by-law.

6. Exemptions

Notwithstanding any other provision of this by-law, it shall be lawful to emit or cause or permit the emission of sound in connection with:

- (1) any of the activities listed in Schedule 3; or,
- (2) emergency measures undertaken for the immediate health, safety or welfare of the inhabitants of the City, including emergency measures undertaken for the preservation or restoration of property.

7. Grant of Exemption by Designated Official

- (1) Any person may make application to the Designated Official to be granted an exemption from any of the provisions of this by-law.
- (2) The application shall be made in writing at least sixty (60) days prior to the event or activity and shall contain, at a minimum, the following information or documentation:
  - (a) the name and address of the applicant;
  - (b) the name and address of the organization represented by the applicant, if applicable;
  - (c) a description of the source of sound in respect of which the exemption is sought;

- (d) a drawing of the proposed property showing the location of the noise source that is the subject of the exemption and the distance to the nearest residential use that may be effected;
  - (e) the particular provision or provisions of the by-law from which the exemption is sought;
  - (f) the period of time, of a duration not in excess of six (6) months, for which the exemption is sought;
  - (g) the location of the event or activity for which the exemption is sought;
  - (h) the estimated number of attendees (for events or activities other than those relating to construction projects and at the discretion of the designated official);
    - (i) if the total estimated number of attendees is greater than sixty (60), one MLEO shall be required to attend the event or activity as part of the noise exemption, at the applicant's sole expense; and,
    - (ii) if the total estimated number of attendees is greater than one hundred and twenty (120), two MLEOs shall be required to attend the event or activity as part of the noise exemption, at the applicant's sole expense;
  - (i) the reasons why the exemption should be granted; and,
  - (j) the applicable fee as set out in the City's Fees and Charges By-Law.
- (3) Pursuant to section 23.1 of the Act, Council hereby delegates to the Designated Official the power to issue permits granting an exemption from any of the provisions of this by-law.
- (4) The delegation of power in subsection (2) may be revoked by Council at any time without notice.
- (5) Council shall exercise all powers and authority for granting exemptions under this by-law where the Designated Official refers the matter to Council.
- (6) The Designated Official or Council may:
- (a) refuse to grant any exemption;



- (b) grant an exemption; or,
  - (c) grant an exemption of lesser effect.
- (7) Any exemption granted shall specify the time period, not in excess of six (6) months, during which it is effective and may contain such terms and conditions as the Designated Official or Council sees fit.
- (8) In determining whether to grant an exemption, the Designated Official or Council shall consider the following, if applicable:
- (a) any objection to the exemption being approved on the basis that it would be contrary to the general intent and purpose of this by-law;
  - (b) whether the applicant has complied with all of the terms and conditions of any previous exemption issued to the applicant, if any; and,
  - (c) whether the applicant has provided all of the information required by subsection (b).
- (9) An exemption permit issued under this section shall be, at minimum, subject to the following terms and conditions:
- (a) the sound emitted from any equipment shall not exceed an Leq of 85 dBA when measured 20 metres from the source over a five-minute period or sound from any amplified sound sources in excess of both background sound level and in excess of 55 dBA when measured from any adjoining residential property;
  - (b) where the sound level of any equipment exceeds 85 dBA or 55 dBA of any amplified sound, the applicant shall comply with any request from any person empowered to enforce this by-law with respect to the volume of sound from the equipment to ensure compliance with subsection (a);
  - (c) no sound or construction equipment other than the equipment approved under the permit shall be used by the applicant;
  - (d) the event or activity shall be restricted to the approved location set out in the permit;
  - (e) the permission granted is only for the date(s) and time(s) for the event or activity as set out in the permit;

- (f) a permit issued to the applicant is not transferable;
- (g) where the Designated Official refuses to grant an exemption permit under this section, the Designated Official shall notify the applicant, in writing, advising them that they may appeal the Designated Official's decision to Council within twenty-one (21) days of the date of the notice. The Appeal shall be presented to the appropriate standing committee for recommendation to Council. Council's decision to issue a permit, refuse to issue a permit or to set terms and conditions for a permit is final;
- (h) breach by the applicant of any of the terms or conditions of the exemption shall render the exemption null and void; and,
- (i) the Designated Official shall provide an annual report to Council summarizing the number of noise exemption permits issued.

8. Exemption of Traditional, Festive or Religious Activities

Notwithstanding any other provision of the this by-law, this by-law shall not apply to a person who emits, or causes or permits the emission of, sound integral to any of the events or activities outlined in this section:

- (1) UpTown Waterloo Ice Dogs Festival;
- (2) UpTown Country;
- (3) UpTown Waterloo Jazz Festival;
- (4) Waterloo Busker Carnival;
- (5) Oktoberfest Barrel Race;
- (6) Victorian Carollers;
- (7) Summer concert series;
- (8) UpTown Music Festival;
- (9) University of Waterloo Canada Day celebrations;
- (10) Royal Medieval Faire;
- (11) Wonders of Winter Festival of Lights; or,
- (12) K-W Oktoberfest events or activities.

