

THE CORPORATION OF THE City OF WELLAND

BY-LAW NO.: 2015 - 23

**A BY-LAW TO REGULATE AND CONTROL
NOISE IN THE CITY OF WELLAND AND TO REPEAL
BY-LAW 10204**

WHEREAS Section 129 of the Municipal Act, 2001, provides that a local municipality may, among other things, prohibit and regulate noise matters, and

AND WHEREAS Section 129(b) of the Municipal Act, 2001, provides that a by-law under Section 129 may prohibit the matters described unless a permit is obtained from the municipality and may impose conditions for obtaining, continuing to hold and renewing the permit;

AND WHEREAS it is in the public interest to reduce the noise levels in the City of Welland by prohibiting and regulating the making, creation or maintenance of excessive and unreasonable noises within the City of Welland.

NOW THEREFORE the Municipal Council of the Corporation of the City of Welland enacts as follows:

1.0 DEFINITIONS

1.1 The following terms are defined for the purpose of this By-law:

“**City**” means The Corporation of The City of Welland;

“**Municipal Law Enforcement Officer**” means any person or persons appointed by the City Council to administer and enforce the provisions of this by-law;

“**owner**” means the registered owner, occupant or tenant of a property, or a person in possession or control of such property;

“**person**” means a person and includes a corporation (including its directors and officers), a firm, a partnership or association;

“**Police Officer**” means a Police Officer appointed by the Niagara Regional Police Service, the Ontario Provincial Police or the RCMP;

2.0 GENERAL PROHIBITIONS

2.1 No person shall make, cause or permit an unreasonable noise or noises that are likely to disturb an inhabitant of the City of Welland.

2.2 No owner shall emit, cause or permit the emission from the owner’s property of unreasonable noise or noise likely to disturb the inhabitants of the City of Welland.

2.3 Without limiting the generality of sections 2.1 and 2.2 the provisions of Schedule 1 are deemed to be unreasonable noise or noise likely to disturb the inhabitants of the City of Welland.

3.0 EXEMPTIONS

3.1 The prohibitions of this By-law shall not apply to the following:

- a) the use in a reasonable manner of any apparatus or mechanism for the amplification of the human voice or of music in a public park or recreational area under the control or management of the City of Welland in connection with any public election meeting, public celebration or other lawful gathering, provided that written permission from the City has first been obtained;
- b) any band or parade operating under written permission first obtained from the City;
- c) any police, fire or public or emergency service vehicle or ambulance while carrying out its lawful duties;
- d) any warning device sound arising from the lawful operation of a vehicle or motor vehicle;
- e) any sound arising from the operation of any railway which operates under The Railway Act of Canada or from any plant or work in connection with any such railway;
- f) the operation of machines and equipment by or on behalf of the City of Welland, including but not limited to snow removal equipment, road cleaning equipment, grass cutting or field maintenance equipment, tree and shrub pruning and mulching equipment and machines for the painting of crosswalks and highways;
- g) the collection or disposal of garbage, waste or recyclable material by or on behalf of the City or the Regional Municipality of Niagara;
- h) the discharge of consumer fireworks, display fireworks or pyrotechnic special effects fireworks if such discharge complies with the City of Welland Fireworks By-law;
- i) the sound of bells or carillon in connection with any church, chapel, meeting house or religious service;
- j) the use in a reasonable manner of vehicles and equipment when utilized for the clearing and the removal of snow and yard maintenance on private property;
- k) any case of public convenience or necessity as determined by City Staff;

- 3.2 Any owner may request a permit to provide an exemption to any provision of this by-law with respect to any noise to allow such person to emit, cause or permit such noise for the period of time set out in such request. All requests shall be submitted in writing to the City Council or designate and shall:
- a) Identify and describe in detail the type of noise and activity that the person wishes to have exempted;
 - b) Set out the time(s) and location(s) for which the exemption is being sought.
 - c) State the name, address and telephone number of the person requesting the exemption; and
 - d) Set out the reason why an exemption should be granted;
- 3.3 The City Council or designate may grant or refuse to grant a permit request, and may impose conditions as he or she determines to be appropriate.
- 3.4 Where a permit is granted, breach of any condition of the exemption shall render the exemption null and void.

4.0 ENFORCEMENT

- 4.1 A Municipal Law Enforcement Officer or Police Officer shall enforce the provisions of this By-law and is authorized to enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not this By-law is being contravened.
- 4.2 (a) Every person who contravenes any provision of this By-law, including and Schedule thereto, is guilty of an offence and upon conviction liable to the penalties as prescribed by the Provincial Offences Act, R.S.O. 1990 c.P33.
- (b) 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.
- 4.3 Administrative Penalty By-law 2019-134 applies to each administrative penalty issued pursuant to this By-law.
- 4.4 Any person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty by-law 2019-134, be liable to pay to the City an administrative penalty in accordance with the penalties as set out in SET FINE SCHEDULE (APS) – Schedule “3”.

5.0 ADMINISTRATION AND INTERPRETATION

- 5.1 The short title of this by-law is the “Noise Control By-law”
- 5.2 If there is a conflict between a provision of this By-law and a provision of any other City by-law, the provision in this By-law shall apply.

- 5.3 It is hereby declared that notwithstanding that any part of this By-law, or parts thereof, may be found by any Court of law to be invalid or beyond the power of Council to enact such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this By-law are separate and independent there from and enacted as such.
- 5.4 Pursuant to the provisions of Sections 23.1 to 23.5 of the Municipal Act, 2001 the Clerk of the City of Welland is hereby authorized to effect any minor modifications or corrections of an administrative, numerical, grammatical, semantical or descriptive nature or kind to this By-law and schedules as may be necessary after the passage of this By-law.
- 5.5 By-law No. 10204 is hereby repealed.
- 5.6 This By-law shall come into force and take effect upon the date of approval of the set fines set out in schedule "A" by the Chief Justice of Ontario.

