



Town of Whitby By-law # 6917-14

Noise By-law

Being a By-law to prohibit and regulate noise within the Town of Whitby.

Whereas Section 129 of the Municipal Act provides that a local municipality may prohibit and regulate noise;

And Whereas the Council of the Town of Whitby considers the prohibition and regulation of noise within the Town to be in the interest of the community;

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

1. Definitions

- 1.1. "agricultural area" means an area designated as such in the Town of Whitby Zoning By-laws and includes an identified non-conforming use;
- 1.2. "commercial area" means an area designated as such in the Town of Whitby Zoning By-laws and includes an identified non-conforming use;
- 1.3. "construction" includes the erection, alteration, repair, dismantling, demolition or structural maintenance of buildings, land clearing, earth moving, grading, excavating, 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;
- 1.4. "conveyance" means any type of device designed or capable for use as a means of physically transporting persons from one place to another;
- 1.5. "exhaust muffling device" means a muffler in good working order and in constant operation to prevent excessive or unusual noise from a motor vehicle;
- 1.6. "heavy equipment" means any equipment, tool or device designed or capable of use in construction or demolition, automotive repair 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 or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;

- 1.7. "highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for use or used by the general public for the passage of vehicles and includes a road allowance and/or right of way;
- 1.8. "industrial area" means an area designated as such in the Town of Whitby Zoning By-laws and includes an identified non-conforming use;
- 1.9. "inhabitants" means those people normally residing or working within the Town, which includes any temporary resident or occupier of a premises within the Town;
- 1.10. "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 vehicle running only upon rails, traction engines, farm tractors, self-propelled implements of husbandry or road building machines within the meaning of the Highway Traffic Act;
- 1.11. "non-conforming" means a use which does not comply with the provisions of the Town's Zoning By-laws for the zone in which such use is located as of the date of passing of the Town's Zoning By-laws;
- 1.12. "parks area" includes playgrounds, sports fields, memorial squares, gardens, waters, marinas, boat launches, and any other area or areas owned and used by the Town for active or passive recreational purposes or for any other purpose ancillary thereto;
- 1.13. "point of reception" means any point on the premises of a person where noise, originating from other than those premises, is received;
- 1.14. "officer" means a municipal law enforcement officer appointed by the Town to enforce the provisions of this by-law or a police officer who is a member of the Durham Regional Police Service;
- 1.15. "Region" means the Region of Durham;
- 1.16. "residential area" means an area designated as such in the Town of Whitby Zoning By-laws and includes an identified non-conforming use;
- 1.17. "special event" includes a demonstration, parade, sports event, festival, carnival and other like events;
- 1.18. "statutory holiday" means any holiday designated a holiday in the Retail Business Holidays Act; and
- 1.19. "Town" means The Corporation of the Town of Whitby or the territorial jurisdiction of the Town of Whitby as the context requires.

2. Interpretation

- 2.1. Unless otherwise specified, references in this by-law to sections, subsections, clauses and schedules are references to sections, subsections, clauses and schedules in this by-law.
- 2.2. If a court of competent jurisdiction declares any section, or any part of any section of this by-law to be invalid, or to be of no force and effect, it is the intention of the Town that every other provision of the by-law be applied and enforced in accordance with its terms to the extent possible according to law.
- 2.3. References in this by-law to any statute or statutory provision include references to that statute or statutory provision as it may from time to time be amended, extended or re-enacted.
- 2.4. This by-law shall be read with all changes in gender or number as the context requires.

3. Regulation

- 3.1. No person shall cause or permit to be caused any noise audible at a point of reception listed in "Schedule 1 – Prohibited Noise".
- 3.2. No person shall cause or permit to be caused any noise audible at a point of reception listed in "Schedule 2 – Prohibited Noise by Time and Place" where the noise occurs during the prohibited times specified in the schedule.
- 3.3. Notwithstanding any other provision in this by-law, a person may cause or permit to be caused any noise audible at a point of reception provided the noise is in connection with any of the activities listed in "Schedule 3 – Exempted Noise".
- 3.4. Notwithstanding any other provision in this by-law, a person may cause or permit to be caused any noise audible at a point of reception in connection with legitimate emergency measures for the protection of the immediate health, safety or welfare of the inhabitants of the Town or for the preservation or protection of property.