9. Enforcement and Administration

- (1) The Designated Official shall administer and enforce this by-law.
- (2) MLEOs employed by the City and police constables who are members of the Waterloo Regional Police Service are hereby authorized to enforce this by-law.
- (3) University of Waterloo Special Constables and Wilfrid Laurier University Special Constables are hereby authorized to enforce this by-law on property belonging to their respective University.
- (4) The following Ministry of the Environment Noise Pollution Control (NPC) documents shall be used as a guide when administering this by-law: NPC 101, NPC 102, NPC 103, NPC 104, NPC 115, NPC 117, NPC 118, NPC 119, NPC 205, NPC 216, NPC 232 and NPC 233.

10. Penalty

- (1) Every person who contravenes any of the provisions of this by-law is guilty of an offence and, pursuant to section 429 of the Act, all contraventions of this by-law are designated as continuing offences.
- (2) Every person, excluding a corporation, who is convicted of an offence is liable to a minimum fine of \$400 and a maximum fine of \$25,000 for a first offence and a maximum fine of \$50,000 for a subsequent offence.
- (3) Every corporation who is convicted of an offence is liable to a maximum fine of \$50,000 for a first offence and \$100,000 for a subsequent offence.
- (4) In addition to the fine amounts set out in subsection (2) and (3), for each day or part of a day that an offence continues, the minimum fine shall be \$400 and the maximum fine shall be \$10,000. The total of all daily fines for the offence is not limited to \$100,000.

11. Alternative Response

- (1) This section only applies to alleged by-law violations involving Stationary Sources.
- (2) Where the Designated Official, or other person authorized by Council to enforce this by-law, issues a notice in writing to a person indicating that they are alleged to have violated, or are currently violating, this by-law, the aforesaid person may:

- (a) respond to the aforesaid notice within forty five (45) days of the issuance of the notice to the Designated Official or to the person indicated in the notice by submitting a noise study report by a licensed professional engineer with applicable experience in acoustics and noise.
- (3) The noise study report mentioned in subsection 2(a) shall include the following information:
- (a) the description of the equipment/facility/operation and the operating hours;
  - (b) the land use zoning designation of the surrounding area;
  - (c) the location and distance to points of reception;
  - (d) the relevant architectural and mechanical drawings;
  - (e) the details of proposed noise and vibration control measures; and,
  - (f) other details which may be required and outlined in NPC 233.
- (4) Where the noise study report proposes a solution to the alleged violation of this by-law which is acceptable to the City in the absolute discretion of Council, then the person who is alleged to have violated this by-law may implement the proposal contemplated in the noise study report to address the alleged violation.
- (5) If, however, the noise study report does not propose a solution to the alleged violation which is acceptable to the City in the absolute discretion of the Council, or if the person does not implement the proposed solution within the timeframe specified within the noise study report, or if the proposed solution when implemented continues to result in violations of this by-law, then the person who is alleged to have violated this by-law will remain subject to the penalty or penalties under section 10 if convicted of the offence.

## 12. Severability

If a Court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and the remainder of the by-law shall be valid and shall remain in force.

13. Title

This by-law may be referred to as the "Noise By-Law".

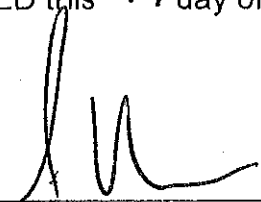
14. Repeal

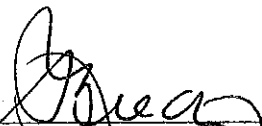
By-Laws 78-79 and 86-75 as well as any sections of the Municipal Code dealing with noise or vibration are hereby repealed.

15. Coming Into Force

This by-law shall come into force and effect on August 31, 2010.

PASSED this 17<sup>th</sup> day of May, 2010

  
MAYOR BRENDA HALLORAN  
Acting Mayor Scott Witmel

  
SUSAN GREATRIX, CITY CLERK

Approval	Date	Authorized By	Initial
PS/BL	May 13/10	Jim B...	JB
Legal	May 13/10	E. Davis	ED
Financial	May 13/10	N/A	

## SCHEDULE 1

### PROHIBITIONS

1. 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.
2. The operation of any item of construction equipment in a Controlled Area or Residential Area without effective muffling devices in good working order and in constant operation.

