

THE CORPORATION OF THE TOWNSHIP OF WELLESLEY

BY-LAW NO. 54/2019

**BEING A BY-LAW TO CONTROL NOISE IN THE TOWNSHIP OF WELLESLEY
AND TO REPEAL BY-LAW 38/2008**

WHEREAS Sections 8, 9 and 10 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "*Municipal Act, 2001*"), authorize The Corporation of the Township of Wellesley (the "**Township**") to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6 and 8 of subsection 11(2) and paragraph 9 of subsection 11(3) authorize by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; the protection of persons and property; and animals;

AND WHEREAS Section 128 of the *Municipal Act, 2001* authorizes the Township to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of the Council of the Township are or could become public nuisances;

AND WHEREAS Section 129 of the *Municipal Act, 2001* authorizes the Township to prohibit and regulate with respect to noise and vibration and, in particular, to prohibit noise unless permission is obtained from the Township and to impose conditions for obtaining, continuing to hold and renewing the permission, including requiring the submission of plans;

AND WHEREAS Section 425 of the *Municipal Act, 2001* authorizes the Township to pass by-laws providing that a person who contravenes a by-law of the Township passed under the *Municipal Act, 2001* is guilty of an offence;

AND WHEREAS the *Municipal Act, 2001* further authorizes the Township, amongst other things, to delegate its authority to impose fees or charges on persons for services or activities provided or done by or on behalf of it, to provide for inspections and inspection orders, and to make orders to discontinue activity or to do work;

AND WHEREAS the Council of the Township deems it desirable to regulate noise;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WELLESLEY ENACTS AS FOLLOWS:

1. Short Title

This by-law shall be known, and may be cited, as the "Noise By-law."

2. Definitions

For the purposes of this by-law:

"**Clerk**" means the Clerk of the Township, or his or her designate;

"**Council**" means the Council of the Township;

"**Emergency**" means a situation or an impending situation, often dangerous, caused by the forces of nature, an accident, an intentional act or otherwise, which arises suddenly and calls for prompt action;

"**Emergency Vehicle**" includes a land ambulance, an air ambulance, a fire department vehicle, a police vehicle and a motor vehicle being used to respond to an emergency;

"**Holiday**" means any day within the definition of "holiday" in the *Retail Business Holidays Act*, R.S.O. 1990, Ch. R.30, as amended, or any successor thereof;

"**inhabitants**" means one or more persons who reside in, or who are guests in, the Township;

"**motor vehicle**" includes an automobile, motorcycle, or any vehicle propelled or driven otherwise than by muscular power; but does not include the cars or 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*, R.S.O. 1990, Ch. H.8, as amended;

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

"**Municipal Law Enforcement Officer**" means a municipal law enforcement officer of the Township appointed by Council pursuant to s. 15 of the *Police Services Act*, R.S.O. 1990, c P15, as amended;

"**point of reception**" means any point on a property of a person where sound or vibration originating from other than that property is received;

"**Police Officer**" means a Police Officer appointed by the Waterloo Regional Police Service;

"**Township**" means The Corporation for the Township of Wellesley.

3. General Exemptions

- (1) Notwithstanding any other provision of this by-law, it shall be lawful in an Emergency to make, cause or permit to be made any noise or vibration in connection with emergency measures.
- (2) This by-law does not apply to:
 - (a) an authorized Emergency Vehicle;
 - (b) the Township;
 - (c) the Regional Municipality of Waterloo;
 - (d) bells, tones or whistles utilized as traffic control devices, including those at traffic signal locations and railway crossings, and train whistles;
 - (e) snow removal equipment, while in the operation of snow removal;
 - (f) the use of bells or chimes normally associated with places of religious worship;
 - (g) activities or events related to Remembrance Day; and,
 - (h) activities that would form part of a normal farm practice and carried out as part of an agricultural operation;
 - (i) normal cemetery activity in conjunction with interment services.

4. Exemption Requests

- (1) Any person may apply for an exemption from this by-law by:
 - (a) completing the form, and fulfilling all of the requirements, outlined in **Schedule "B"**; and,
 - (b) paying the required fees, as outlined in the Township's latest Fees and Charges By-law.
- (2) The Clerk, upon receiving a complete exemption application pursuant to section 4(1) of this by-law, may:
 - (a) grant the requested exemption;
 - (b) grant the requested exemption subject to conditions as specified by the Clerk;
 - (c) grant an amended exemption;
 - (d) grant an amended exemption subject to conditions as specified by the Clerk; or,
 - (e) refuse to grant the requested exemption.

- (3) Where an exemption is granted by the Clerk, breach of any of the terms or conditions of the exemption shall render the exemption null and void.
- (4) Where an exemption is refused by the Clerk, or where conditions are imposed by the Clerk, the person who applied for the exemption may appeal the Clerk's refusal to grant the exemption, or the conditions imposed by the Clerk, directly to Council. Council's decision on the matter shall be final.

