

CITY OF KINGSTON

Ontario

BY-LAW NO. 2004-52

A BY-LAW TO REGULATE NOISE

PASSED: March 2, 2004

As Amended By By-Law No:

By-law No. 2007-51

Passed on February 27, 2007

(Office Consolidation)

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BY-LAW NO. 2004-52

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PASSED: March 2, 2004

WHEREAS section 129 of the *Municipal Act, 2001* authorizes the council of every local municipality to regulate and prohibit with respect to noise;

THEREFORE the Council of The Corporation of the City of Kingston enacts as follows:

1. DEFINITIONS:

In this by-law,

“Agricultural property” means a property that is zoned for agricultural use in the zoning by-law that applies to the property;

“City” and ***“City of Kingston”*** mean The Corporation of the City of Kingston, as incorporated on January 1, 1998, and all of its administrative units;

“Construction” includes 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, and includes any associated or related work;

“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, trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment;

“Council” and ***“City Council”*** mean the Council of the City of Kingston;

“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;

“Emergency vehicle” includes a land ambulance, an air ambulance, a fire department vehicle, and a motor vehicle being used to respond to an emergency;

“Licensing and General By-Law Section” means the administrative unit of the Building and Licensing Division, Department of Planning and Development Services that is responsible for enforcing the general by-laws of the City or, in the event of organizational changes, another administrative unit designated by Council to carry out this responsibility;

“Motor vehicle” includes an automobile, bus, truck, motorcycle, motor assisted bicycle and any other vehicle propelled or driven other than by muscular power, but does not include a motorized snow vehicle, traction engine, farm tractor, other farm vehicle or road-building machine;

“Municipal service vehicle” means a vehicle operated by or on behalf of the City or a local board of the City while the vehicle is being used for the construction, repair or maintenance of a highway, including the clearing and removal of snow, the construction, repair or maintenance of a utility, the collection or transportation of waste, or other municipal purpose;

“Noise” means sound that is unusual or excessive, or that is unwanted by or disturbing to persons;

“Other areas” means the lands designated in Schedule D as “other areas”;

“Person” includes a corporation as well as an individual;

“Premises” means a piece of land and any buildings and structures on it, and includes a place of business, road, and any other location or place;

“Residence” means a room, suite of rooms, or dwelling, including a mobile trailer, operated as a housekeeping unit that is used or intended to be used as a separate domicile by one or more persons, and that normally contains cooking, eating, living, sleeping and sanitary facilities;

“Residential areas” means all lands within the geographic boundaries of the City except for those lands designated in Schedule D as “other areas”;

“Road” includes a public highway, private road, lane, pathway and sidewalk;

“Utility” means a system that is used to provide a utility service to the public, including water, sewage, electricity, gas, communications networks and cable services;

“Utility service vehicle” means a vehicle operated by or on behalf of Utilities Kingston, its subsidiary companies, and by any other company or agency that supplies or manages a utility within the City while the vehicle is being used for the construction, repair or maintenance of that utility;

"Vehicle" includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine and other vehicle propelled or driven other than by muscular power; and

"Zoning by-law" means a by-law passed under section 34 of the *Planning Act* that restricts the use of land.

2. APPLICATION:

2.1 The general prohibitions on activities described in Schedule A apply to the lands within the residential areas and other areas of the City designated in Schedule D at all times.

2.2 The prohibitions on activities by time and place described in Schedule B apply to the lands within the residential areas and other areas of the City designated in Schedule D during the days and between the hours specified in Schedule B.

3. ADMINISTRATION:

3.1 The Licensing and General By-Law Section is responsible for the administration of this by-law.

3.2 All provincial offences officers with authority to enforce the by-laws of the City are responsible for enforcing the provisions of this by-law.

3.3 Any person may submit an application to the Licensing and General By-Law Section requesting an exemption from any of the prohibitions described in Schedules A and B.

3.4 If Council approves the application, the exemption will be in effect for the dates specified, and Council may impose any conditions that it considers appropriate.

3.5 An exemption shall be invalid if these conditions are contravened.

4. REGULATIONS:

4.1 No person shall, at any time, make, cause or permit the making of noise within the City that is the result of any of the activities described in Schedule A and that is audible to:

(1) a person in a premises or a vehicle other than the premises or vehicle from which the noise is originating; or

(2) a person in a residence other than the residence from which the noise is originating.

4.2 No person shall, during the days and between the hours specified in Schedule B, make, cause or permit the making of noise within the residential areas and other areas designated in Schedule D that is the result of any of the activities described in Schedule B and that is audible to:

- (1) a person in a premises or a vehicle other than the premises or vehicle from which the noise is originating; or
- (2) a person in a residence other than the residence from which the noise is originating.

5. EXEMPTIONS:

5.1 The prohibitions described in Schedules A and B do not apply if the noise is the result of measures undertaken in an emergency for the:

- (1) immediate health, safety or welfare of the inhabitants; or
- (2) preservation or restoration of property;

unless the noise is clearly of a longer duration or of a more disturbing nature than is reasonably necessary to deal with the emergency.

5.2 The prohibitions described in Schedules A and B do not apply if the noise is the result of any of the activities described in Schedule C.

5.3 The prohibitions described in Schedules A and B do not apply if the noise is the result of an activity that has been granted an exemption under section 3.4.

