

CORPORATION OF THE TOWN OF HAWKESBURY

By-law No 21-94

being a by-law to control noise

WHEREAS the Municipal Act; R.S.O. 1990, c. M.45, s. 138 as amended provides that the councils of all municipalities may pass by-laws for prohibiting or regulating, within the municipality or within any defined area or areas thereof, the ringing of bells, the blowing of horns, shouting and unusual noises, or noises likely to disturb the inhabitants;

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 the Municipal Council of the Corporation of the Town of Hawkesbury deems it expedited and desirable to pass such a by-law.

NOW THEREFORE the Council of the Corporation of the Town of Hawkesbury enacts as follows:

1. **DEFINITIONS**

For the purpose of this by-law:

1. **“Chief of police”** shall mean the Chief of Police of the Town of Hawkesbury, or the acting Chief of Police;
2. **“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;
3. **“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;
4. **“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;
5. **“Council”** means the Council of the Corporation of the Town of Hawkesbury;
6. **“Document”** includes a sound recording, videotape, film, photograph, chart, graph, map, plan, survey, book of account and information recorded or stored by means of any device;
7. **“Highway”** includes the entire right of way of 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;
8. **“Inspection”** include an audit, examination, survey, test and inquiry;

9. **“Land”** means surface land not enclosed in a building, land covered by water and all subsoil, or any combination or part thereof;
10. **“Minister”** means Minister of the Environment;
11. **“Ministry”** means Ministry of the Environment;
12. **“Motor vehicle”** includes an automobile, motorcycle, motor-assisted bicycle unless otherwise indicated in the **Highway Traffic Act**, R.S.O. 1990, c. H.8 and any other vehicle propelled or driven otherwise than by muscular power, but does not include the cars of electrical 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**, R.S.O. 1990, c. H.8;
13. **“Motorized conveyance”** means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
14. **“Municipality”** means the land within the geographic limit of the Town of Hawkesbury;
15. **“Municipal or private property”** means any open area or portion of a structure, other than a street or highway, intended for the temporary parking of vehicles and on which there are designated parking spaces, whether their use involves the payment of a fee or otherwise;
16. **“Point of reception”** means any point on the premises of a person where sound or vibration originating from other than those premises is received;
17. **“Occupant”** means:
 - a) the tenant of the property or part thereof whose consent shall extend only to the control of the land of which he is tenant and any parking spaces allotted to him under his lease or tenancy agreement,
 - b) the spouse of a tenant,
 - c) a person or a municipality, or a local board thereof having an interest in the property under an easement no right of way granted to or expropriated by the person, municipality or local board whose consent shall extend only to the part of the property that is subject to an easement or right of way,
 - d) a person authorized in writing by an occupant as defined in clauses a), b) or c) to act on the occupant's behalf for requesting the enforcement of a by-law under this paragraph;
18. **“Owner”** when used in relation to property means:
 - a) the registered owner of the property;
 - b) the registered owner of a condominium unit, whose consent shall extend only to the control of the unit of which he is owner and any parking spaces allotted to him by the condominium corporation or reserved for his exclusive use in the declaration or description of the property;
 - c) the spouse of a person described in clauses a) or b);