5. General Prohibitions

- (1) No person shall, at any time, emit, or cause or permit the emission of, any noise or vibration likely to disturb the inhabitants of the Township, subject to section 6(1) of this by-law.
- (2) No person shall, at any time, emit, or cause or permit the emission of, any noise resulting from an act specified hereunder:
 - (a) the persistent barking, calling or whining of any domestic animal, which does not include an animal used for, and located on, the property of an agricultural, livestock-based use as set out in the Township's Zoning By-law, as amended;
 - (b) the operation of a motor vehicle in such a way that the tires squeal;
 - (c) the use of a horn, whistle, alarm, bell, gong or the like, except for an auditory safety or warning device;
 - (d) the detonation of explosives;
 - (e) the discharge of a firearm within a settlement area of the Township;
 - (f) the operation of an air conditioner, pool pump or filter, heat pump or similar device that is not in proper working order;
 - (g) the operation of an engine or motor in, or on, any motor vehicle or item of attached auxiliary equipment for a continuous period exceeding ten (10) minutes, unless;
 - (i) the vehicle is in an enclosed structure constructed so as to effectively prevent excessive noise emission; or
 - (ii) the original equipment manufacturer specifically recommends a longer idling period for normal and efficient operation of the motor vehicle or equipment, in which case such recommended period shall not be exceeded; or
 - (iii) 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-mix concrete trucks, lift platforms or refuse compactors and heat exchange systems; or
 - (iv) 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; or
 - (v) prevailing low temperatures make longer idling periods necessary, immediately after starting the motor vehicle or engine; or
 - (vi) 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.
 - (h) the operation of a combustion engine without an effective exhaust muffling device in proper working order.

(i) Fireworks as permitted pursuant to Fireworks By-law 15/2015

6. Prohibitions by Time and Place

(1) No person shall emit, or cause or permit the emission of, noise resulting from any act listed in Column 1 of **Schedule "A"** during the periods of time outlined in Column 2 of **Schedule "A"**.

7. Severability

(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 remain in force.

8. Enforcement

(1) Any person who contravenes any of the provisions of this by-law is guilty of an offence and, upon conviction, is liable to a fine pursuant to the *Provincial Offences Act*, R.S.O. 1990. c. P.33. as amended.

(2) When a person has been convicted of an offence under this by-law, any Court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting continuation or repetition of the offence or the doing of any act or thing by the person convicted directly toward the continuation or repetition of the offence.

(3) The provisions of this by-law may be enforced by Police Officers and Municipal Law Enforcement Officers.

9. Repeal

(1) Township By-law No. 38/2008, as well as any by-laws amending the same, are hereby repealed.

10. Effective Date of this By-law

(1) This by-law shall come into force and effect on the date of its passage by Council.

Read a first and second time this 3rd day of December, 2019

Mayor, Joe Nowak

Clerk, Grace Kosch

Read a third and final time and passed this 3rd day of December, 2019

Mayor, Joe Nowak

Clerk, Grace Kosch

THE CORPORATION OF THE TOWNSHIP OF

WELLESLEY BY-LAW NO. 54/2019

SCHEDULE "A"

PROHIBITIONS BY TIME AND PLACE

Periods of Time

- A - 11:00pm to 7:00am daily (or to 9:00am on Sundays or Holidays)**
B - 7:00pm to 7:00am daily (or to 9:00am on Sundays or Holidays)
C - 9:00pm to 7:00am daily (or to 9:00am on Sundays or Holidays)

	COLUMN 1 - Prohibitions	COLUMN 2 – Periods of Time
1.	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	B
2.	The operation of a radio, television, stereo or other electronic device including any amplification device, or any musical or other sound producing instrument	A
3.	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	A
4.	The operation of any motorized conveyance other than on a highway or other place authorized by law for its operation	B
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	A
6.	The operation of a commercial car wash	C
7.	Persistent or repetitive yelling, shouting, hooting, whistling or singing	A
8.	All selling or advertising by shouting or outcry or amplified sound	B
9.	The loading, unloading, delivering, packing, unpacking or otherwise handling of containers, products, materials, or refuse	A
10.	The operation of any equipment in connection with construction	C
11.	The operation or use of any tool or equipment for domestic purposes	C
12.	The operation of solid waste bulk lift or refuse compacting equipment	C

NOISE EXEMPTION APPLICATION FORM
SCHEDULE "B"
BY-LAW NO. 54/2019

REQUIRED WITH APPLICATION

- Notice to property owners within a 120 metre radius
- Non-refundable fee payment
- More details attached - # of pages _____

FAILURE TO SUBMIT THE COMPLETED REQUIRED INFORMATION WILL DELAY THE PROCESSING OF THE APPLICATION AND MAY RESULT IN THE PERMIT NOT BEING ISSUED. PLEASE PRINT CLEARLY