READ A FIRST, SECOND AND THIRD TIME AND PASSED BY COUNCIL THIS DAY OF
March, 2015.

MAYOR

CITY CLERK

By-law Amendments:

By-law 2020-120: October 20, 2020

SCHEDULE 1

TIME AND ACTIVITY PROHIBITIONS

TYPE OF ACT	PROHIBITED PERIOD OF TIME
a) The sounding of any bell, horn, siren or other warning device on any motor vehicle, motorcycle, snowmobile, bicycle or other vehicle or whatsoever kind except when permitted by law.	At all times
b) The sounding of any such bell, horn, siren or warning device for an unnecessary or unreasonable period of time.	At all times
c) The grating, grinding or rattling sound or noise caused by the condition of disrepair or maladjustment of any motor vehicle, motorcycle, snowmobile, trailer or other vehicle or part or accessory thereof.	At all times
d) The sound or noise created by the operation of any motor vehicle, trailer or other vehicle bearing material, articles or things which are loaded upon such vehicle in such a manner as to create noise.	At all times
e) The sound or noise from the discharge into the open air of the exhaust of any steam engine or internal combustion engine, including the engine of an automobile, motorcycle and snowmobile, except through a muffler or other device which effectively prevents loud or explosive noises.	At all times
f) The sound made by any animal or bird which unreasonably disturbs the peace, quiet, comfort or repose of any person in any dwelling unit, hotel or other type of residence.	At all times
g) The sound or noise from any steam or air whistle attached to or used in connection with any stationary boiler or other machine or mechanism, except for the purpose giving notice to workmen of the time to commence or cease work or as a warning of danger.	At all times
h) The sound or noise arising from any excavation or construction work whatsoever, including the erection, demolition, alteration or repair of any building or structure except in case of urgent necessity	Between 6:00 p.m. of any day and 7:00 a.m. of the following day.
i) The sound or noise produced by the venting, release or pressure relief of air, steam or other gaseous material, product or compound from any autoclave, boiler, compressor, pressure vessel, pipe, valve, machine, device or system which disturbs the peace, quiet, comfort or	At all times

<p>repose of any person in any dwelling unit, hotel or other type of residence.</p>	
<p>j) The sound or noise from or created by any radio, television, electronic device, record player, tape player, amplifier, loud speaker, public address system, musical instrument or equipment, device or instrument which emits sound when the same is played or operated in such manner or with such volume as to disturb the peace, quiet, comfort or repose of any person in any dwelling unit, hotel or other type of residence or business office.</p>	<p>At all times</p>
<p>k) Any shouting, yelling, hooting, whistling or singing which disturbs the peace and quiet, comfort or repose of any person in any dwelling unit, hotel or other type of residence.</p>	<p>Between the hour of 11:00 p.m. of any Sunday, Monday, Tuesday, Wednesday or Thursday and the hour of 7:00 a.m. of the following day (unless the following day is a holiday) or between the hour of 1:00 a.m. and the hour of 7:00 a.m. of any Saturday, Sunday or holiday.</p>
<p>l) Any unreasonable or unnecessary noise in the vicinity of any school, hospital or court of law which the same is in session.</p>	<p>At all times</p>
<p>m) The sound or noise from or created by any drum, horn, bell, radio, record player, tape player, amplifier, loudspeaker, public address system or equipment, device or instrument which emits sound when the same is used or operated for the purpose of advertising or for attracting attention to any performance or sale, show or display of goods, wares or merchandise and projects such sound or noise into any street or other public space.</p>	<p>At all times</p>
<p>n) The sound or noise from or created by any radio, record player, tape player, amplifier, loud speaker, public address system or equipment, device or instrument which emits sound when the same is used or operated from any motor vehicle, trailer or other vehicle</p>	<p>At all times</p>
<p>o) The racing or accelerating of a motor attached to any motor vehicle while the vehicle is not in motion</p>	<p>Between 11:00 p.m. of any day and 7:00 a.m. of the following day, 9:00am on Saturdays, Sundays and statutory holidays.</p>
<p>(p) The operation or use of any tool for domestic purposes other than snow removal</p>	<p>Between 11:00 p.m. of any day and 7:00 a.m. of the following day, 9:00 a.m. on Saturdays, Sundays and statutory holidays</p>

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BY-LAW NUMBER 2015-23

Noise Regulation

Schedule "2"

SET FINES

Part 1, Provincial Offences Act, R.S.O. 1990, c.P.33

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 OFFENCE CREATING PROVISION OR DEFINING OFFENCE	COLUMN 3 SET FINE
1	Make noise or noises likely to disturb inhabitants of the City	Section 2	\$300.00
2	Cause noise or noises likely to disturb inhabitants of the City	Section 2	\$300.00
3	Permit noise or noises likely to disturb inhabitants of the City	Section 2	\$300.00

Note: The general penalty provision for the offences listed above is Section 4.2(a) of By-law 2015-23, a certified copy of which has been filed.

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SET FINE SCHEDULE (APS) – SCHEDULE “3”

**BY-LAW 2015-23, AS AMENDED BEING A BY-LAW TO
REGULATE AND CONTROL NOISE IN THE CITY OF
WELLAND AND TO REPEAL BY-LAW 10204**

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