## SCHEDULE 2

### PROHIBITIONS BY TIME AND PLACE

Column 1	Column 2 - Prohibited Period of Time	
	Residential Area	Controlled Area
1. The detonation of fireworks or explosive device not used in construction.	At all times other than those permitted by other City by-laws	At all times other than those permitted by other City by-laws
2. The discharge of firearms (except by police).	At all times	At all times
3. The operation of a combustion engine which:  (i) is; (ii) is used in; or, (iii) 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.	19:00 one day to 09:00 next day	19:00 one day to 09:00 next day
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.	17:00 one day to 07:00 next day (09:00 on Sundays)	19:00 one day to 07:00 next day (09:00 on Sundays)
5. The operation of any auditory signaling device, including but not limited to the ringing of bells or gongs and the blowing of horns 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.	All day Sundays and Statutory Holidays. 19:00 one day to 07:00 next day otherwise	All day Sundays and Statutory Holidays. 19:00 one day to 07:00 next day otherwise
6. The operation of any powered rail car including but not limited to refrigeration cars, locomotives or self-propelled passenger cars, while stationary on property not owned or controlled by a railway governed by the <i>Canada Railway Act</i> .	19:00 one day to 07:00 next day (09:00 on Sundays)	19:00 one day to 07:00 next day (09:00 on Sundays)
7. The operation of any motorized conveyance other than on a highway or other place intended for its operation.	19:00 one day to 07:00 next day (09:00 on Sundays)	19:00 one day to 07:00 next day (09:00 on Sundays)
8. 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.	At all times	At all times
9. Persistent or repetitive yelling, shouting, hooting, whistling or singing.	At all times	At all times

10.	Yelling, shouting, hooting, whistling, or singing.	23:00 one day to 07:00 next day (09:00 on Sundays)	23:00 one day to 07:00 next day (09:00 on Sundays)
11.	All selling or advertising by shouting or outcry or amplified sound.	All day Sundays and Statutory Holidays. 19:00 one day to 07:00 next day otherwise	19:00 one day to 07:00 next day (09:00 on Sundays)
12.	Loading, unloading, delivering, packing, unpacking, or otherwise handling any equipment, containers, products, materials, or refuse (other than as contemplated by 15 below), whatsoever, unless necessary for the maintenance of essential services or the moving of private household effects.	All day Sundays and Statutory Holidays. 19:00 one day to 07:00 next day otherwise	All day Sundays and Statutory Holidays. 19:00 one day to 07:00 next day otherwise
13.	The operation of any construction equipment other than in connection with Residential Renovations.	All day Sundays and Statutory Holidays. 19:00 one day to 07:00 next day otherwise	All day Sundays and Statutory Holidays. 19:00 one day to 07:00 next day otherwise
14.	The operation or use of any tool for domestic purposes other than snow removal.	21:00 one day to 07:00 next day (09:00 on Sundays)	21:00 one day to 07:00 next day (09:00 on Sundays)
15.	The operation of solid waste bulk lift or refuse compacting equipment.	21:00 one day to 07:00 next day (09:00 on Sundays)	21:00 one day to 07:00 next day (09:00 on Sundays)
16.	Residential Renovations	21:00 one day to 07:00 next day (09:00 on Sundays)	21:00 one day to 07:00 next day (09:00 on Sundays)
17.	The playing of unamplified musical instruments.	21:00 one day to 07:00 next day (09:00 on Sundays)	21:00 one day to 07:00 next day (09:00 on Sundays)



## SCHEDULE 3

### EXEMPT ACTIVITIES

1. Operation of Authorized Emergency Vehicles.
2. Operation of bells or other alarms utilized as traffic control devices, including the following:
  - (a) bells and other devices at traffic signal locations; and,
  - (b) bells at railway crossings
3. Operation of machines and equipment by or on behalf of the City, including but not limited to the following:
  - (a) painting machines for crosswalks and highways;
  - (b) tree and shrub pruning and mulching equipment;
  - (c) grass cutting or field maintenance equipment;
  - (d) City owned or contracted street cleaners and flushers; and,
  - (e) construction equipment and machinery, including snow removal equipment, used by or on behalf of the City while carrying on or engaged in the performance of public works, including but not limited the following, capital projects and maintenance operations.
4. Operation of bells, chimes, carillons and clocks in religious or public buildings.
5. Operation of machinery by or on behalf of a public utility where the work needs to be done on week-ends or overnight to minimize service interruptions.
6. Operation of construction equipment where the City has issued a road use permit and in issuing such permit the City mandates that the work be done on week-ends or overnight to minimize traffic impacts.
7. Noises normally incidental to activities taking place pursuant to a City issued permit for outdoor recreational facilities, subject to any conditions applicable to such permit or noises normally incidental to City-approved events or activities at outdoor recreational facilities.