Applicant	First Name		Last Name		Phone/Cell Number	
	Street Number	Street Address		City/Town	Prov.	Postal Code
	Email Address					
Company Name and Address	Company Name				Company Phone Number	
	Street Number	Street Address		City/Town	Prov.	Postal Code
	Full address of site location			City/Town	Prov.	Postal Code
Start Date (mm/dd/yyyy)				Start Time (mm/dd/yyyy)		
End Date (mm/dd/yy)				End Date (dd/mm/yyyy)		
Description of noise anticipated, the source(s) of the noise and which provision(s) the exemption is being sought. (Max 240 Characters)						
Explain why existing by-law provisions cannot be adhered to (Max 240 Characters)						
I acknowledge it is my responsibility to notify the Township of Wellesley in writing of any changes in the above information during the course of the application and the period of the permit, and (strike if not applicable). I will act as the agent for the applicant company in this regard.						
For a copy of the current Noise By-law, please visit www.wellesley.ca						
I certify that the information contained in this application is true in all respects to the best of my knowledge.						
Signature of Applicant _____				Date _____		
FOR OFFICE USE ONLY						
FOLDER NUMBER	ZONING WARD	ATTACHMENT NO, PGS	RECEIVED BY	DATE		
LICENCE FEE	PAYMENT TYPE	RECEIPT NUMBER	APPROVED	DENIED		

**APPLICATION REQUIREMENTS
SCHEDULE "B"
BY-LAW NO. 54/2019**

The application shall be made in writing and shall contain:

- the name and address of the applicant;
- the name and information of a contact person, if other than applicant;
- the location of the event or activity for which the noise exemption is being sought;
- a description of the source of noise in respect of which the exemption is sought;
- a statement of the particular provision or provisions from which the exemption is sought;
- the times of day, and period of time and duration for which the exemption is sought;
- the reasons why the exemption should be granted;
- a statement of the steps, if any, planned or presently being taken to minimize the noise;
- written confirmation that all property owners within a 120 metre radius of the point from which the noise will be emitted have been notified along with a copy of the public notice; and
- a non-refundable application fee for exemption as set out in the Town's current Fees and Charges By-law.

The following must be attached to the completed application form

- written confirmation that all property owners within a 120 metre radius of the point from which the noise will be emitted will notified along with a copy of the public notice;
- if the application spacing is insufficient attach information details;
- application fee payment receipt.

If you have any question or concerns regarding the completion of this application form please contact the By-law Enforcement Office at 519-699-4611 x3965.

THE CORPORATION OF THE TOWNSHIP OF

WELLESLEY BY-LAW NO. 54/2019

PART I – PROVINCIAL OFFENCES ACT

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence (Sections (s))	COLUMN 3 Set Fine
1.	Noise or vibration likely to disturb the inhabitants	5(1)	\$200.00
2.	Noise from persistent barking, calling or whining of any domestic animal	5(2)(a)	\$200.00
3.	Noise from operating a motor vehicle in such a way that the tires squeal	5(2)(b)	\$200.00
4.	Noise from sounding of a horn, whistle, alarm, bell or gong	5(2)(c)	\$200.00
5.	Noise from the detonation of fireworks or explosives	5(2)(d)	\$200.00
6.	Noise from the discharge of a firearm within a settlement area	5(2)(e)	\$200.00
7.	Noise from operating an air conditioner, pool pump or filter, or heat pump that is not in proper working order	5(2)(f)	\$200.00
8.	Operating an engine or motor for more than ten minutes	5(2)(g)	\$200.00
9.	Noise from operating a combustion engine without effective exhaust	5(2)(h)	\$200.00
10.	Noise from operating a combustion engine, which is a toy or model or replica during prohibited time	Schedule "A", (1)	\$200.00
11.	Noise from operating an electronic device intended for the production or amplification of sound or any musical or other sound producing instrument during prohibited times	Schedule "A", (2)	\$200.00
12.	Noise from operating any auditory signaling device or other similar devices during prohibited times	Schedule "A", (3)	\$200.00

13.	Noise from operating a powered rail car while stationary during prohibited times	Schedule "A", (4)	\$200.00
14.	Noise from operating a motorized conveyance other than on a highway or other place authorized by law	Schedule "A", (5)	\$200.00
15.	Noise from venting of air, steam or other gaseous material during prohibited times	Schedule "A", (6)	\$200.00
16.	Noise from operating a commercial car wash during prohibited times	Schedule "A", (7)	\$200.00
17.	Noise from yelling, shouting, hooting, whistling or singing during prohibited times.	Schedule "A", (8)	\$200.00
18.	Noise from selling or advertising by shouting or amplified sound during prohibited times	Schedule "A", (9)	\$200.00
19.	Noise from loading or unloading, delivering, packing or unpacking any containers, products, materials or refuse during prohibited times.	Schedule "A", (10)	\$200.00
20.	Noise from operating construction equipment during prohibited times	Schedule "A", (11)	\$200.00
21.	Noise from operating any tool for domestic purposes, other than snow removal, during prohibited times	Schedule "A", (12)	\$200.00
22.	Noise from operating solid waste bulk lift or refuse compacting equipment during prohibited times.	Schedule "A", (13)	\$200.00

NOTE: The penalty provision for the offences indicated above is Section 8(1) of By-law No. 53-2019, a certified copy of which has been filed.