- d) where the property is included in a description registered under the **Condominium Act** R.S.O. 1990, c. C.26, the board of directors of the condominium corporation;
 - e) a person authorized in writing by the property owner as defined in clauses a), b), c), or d) to act on the owner's behalf for requesting the enforcement of a by-law passed under this paragraph;
19. **"Point of reception"** means any point on the premises of a person where sound or vibration originating from other those premises is received;
20. **"Private property"** shall include:
- a) property that has been clearly marked as such by fences, hedges or barriers of any kind;
 - b) property on which a legible sign has been erected by or on behalf of the owner, tenant or occupant forbidding trespassing or parking, or restricting parking thereon;
 - c) a private road or driveway.
21. **"Police Force"** means the Police Force of the Town of Hawkesbury and includes any detachment of the Ontario Provincial Police providing police services to the Town of Hawkesbury by agreement or otherwise having jurisdiction in the Town of Hawkesbury;
22. **"Police Officer"**, **"Constable"**, or **"Special Constable"** means a person so appointed by a Board of Commissioners of Police or the Ontario Police Commission and "Constable" includes a Municipal By-law Enforcement Officer appointed pursuant to Sections 41, 53 and 15 of the **Police Services Act**, R.S.O. 1990, c. P.15;
23. **"Sign authorized"** means any sign or roadway, curb or sidewalks marking or other device placed or erected on a highway under the authority of this by-law for the purpose of regulating, warning, or guiding traffic;
24. **"Sound and vibrations"** means the prescribed maximum permissible levels of sounds or vibrations, and the prescribed procedures for determining the levels of sounds or vibrations that are emitted or as per the **Environmental Protection Act**, R.S.O. 1990, c. E.19;
25. **"Vehicle"** includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine, and any vehicle drawn, propelled, or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle, or the cars of electric or steam railways running only upon rails;
26. **"Zones"**
- In this by-law:
- i) **"residential area"** means those areas of the municipality designated as such in the Official Plan of the Hawkesbury Planning Area as amended from time to time;
 - ii) **"Quiet zone"** means the lands in the municipality upon which a school building, an hospital building and a home for the aged building stand erected and within one hundred (100) metres therefrom.;

2. GENERAL PROHIBITIONS

No person shall emit or cause or permit the emission of sound resulting from the operation of any item of construction equipment in a Quiet zone or Residential Area without effective muffling devices in good working order and in constant operation.

3. PROHIBITING BY TIME AND PLACE

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

SCHEDULE "A"
PROHIBITIONS BY TIME AND PLACE

	Prohibited Period of Time	
	Quiet Zone	Residential area
1. The detonation of fireworks, or explosive devices not used in construction	At all times	At all times
2. The discharge of firearms	At all times	At all times
3. 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.	At all times	At all times
4. 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 Canada Railway Act.	At all times	At all times
5. 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.	At all times	10:00 p.m. to 7:00 a.m.
6. 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
7. The operation of a commercial car wash with air drying equipment.	At all times	10:00 p.m. to 7:00 a.m.
8. Yelling, shouting, hooting, whistling or singing.	At all times	At all times
9. The operation of a power assisted hand glider or parafoil.	At all times	At all times
10. The operation of any item of snow making equipment.	At all times	At all times
11. All selling or advertising by shouting or outcry or amplified sound.	At all times	At all times
12. Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials, or refuse, whatsoever, unless necessary for the maintenance of essential services or the moving of private household effects.	10:00 p.m. to 7:00 a.m.	10:00 p.m. to 7:00 a.m.
13. The operation of any equipment in connection with construction.	10:00 p.m. to 7:00 a.m.	10:00 p.m. to 7:00 a.m.
14. The operation or use of any tool for domestic purposes other than snow removal.	10:00 p.m. to 7:00 a.m.	10:00 p.m. to 7:00 a.m.
15. The operation of solid waste bulk lift or refuse compacting equipment.	10:00 p.m. to 7:00 a.m.	10:00 p.m. to 7:00 a.m.
16. The operation of a commercial car wash of a type other than mentioned in item 10.	At all times	10:00 p.m. to 7:00 a.m.
17. The operation of an electronic bug killer.	11:00 p.m. to 8:00 a.m.	11:00 p.m. to 8:00 a.m.

4. EXEMPTION

Public safety

Notwithstanding any other provision of this by-law, it shall be lawful during an emergency 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.

5. 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 (6) 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 consider the application and any written submission then received by Council and made by the applicant and the Council 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.

6. 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 such as the Royal Canadian Legion Remembrance Day Parade or any parade approved by the Chief of Police or Acting Chief of police.

7. 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.

8. PENALTY

Every person who contravenes any of the provisions of this by-law is guilty of an offence upon conviction thereof, forfeit and pay a penalty as set out in the general penalty provision found under the Provincial Offences Act, R.S.O. 1990, c. P.33.

