

The Corporation of the City of Pembroke

By-law Number 2018-31

Being a By-law to Control Noise

Whereas pursuant to Section 10(2) of the *Municipal Act*, S.O. 2001, c.25 (the Act), a single-tier municipality may pass by-laws respecting the health, safety and well-being of persons;

And Whereas pursuant to Section 129 of the Act, a local municipality may prohibit and regulate noise;

And Whereas pursuant to Section 425 of the Act, a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence;

And Whereas pursuant to Section 426 of the Act, no person shall hinder or obstruct, or attempt to hinder or obstruct any person who is exercising a power or performing a duty under a by-law passed under this Act;

And Whereas pursuant to Section 429 of the Act, a municipality may establish a system of fines for offences under a by-law of the municipality passed under this Act;

And Whereas pursuant to Section 436 of the Act, a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether a by-law of the municipality passed under the Act is being complied with;

Now Therefore the Council of the Corporation of the City of Pembroke enacts as follows:

1. Citation

1.1 This By-law may be cited as the "Noise By-law."

2. Interpretation

2.1 In this by-law:

"Construction" includes the erection, alteration, repair, dismantling, or demolition of structures or developments; 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;

"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, rollers, pumps, concrete mixers, graders, or other material handling equipment;

"Conveyance" includes a vehicle or any other device employed to transport a person or persons or goods from place to place;

"Council" means the Council of the Corporation of the City of Pembroke;

"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;

"Minister" means Minister of the Environment and Climate Change;

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"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 or husbandry or road building machine within the meaning of The Highway Traffic Act;

"Motorized Conveyance" means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;

"Municipality" means the land within the geographic limit of the City of Pembroke;

"Excessive Noise" includes any sound which, in the opinion of a by-law officer, police officer, or any other person appointed to carry out enforcement of this by-law, is excessive, alarming, or unusual, and is based upon the cumulative considerations of all factors including the nature and frequency of complaints; its audibility at point of reception; environmental conditions; and any extenuating or aggravated circumstances including any medical conditions;

"Officer" shall mean a by-law enforcement officer, police officer, or other person appointed by Council for means of enforcing this by-law;

"Point of Emission" means any place, point, person, animal, object, or otherwise, from which a sound is emitted;

"Point of Reception" means any place on a property where sound is heard, the source of which does not originate from the property.

3. General Prohibitions

3.1 No person shall:

- a. Emit, cause or permit the emission of sound resulting from an act listed herein, and which sound is clearly audible at a point of reception; or
- b. Generate any unnecessary noise within 150 metres of a hospital, long term care facility or retirement home.

4. Operation of a Motor Vehicle

4.1 No person shall:

- a. Cause unnecessary noise from a motor vehicle, which includes the revving of engines, honking of horns, banging of doors, or squealing of tires;
- b. Race a motor vehicle other than in a racing event regulated by law;
- c. Operate a motor vehicle where there is a modified exhaust system in place, or no exhaust system, so as to create excessive noise; or
- d. Operate a motor vehicle where the trailer hitch creates a banging, clanking, squealing, or other like sound due to an improperly secured load, equipment, or inadequate maintenance.

5. Unnecessary Idling of a Motor Vehicle

- 5.1 No person shall permit a motor vehicle to idle for a period of more than 10 minutes unless:
- a. The original manufacturer specifically recommends a longer idling period for normal and efficient operation, for which the recommended period shall not be exceeded;
 - b. The operation of such engine or motor is essential to the basic function of the vehicle equipment including, but not limited to, operation of ready mixed concrete trucks, lift platforms, refuse compactors, and strobe or emergency lighting mounted on snow plows, police, fire, Emergency Medical Services, or construction vehicles;
 - c. 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 for the preservation of perishable cargo; or,
 - d. Idling is necessary for the purpose of cleaning and flushing the radiator and associated circulation system for the seasonal change of antifreeze, cleaning of the fuel system, carburetor or the like, when such work is performed other than for profit.