Delegation of Authority for Infrastructure Works

- 3.5. The Commissioner of Public Works is delegated the authority to approve noise by-law exemptions for construction works undertaken by the Town of Whitby, Region of Durham and/or Ministry of Transportation (with the exception of Highway 407 related activities), subject to the following general guidelines;
 - 3.5.1. if possible, work outside the limits of this by-law will be avoided,
 - 3.5.2. if possible, evening work within 400 meters of residential dwelling will be avoided,

- 3.5.3. if possible, Sunday work will be avoided, however if Sunday work is required, work will be limited to between 8:00 a.m. and 5:00 p.m., whenever possible, and
- 3.5.4. no evening work will be permitted on holiday weekends.

4. General

- 4.1. The activities listed in "Schedule 1 – Prohibited Noise" are deemed to be noises which are likely to disturb the inhabitants of the Town if audible at a point of reception.
- 4.2. The activities listed in "Schedule 2 – Prohibited Noise by Time and Place" are deemed to be noises which are likely to disturb the inhabitants of the Town if the noise occurs within the identified times specified in the schedule and are audible at a point of reception.
- 4.3. The activities listed in "Schedule 3 – Exempted Noise" are deemed to be noises which are considered to be reasonable or necessary in consideration of the circumstances and are exempted from the provisions of this by-law.

5. Schedule(s)

- 5.1. Schedule 1 – Prohibited Noise
- 5.2. Schedule 2 – Prohibited Noise by Time and Place
- 5.3. Schedule 3 – Exempted Noise

6. Enforcement and Penalties

- 6.1. The provisions of this by-law may be enforced by an officer.
- 6.2. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a penalty as provided by the *Municipal Act*.

7. Short Title

- 7.1. This by-law may be cited as the Noise By-law.

8. Repeal of Existing By-law

- 8.1. By-law No. 292-70, being a by-law to regulated noises calculated to disturb the inhabitants of the Town of Whitby, is repealed.
- 8.2. By-law No. 531-77, being a by-law to amend By-law No. 292-70, is repealed.
- 8.3. By-law No. 891-79, being a by-law to amend By-law No. 292-70, is repealed.
- 8.4. By-law No. 6862-14, being a by-law to amend By-law No. 292-70, is repealed.

9. Effective Date

9.1. This by-law shall come into force and effect on the day of its passage.

By-law read and passed this 8th day of September, 2014.



Patricia Perkins, Mayor

Debi A. Wilcox, Town Clerk

Schedule 1 – Prohibited Noise

1. The operation of any electronic device or group of connected electronic devices incorporating one or more speakers and intended for the production, reproduction or amplification of sound at such a volume that it is audible from the interior of a residence or business whose occupant has made every reasonable attempt to mitigate the reception of the noise.
2. Shouting, screaming, yelling, singing or the playing of instruments at such a volume that it is audible from the interior of a residence or business whose occupant has made every reasonable attempt to mitigate the reception of the noise.
3. Racing of any motorized conveyance other than in a racing event regulated by law or in a facility for racing motorized conveyances that is not otherwise prohibited by law.
4. The excessive and unnecessary revving of any engine.
5. The operation of a motor vehicle in such a manner that the tires squeal.
6. The operation of any motor vehicle without an exhaust muffling device in good working order.
7. The operation of a motor vehicle or motor vehicle with a trailer which results in banging, clanking, squealing or other like sounds due to an unsecured or improperly secured load or inadequate maintenance of the vehicle or trailer.
8. The operation of a horn or other warning device except where required and authorized by law or in the interest of good safety practices.
9. The operation of a stereo or other electronic device designed to amplify sound in a motor vehicle at such a volume that the sound is clearly audible from the outside of the motor vehicle.