9. By-law No. 3-93 is hereby repealed.

**Read a first, second and third time and duly enacted this
14th day of March, 1994.**

Town Clerk or Acting Clerk

Mayor or Reeve

CORPORATION OF THE TOWN OF HAWKESBURY**BY-LAW 21-94****TITLE: By-Law to control noise**

<u>ITEM</u>	<u>COLUMN 1</u> Description of Offence	<u>COLUMN 2</u> Provision Creating or Defining Offence	<u>COLUMN 3</u> Set Fine (Includes Costs)
1.	Prohibited emission of sound in residential area (quiet zone) – construction equipment without muffling device	Section 2	\$ 105.00
2.	Prohibited emission of sound in residential area (quiet zone) – fireworks (explosives)	Section 3 Schedule “A-1”	\$ 105.00
3.	Prohibited emission of sound in residential area (quiet zone) – firearms	Section 3 Schedule “A-2”	\$ 105.00
4.	Prohibited emission of sound in residential area (quiet zone) – loudspeakers/transducer for production/ reproduction or amplification of sound	Section 3 Schedule “A-3”	\$ 105.00
5.	Prohibited emission of sound in residential area (quiet zone) – powered rail car/ passenger cars	Section 3 Schedule “A-4”	\$ 105.00
6.	Prohibited emission of sound (quiet zone) – autoclave/boiler/pressure vessel/pipe/ valve/machine/device/system	Section 3 Schedule “A-5”	\$ 105.00
7.	Prohibited emission of sound in residential area during prohibited time period – autoclave/boiler/pressure vessel/pipe/ valve/machine/device/system	Section 3 Schedule “A-5”	\$ 105.00
8.	Prohibited emission of sound in residential area – animal	Section 3 Schedule “A-6”	\$ 105.00
9.	Prohibited emission of sound (quiet zone) – commercial car wash	Section 3 Schedule “A-7”	\$ 105.00
10.	Prohibited emission of sound in residential area during prohibited time period – commercial car wash	Section 3 Schedule “A-7”	\$ 105.00
11.	Prohibited emission of sound in residential area (quiet zone) – yelling/ shouting/hooting/whistling/ singing	Section 3 Schedule “A-8”	\$ 105.00
12.	Prohibited emission of sound in residential area (quiet zone) – power glider/parafoil	Section 3 Schedule “A-9”	\$ 105.00

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<u>ITEM</u>	<u>COLUMN 1</u>	<u>COLUMN 2</u>	<u>COLUMN 3</u>
	Description of Offence	Provision Creating or Defining Offence	Set Fine (Includes Costs)
13.	Prohibited emission of sound in residential area (quiet zone) – snow making equipment	Section 3 Schedule “A-10”	\$ 105.00
14.	Prohibited emission of sound in residential area (quiet zone) – selling or advertising by shouting/outcry/amplified sound	Section 3 Schedule “A-11”	\$ 105.00
15.	Prohibited emission of sound in residential area (quiet zone) during prohibited time period by unnecessary loading/unloading/ delivering/packing for maintenance (moving)	Section 3 Schedule “A-12”	\$ 105.00
16.	Prohibited emission of sound in residential area (quiet zone) during prohibited time period – construction equipment operation	Section 3 Schedule “A-13”	\$ 105.00
17.	Prohibited emission of sound in residential area (quiet zone) during prohibited time period – operation of tool	Section 3 Schedule “A-14”	\$ 105.00
18.	Prohibited emission of sound in residential area (quiet zone) during prohibited time period – waste or (refuse) equipment	Section 3 Schedule “A-15”	\$ 105.00
19.	Prohibited emission of sound in residential area (quiet zone) – commercial car wash	Section 3 Schedule “A-16”	\$ 105.00
20.	Prohibited emission of sound in residential area during prohibited time period – commercial car wash	Section 3 Schedule “A-16”	\$ 105.00
21.	Prohibited emission of sound in residential area (quiet zone) during prohibited time period – electronic bug killer	Section 3 Schedule “A-17”	\$ 105.00

NOTE: The penalty provision for the offenses indicated above in Section 8 of By-law Number 21-94, a certified copy of which has been filed.