6. Construction

- 6.1 No person shall, from Monday to Friday between the hours of 2100 one day and 0700 the next day, and from Saturday to Sunday between the hours of 2100 one day and 0900 the next day, operate or cause to be operated any construction vehicle or construction equipment in connection with the demolition or restoration of any building, structure, highway, motor vehicle, steam boiler, or other engine or machine.

7. Generators

- 7.1 No person shall operate a generator from Monday to Friday between the hours of 1900 one day and 0700 the next day, or from Saturday to Sunday between the hours of 1900 one day and 0900 the next day.
- 7.2 Subsection (7.1.) does not apply to a person using or operating a portable generator in an emergency situation such as an environmental disaster or an unforeseeable Act of God.

8. Fireworks and Firearms

- 8.1 No person shall detonate or discharge fireworks, firearms, or any other similar devices within the City of Pembroke.
- 8.2 Subsection (8.1.) does not apply to explosive devices used in construction or in celebrations as listed in section 20 for which written authorization is first received by the Chief Administrative Officer.

9. Stereos, Boom Boxes, Radios, and Electronic Sound-Emitting Devices

- 9.1 No person shall operate, use, or cause to be operated any sound reproduction device or stereo system:
- a. From Monday to Thursday between the hours of 1900 one day and 0700 the next day, and from Friday to Sunday between the hours of 2300 one day and 0900 the next day, so as to disturb the peace and comfort of any person in a dwelling, apartment, hotel or other type of residence;

- b. At any time so as to be considered excessive noise and which disturbs a person, as defined under this by-law; or
- c. From a motor vehicle so as to create excessive noise and which disturbs a person, as defined under this by-law.

10. Hooting, Hollering, Yelling, or Causing Any Such Associated Noise

- 10.1 No person shall hoot, yell, holler, sing, or create any other similar noise in a manner which causes a public noise nuisance or creates excessive noise and which disturbs a person.

11. Operation of Lawn Maintenance Equipment

- 11.1 No person shall cause noise from the use of any lawn maintenance equipment between the hours of 2100 one day until 0700 the following day.

12. Power Equipment

- 12.1 No person shall operate or cause to be operated any power equipment such as chainsaws, leaf blowers, power tools or other similar devices where the noise tends to disturb the inhabitants of the neighborhood or persons in the vicinity, between the hours of 2100 one day and 0700 the following day.

- 12.2 Despite subsection (12.1.), no person shall operate or cause to be operated any power equipment before 0900 hours on any Saturday, Sunday, or statutory or public holiday.

13. Loading and/or Unloading of Any Goods

- 13.1 No person or company shall cause excessive noise from the loading or unloading of any goods from Monday to Thursday between the hours of 2100 one day and 0700 the next day, and from Friday to Sunday between the hours of 2100 one day and 0900 the next day.

14. Continuous Barking

- 14.1 No person shall permit the persistent barking, calling, whining or other similar noise made by a domestic pet or any other animal kept or used for any purpose other than agriculture.

15. Commercial Car Wash

- 15.1 No person or company shall permit the operation of a commercial car wash with air drying equipment from Monday to Thursday between the hours of 2100 one day and 0700 the next day, and from Friday to Sunday between the hours of 2100 hours one day and 0900 the next day.

16. Air Conditioners, Compressors, Heat Pumps, and Any Other Similar Device

- 16.1 No person shall cause the operation of an air conditioner, compressor, heat pump or any other similar device where the equipment emits excessive noise as defined in this by-law.

17. Administration and Enforcement

- 17.1 Entry and Inspection

An Officer may, when an offence has been committed, enter upon land for the purpose of carrying out an inspection to determine compliance with this by-law.

17.2 Obstruction

No person shall hinder or obstruct, or attempt to hinder or obstruct, any officer exercising a power or performing a duty under this by-law.

18. Public Safety Exemption

18.1 Notwithstanding any other provisions 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
- b. For the preservation or restoration of property.

19. Grant of Exemption by CAO/Council

19.1 Application to CAO or Council

Notwithstanding anything contained in this by-law, any person shall make an application to the CAO 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 that person might be prosecuted. If the CAO refuses the request for exemption, the applicant may then apply to Council for such exemption. Any exemption granted shall specify the time period during which it is effective and may contain such terms as the CAO or Council sees fit.