Schedule 2 – Prohibited Noise by Time and Place

| Type of Noise | Prohibited Times | |
|--|--|---|
| | Residential and Parks Area | Commercial, Industrial, Agricultural Area |
| 1. 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, except wind chimes, or the production, reproduction or amplification of any similar sounds by electronic means except where required or authorized by law. | 9:00 PM to 7:00 AM | 9:00 PM to 7:00 AM |
| 2. The operation of any electronic device or group of connected electronic devices incorporating one or more speakers or other electro-mechanical transducers, and intended for the production, reproduction or amplification of sound. | 9:00 PM to 7:00 AM (prohibited at any time in a parks area, except in accordance with Schedule 3 to this by-law) | 9:00 PM to 7:00 AM |
| 3. All selling or advertising by shouting or amplified sound. | Prohibited at any time | 9:00 PM to 7:00 AM |
| 4. Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials or refuse whatsoever, unless necessary for the maintenance of essential services. | 9:00 PM to 7:00 AM | 9:00 PM to 7:00 AM (permitted at any time in an industrial area) |
| 5. The operation of heavy equipment in connection with construction or demolition, automotive repair or material handling. | 8:00 PM to 7:00 AM (prohibited at any time on Sundays and statutory holidays) | 8:00 PM to 7:00 AM (prohibited at any time on Sundays and statutory holidays) |

Schedule 2 (continued) – Prohibited Noise by Time and Place

| Type of Noise | Prohibited Times | |
|---|----------------------------|--|
| | Residential and Parks Area | Commercial, Industrial, Agricultural Area |
| 6. The operation of any motorized conveyance other than on a highway or other place where its operation is permitted by all applicable legislation. | Prohibited at any time | Generally prohibited at any time (9:00 PM to 7:00 AM in permitted locations pursuant to the Town's Zoning By-laws) |
| 7. The operation of a combustion engine which is used in a toy or model or replica, which is not a vehicle. | 9:00 PM to 7:00 AM | 9:00 PM to 7:00 AM |
| 8. The operation of any powered or non-powered tool for domestic purposes. | 9:00 PM to 7:00 AM | 9:00 PM to 7:00 AM |
| 9. The operation of any lawn mower, trimmer or similar device. | 9:00 PM to 7:00 AM | 9:00 PM to 7:00 AM |
| 10. The operation of any snow thrower, snow blower or similar device. | 10:00 PM to 6:00 AM | 10:00 PM to 6:00 AM |
| 11. The operation of solid waste bulk lift or refuse compacting equipment. | 9:00 PM to 7:00 AM | 9:00 PM to 7:00 AM |
| 12. Yelling, whistling, singing, speaking or the playing of instruments at such a volume that it is audible off of the property from which it originates at any point of reception. | 9:00 PM to 7:00 AM | 9:00 PM to 7:00 AM |

Schedule 3 – Exempted Noise

1. The use in a reasonable manner of an apparatus or mechanism for the amplification of the human voice or of music in a public park or recreational area provided that a permit from the Town has first been obtained.
2. Any parade, provided that permission to hold the parade has been obtained from the Durham Regional Police Services and that a permit has been issued by the Town, and that there is compliance with all applicable laws.
3. Any special event held by the Town.
4. Any emergency work being carried out by the Town, the Regional Municipality of Durham, the Ministry of Transportation, any electric utility company; natural gas or telephone utility.
5. The ringing of school bells or the sounding of a public address system on a property owned by the Durham District School Board or the Durham Catholic District School Board or a recognized private school.
6. The sounding of bells or chimes or the use of an apparatus or mechanism for the amplification of the human voice or of music for the purpose of a call to prayer on a property operated as a church or a place of worship.
7. Any noise originating from, or caused by, the operation of farm equipment or machinery for cultivating, seeding, crop maintenance or harvesting purposes on any lands designated as an agricultural area.
8. Any noise originating from, or caused by, the operation of aircraft or aircraft movements which are regulated by the Federal government.
9. Any noise originating from, or caused by, the operation of trains or track maintenance including train whistles, provided a stand-alone by-law prohibiting the same does not exist.
10. Any fireworks display authorized or permitted by the Town and in compliance with all applicable legislation including the Fireworks By-law.
11. Necessary operations carried out in the interest of public necessity and convenience, including but not limited to snow clearing, street cleaning and garbage collection, undertaken by or on behalf of the Town or the Region.
12. Any snow removal activities which are essential for the effective operation of a business.

Schedule 3 (continued) – Exempted Noise

13. Any reasonable noise resulting from the operation of a business activity provided that such noise is part of the normal operation of the business and provided that the business is operating in compliance with the Town's Zoning By-laws and all other applicable laws.