

THE CORPORATION OF THE TOWNSHIP OF HAMILTON

BY-LAW NO. 80-34

BEING A BY-LAW TO CONTROL NOISE IN THE
TOWNSHIP OF HAMILTON

WHEREAS it is expedient to exercise the power conferred upon the Council by the Environmental Protection Act, 1971, as amended, and other statutory authority;

AND WHEREAS a recognized body of scientific and technological knowledge exists by which sound and vibration may be substantially reduced;

AND WHEREAS the people have a right to and should be ensured an environment free from unusual, unnecessary, or excessive sound or vibration which may degrade the quality and tranquillity of their life or cause nuisance;

AND WHEREAS it is the policy of the Council to reduce and control such sound and vibration;

NOW THEREFORE BE IT RESOLVED that the Council of the Corporation of the Township of Hamilton ENACTS as follows:

INTERPRETATION:

1. In this By-Law:

(a) Construction

“construction” includes 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;

(b) Construction Equipment

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

(c) Conveyance

“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;

(d) Council

“Council” means the Council of the Corporation of the Township of Hamilton.

(e) Highway

“highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicles.

(f) Minister

“Minister” means Minister of the Environment.

(g) Ministry

“Ministry” means Ministry of the Environment.

(h) Motor Vehicle

“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;

(i) Motorized Conveyance

“motorized conveyance” means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power.

(j) Municipality

“municipality” means the land within the geographic limit of The Corporation of the Township of Hamilton.

(k) Noise

“noise” means unwanted sound;

(l) Point of Reception

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

2. In this By-Law,

Zone

(a) Residential Area

“Residential Area” means those areas of the municipality designated as residential in Zoning By-Law No. 3137, or amendments thereto of the Corporation of the Township of Hamilton.

(b) Non-Residential Area

“Non-residential Area” means those areas of the municipality which are not designated as Residential Areas in this By-Law.

GENERAL PROHIBITIONS

3. No person shall emit or cause or permit the emission of sound resulting from an act listed herein, and which sound is clearly audible at a point of reception:

- a) Racing of any motorized conveyance other than in a racing event regulated by law.
- b) The operation of motor vehicle in such a way that the tires squeal.
- c) 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.
- d) The operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to improperly secured load or equipment, or inadequate maintenance.
- e) The 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 in a Residential Area unless:
 - (i) 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,
 - (ii) 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,
 - (iii) 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,
 - (iv) prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or,
 - (v) 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.
- f) The operation of a motor vehicle horn or other warning device except where required or authorized by law or in accordance with good safety practices.
- g) The operation of any item of construction equipment in a Residential Area without effective muffling devices in good working order and in constant operation.

4. **PROHIBITIONS BY TIME AND PLACE**

No person shall emit or cause or permit the emission of sound resulting from any act listed in Table 3-1 if clearly audible at a point of reception located in an area of the municipality within a prohibited time shown for such an area.

TABLE 3-1

PROHIBITIONS BY TIME AND PLACE

Description of Activity	Prohibitions Period of Time	
	Residential	Non-Residential
1. The detonation of fireworks or explosive devices not used in construction	A	A
2. The discharge of firearms during duck hunting Season	G	G
The discharge of firearms during duck hunting Season	F	F

Description of Activity	Prohibitions Period of Time	
	Residential	Non-Residential
3. The operation of a combustion engine which, (i) is, or (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	F	F
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.	C	C
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.	B & D	B & D
6. The 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.	A	A
7. 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
8. All selling or advertising by shouting or outcry or amplified sound.	B & D	B & D
9. Loading, unloading, delivering, packing, unpacking or otherwise handling any containers, products, materials, or refuse, whatsoever, unless necessary for the maintenance of essential services or moving of private household effect.	B & D	B & D
10. The operation of any equipment in connection with construction.	B & D	B & D
11. The operation or use of any tool for domestic Purposes other than snow removal.	A	A
12. The operation of solid waste bulk lift or refuse compacting equipment.	B	B

Prohibited periods of Time:

- A - 23:00 one day to 07:00 next day (09:00 Sundays)
- B - 19:00 one day to 07:00 next day (09:00 Sundays)
- C - 17:00 one day to 07:00 next day (09:00 Sundays)
- D - All day Sundays and Statutory Holidays.
- E - 19:00 one day to 07:00 next day.
- F - 21:00 one day to 07:00 next day (09:00 Sundays)
- G - Sunset one day to sunrise next day.

5. **EXEMPTION**

Public Safety:

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

- a) for the immediate health, safety or welfare of the inhabitants or any of them; or
- b) for the preservation or restoration of property; unless such sound or vibration is clearly of a longer duration or nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

6 **GRANT OF EXEMPTION BY COUNCIL**

(1) Application to Council

Notwithstanding anything contained in 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 sound or vibration for which he might be prosecuted and Council, by resolution, may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect 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.

(2) Decision

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.

(3) Breach

Breach by the applicant of any of the terms or conditions of any exemption granted by Council shall render the exemption null and void.

7. **EXEMPTION OF TRADITIONAL, FESTIVE OR RELIGIOUS ACTIVITIES**

Notwithstanding any other provision of this by-law, this by-law does not apply to a person who emits or causes or permits the emission of sound or vibration in connection with any of the listed traditional, festive, religious and other activities:

- 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 under the control and management of the Township of Hamilton in connection with any public election meeting, public celebration or other lawful gathering, on the following festive days:

New Years Day	Civic Holiday
Valentines Day	Labour Day
St. Patricks Day	Thanksgiving
Easter	Christmas Day
Victoria Day	Boxing Day
Dominion Day	U.S. Independence Day

- 2. All agricultural activities in the Agriculture Zone.

8. **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 it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

9. **PENALTY**

Every person who contravenes any of the provision of this by-law is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not more than \$1,000.00 for the first offence and not less than \$100.00 and not more than \$1,000.000 for a second or subsequent offence, exclusive of costs and every such fine is recoverable under The Summary Convictions Act.

10. This by-law becomes effective upon the approval of the Minister.

11. By-Law No. 79-54 is hereby repealed.

This By-Law given a FIRST, SECOND and THIRD READING and FINALLY PASSED this 8th day of April, 1980.

MAYOR

CLERK