19.2 Details of Application for Exemption

The application for exemption referred to in subsection (19.1.) shall be made in writing and, without limitation, shall include:

- a. The name and address of the applicant;
- b. A description of the source of sound or vibration in respect of which the exemption is sought;
- c. A statement of the particular provision or provisions of the by-law from which exemption is sought;
- d. The period of time, of a duration not in excess of six months, for which the exemption is sought;
- e. The reasons why the exemption should be granted;
- f. A plan showing the location of the event or premises; the location of amplification equipment and speakers; and methods employed to prevent sound from unnecessarily escaping from the event or premises; and
- g. If applicable, any additional information as deemed necessary by the CAO or Council to consider the application made under this section.

20. General Exemption and Exemptions for Traditional, Festive, or Religious Activities

20.1 Notwithstanding any other provision, 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 traditional, festive, religious, or other activities such as parades, fireworks displays, band concerts, sports events, etc., as held under the permission of the CAO or Council.

20.2 Notwithstanding any other provision, this by-law does not apply to the clearing and/or removal of snow, winter sand removal, or road maintenance.

21. Severability

21.1 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.

22. Penalty

22.1 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

22.2 Any person convicted of an offence under this by-law is liable:

- a. For a first offence, to a fine as set out under the table of set fines imposed under this by-law; and
- b. For every subsequent offence, to a fine no more than \$1,000.00 as imposed by the justice of the peace following a court proceeding.

23. Repeal

23.1 By-law number 1981-21 and its amendments are hereby repealed.

**Passed and Enacted
This 5th day of June 2018**

Michael LeMay
Mayor

Terry Lapierre
Chief Administrative Officer/Clerk

The Corporation of the City of Pembroke

Part I Provincial Offences Act

**By-law Number 2018-31: Being a By-law to control noise.
Schedule "A" – Set Fines**

Item Number	Column 1 - Short Form Wording	Column 2 - Provision Creating or Defining Offence	Column 3 - Set Fine (before court and Victim Fine Surcharge costs)
1.	Create unnecessary noise within 150 metres of a hospital/long term care facility/retirement home	S.3.1(b)	\$200.00
2.	Create unnecessary noise from a motor vehicle from the revving of an engine/honking of a horn/banging of a door/squealing of tires	S.4.1(a)	\$85.00
3.	Race a motor vehicle	S.4.1(b)	\$300.00
4.	Operate a motor vehicle where there is a modified exhaust system/no exhaust system to create excessive noise	S.4.1(c)	\$200.00
5.	Operate a motor vehicle where the trailer hitch creates banging/clanking or squealing noise	S.4.1(d)	\$85.00
6.	Idle motor vehicle for more than ten minutes	S.5.1	\$85.00
7.	Operate any construction equipment during prohibited times	S.6.1	\$85.00
8.	Operate generator during prohibited times	S.7.1	\$85.00
9.	Detonate or discharge a firework, firearm or any other similar device	S.8.1	\$300.00
10.	Create excessive noise during restricted times with stereo system	S.9.1(a)	\$85.00
11.	Create excessive noise so as to disturb a person	S.9.1(b)	\$85.00
12.	Create excessive noise from a motor vehicle's stereo system so as to disturb a person	S.9.1(c)	\$85.00
13.	Yell/ holler/cause excessive noise so as to disturb a person	S.10.1	\$85.00

14.	Create excessive noise from the operation of lawn maintenance equipment during restricted times	S.11.1	\$85.00
15.	Create excessive noise from the operation any power equipment during restricted times	S.12.1	\$85.00
16.	Create excessive noise from the unloading/loading of any goods within restricted times	S.13.1	85.00
17.	Permit excessive noise to be created by a domestic animal	S.14.1	\$85.00
18.	Permit the operation of a commercial car wash during restricted times	S.15.1	\$200.00
19.	Create excessive noise with the utilization of an air conditioner, compressor, heat pump, or any other similar device	S.16.1	\$85.00
20.	Obstruct officer in performance of duty	S.17.2	\$300.00

Note: The penalty provision for the offences listed above is section 22 of By-law 2018-31 of the Corporation of the City of Pembroke.