

THE CORPORATION OF THE CITY OF PEMBROKE

BY-LAW NUMBER 81-21

BEING A BY-LAW TO CONTROL NOISE

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 tranquility of their life or cause nuisance; and

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

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF PEMBROKE ENACTS AS FOLLOWS:

1. Interpretation

In this by-law

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;

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;

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;

Council

“Council” means the Council of the Corporation of the City of Pembroke;

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;

Minister

“Minister” means Minister of the Environment;

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“Ministry” means Ministry of the Environment

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

Motorized Conveyance

“Motorized Conveyance” means a conveyance propelled or drive otherwise than by muscular, gravitational or wind power;

Municipality

“Municipality” means the land within the geographic limit of the City of Pembroke;

Noise

“Noise” means unwanted sound;

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) Zones

In this by-law,

A. Residential Area

“Residential Area” means those areas of the municipality specified as follows:

All areas as set out on the Land Use Map attached hereto and marked as Exhibit “A”, save and except those lands detailed as Industrial lands thereon and save and except such lands specified as “Quiet Zone” in clause (b) hereof.

B. Quiet Zone

“Quiet Zone” means those areas of the municipality specified as follows:

- (i) That area bounded on the North by the unopened Dickson Street road allowance, on the East by Fraser Street, on the South by Irving Street and on the West by Cecelia Street.
- (ii) That area bounded on the North by Bell Street, on the East by Cecelia Street, on the South by Deacon Street and on the West by River Road.

2. General Prohibitions

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:

1. Racing of any motorized conveyance other than in a racing event regulated by law.
2. The operation of a motor vehicle in such a way that the tires squeal.
3. 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.
4. 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.

5. 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 or a Quiet Zone 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 the seasonal change of antifreeze, cleaning of the fuel system, carburetor or the like, when such work is performed other than for profit.
6. 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.
7. 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.
8. The detonation of fireworks or explosive devices not used in construction.
9. The discharge of firearms.
10. 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.

3. 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	Prohibited Period of Time	
	Quiet Zone	Residential Area
1. 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.	F	C
2. The operation of any auditory signalling device, including but not limited to the ringing of bells (except church bells or chimes) 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.	F	D&E
3. The operation of any motorized conveyance other than on a highway or other place intended for its operation.	F	B
4. The venting, release or pressure relief of air, steam or other gaseous material, product or compound from	F	A

any autoclave, boiler, pressure vessel, pipe, valve, machine, device or system		
5. Persistent barking, calling or whining or other similar persistent noise made by any domestic pet or any other animal kept or used for any purpose other than agriculture	F	F
6. The operation of a commercial car wash with air drying equipment	F	A
7. Yelling, shouting or hooting.	F	A
8. The operation of any lawn mowing equipment or use of any tool for domestic purposes other than for snow removal.	A	A
9. All selling or advertising by shouting or outcry or amplified sound.	F	D&E
10. 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.	D&E	D&E
11. The operation of any equipment in connection with construction	D&E	D&E
12. The operation of solid waste bulk lift or refuse compacting equipment	C	B

Prohibited Periods of Time:

A – 2300 one day to 0700 next day (0900 Sundays)

B – 1900 one day to 0700 next day (0900 Sundays)

C – 1700 one day to 0700 next day (0900 Sundays)

D – All day Sundays and Statutory Holidays

E – 1900 one day to 0700 next day

F – At all times

4. 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.

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 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 exemption, Council may 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.

6. Exemption of Traditional, Festive or Religious Activities

Not Withstanding 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.

Parades as held under the permission of the Chief of Police,
Fireworks displays,
Band Concerts, and
Sports events.

7. Sever ability

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 and shall, upon conviction thereof, forfeit and pay a penalty of not more than \$500.00 for a first offence and not less than \$50.00 and not more than \$500.00 for a second or subsequent offence, exclusive of costs and every such fine is recoverable under The Provincial Offences Act.

9. By-law number 80-80 is hereby repealed.

READ A FIRST TIME THIS 5TH DAY OF MAY, 1981

Mayor

Clerk

READ A SECOND TIME THIS 5TH DAY OF MAY, 1981.

Mayor

Clerk

READ A THIRD TIME THIS 5TH DAY OF MAY, 1981.

Mayor

Clerk

I hereby certify the foregoing to be a complete and true copy of the
By-law Number 81-21.

Clerk-Administrator

This By-law is approved pursuant to the provision of The Environmental Protection Act,
1971, as amended, at Toronto on this 11th day of August, 1981.

Minister of the Environment