6. SCHEDULES:

The following schedules are attached to and form part of this by-law:

- Schedule A - General Noise Prohibitions;
- Schedule B - Noise Prohibitions by Time and Place;
- Schedule C - Exemptions from the Noise Prohibitions; and
- Schedule D - Designated Residential Areas.

7. OFFENCE AND PENALTY PROVISIONS:

7.1 Any person who contravenes the provisions of this by-law is guilty of an offence and, upon conviction, is subject to a fine as provided in the *Provincial Offences Act* and to any other applicable penalties.

7.2 If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

8. VALIDITY:

8.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this by-law that each and every provision of this by-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

9. COMMENCEMENT:

9.1 This by-law comes into effect three months after the day that it receives third reading and is passed.

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SCHEDULE A

GENERAL NOISE PROHIBITIONS

1. Operation of a motor vehicle or motorized snow vehicle in a race.
2. Operation of a motor vehicle in such a way that the tires squeal.
3. Operation of a combustion engine or pneumatic device without an effective exhaust muffling device that is in good working order and in constant operation.
4. Operation of any item of construction equipment without an effective exhaust muffling device that is in good working order and in constant operation.
5. Operation of a vehicle in a manner that results in banging, clanking, squealing or similar sounds because of inadequate maintenance or an improperly secured load.
6. Operation of the horn of a vehicle or other warning device except where required or authorized, or in accordance with good safety practice.
7. Operation of any outdoor auditory signaling device, including but not limited to outdoor paging systems, the ringing of bells or gongs, the use of sirens, whistles or chimes, 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 practice.
8. Persistent barking, calling or whining or other similar persistent noise-making by animals and birds kept as household pets.
9. Selling or advertising by shouting, yelling or amplified sound.
10. Unauthorized setting off of fireworks.
11. Operation of an engine or motor in, or on, any vehicle or item of attached auxiliary equipment for a continuous period of more than five minutes, or such other time limit specified in the by-law controlling the idling of vehicles and boats, while such vehicle is stationary in a residential area, unless:
 - (a) The vehicle is in an enclosed structure constructed so as to effectively prevent the emission of excessive noise;
 - (b) Continuous operation of the engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to the operation of ready-mixed concrete trucks, lift platforms, refuse compactors and heat exchange systems during normal operation;
 - (c) Weather conditions justify the use of heating or refrigeration systems powered by the motor or engine for the safety and welfare of the operator, passengers or animals, or the preservation of perishable cargo;

SCHEDULE B

NOISE PROHIBITIONS BY TIME AND PLACE

Activity	Prohibited Times	
	Residential Areas	Other Areas
1. Operation of construction equipment in connection with construction.	C and F	C and F
2. RESERVED (By-law No. 2004-52; 2007-51)	E	E
3. Erection, alteration, repair, dismantling, or any activity related to construction.	C and F	C and F
4. Operation of any device or group of connected devices intended for the production, reproduction, or amplification of voices or sound.	A	E
5. Operation of a combustion engine that (i) is, or (ii) is used in, or (iii) is intended for use in a toy or a model or replica of a larger device, which is not a conveyance and which has no purpose other than amusement.	C	E
6. 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.	E	E
7. Operation of a solid waste bulk lift or refuse compacting equipment.	C	D
8. Operation of commercial car wash equipment.	E	E
9. Operation of any powered rail car including but not limited to locomotives and refrigeration cars while stationary on property not owned or controlled by a railway company governed by the Railway Safety Act (Canada).	C	D

Activity	Prohibited Times	
	Residential Areas	Other Areas
10. Operation of any motorized conveyance other than on a highway or other place intended for its operation.	C	D
11. Outdoor operation of any powered or non-powered tool for domestic purposes other than snow removal.	D	E
12. Loading, unloading, delivering, packing, unpacking or otherwise handling any containers, products, other materials or refuse, unless necessary for the maintenance of essential services or the moving of private household effects.	C and F	F
13. Operation of a pit or quarry.	C and F	C and F
14. Take-off or landing of a power-assisted hang glider, parafoil or aircraft of any type.	A	C
15. Yelling, shouting, hooting, whistling, singing or the playing of musical instruments, including percussion instruments.	D	E

Prohibited Times

- A. At any time
- B. 1700 hours (5:00pm) of one day to 0700 hours of next day (0900 Sundays)
- C. 1900 hours (7:00pm) of one day to 0700 hours of next day (0900 Sundays)
- D. 2100 hours (9:00pm) of one day to 0700 hours of next day (0900 Sundays)
- E. 2300 hours (11:00pm) of one day to 0700 hours of next day (0900 Sundays)
- F. All day Sundays and Statutory Holidays

SCHEDULE C

EXEMPTIONS FROM THE NOISE PROHIBITIONS

1. Operation of emergency vehicles.
2. Operation of municipal service vehicles and related equipment.
3. Operation of utility service vehicles and related equipment.
4. Authorized displays of fireworks.
5. Bicycle races.
6. Midways that have been authorized by the City.
7. Circuses that have been authorized by the City.
8. Races, parades, processions, and events for ceremonial, religious or traditional purposes that have been authorized by the Kingston Police.
9. Operation of bells, chimes, carillons and clocks in churches and public buildings.
10. Cultural, recreational, educational and political events in parks and other public places that have been authorized by the City.
11. Neighbourhood events on municipal highways and other municipal property that have been authorized by the City.
12. Aviation activities at Norman Rogers Airport.
13. Agricultural activities on agricultural properties.

SCHEDULE D

DESIGNATED RESIDENTIAL AREAS

