

CITY OF NIAGARA FALLS

A CONSOLIDATED BY-LAW

**Being By-law No. 2004 - 105 as amended by:
By-law 2005 - 73 and By-law 2007-28**

NOISE CONTROL BY-LAW

To prohibit and regulate noise in the City of Niagara Falls.

WHEREAS section 129 of the *Municipal Act, 2001* (the “Act”) authorizes councils of local municipalities to pass by-laws to prohibit and regulate with respect to noise;

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

**THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS
AS FOLLOWS:**

1. Definitions

In this By-law,

“Chief Building Official” means the Chief Building Official for The Corporation of the City of Niagara Falls;

“City” means The Corporation of the City of Niagara Falls;

“Council” means the Council of the City;

“construction” includes erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and highway building, application of concrete, 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, hand tools, power tools, 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” 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 within the premises of a person;

“exempted area” means that area shown hatched on Schedule 1;

“highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, lane, bridge, viaduct or trestle;

“inhabitants” means one or more persons who reside in the municipality;

“motor vehicle” includes an automobile, motorcycle and any other vehicle propelled or driven other than by muscular power;

“municipality” means the geographical area in respect of which the City has jurisdiction;

“noise” means unwanted sound;

“point of reception” means any point on the premises of a person where noise, originating from other than those premises, is received;

“power device” means any powered device used in the servicing, maintenance or repair of property except devices driven by muscular power only and snow blowers; and

“residential area” means any land within the municipality which is zoned for residential uses by the City’s zoning by-law or which is used in whole or in part for human habitation.

General prohibition

2. No person shall make, cause or permit noise or vibration which is likely to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the inhabitants of the municipality.

Specific prohibitions

3. No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule 2 if the sound is clearly audible at a point of reception.

Prohibitions by time and activity

4. (1) No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule 3, if clearly audible at a point of reception located in a residential area of the municipality within the prohibited time as set out in Schedule 3.
- (2) Subsection (1) does not apply to the exempted area where it is listed in Schedule 3 next to the listed act and the prohibited time.

Exemption for public safety and highways

5. Despite any other provision in this By-law, it shall be lawful to emit or cause or permit the emission of sound in connection with measures for;
- (a) the immediate health, safety or welfare of the inhabitants of the municipality under emergency circumstances; or
 - (b) any emergency requiring immediate action for the construction, preservation, restoration or repair of any highway.

Exemption- activities

6. Despite any other provision in this By-law, this By-law does not apply to any person who emits or causes or permits the emission of sound or vibration in connection with any of the activities set out in Schedule 4.

Exemption by Council

7. (1) Despite any other provision in this By-law, any person may submit a written application with full particulars and supporting documentation to the Chief Building Official for an exemption from any of the provisions of this By-law.
- (2) The application mentioned in subsection 1 shall be made in writing, in duplicate, and shall contain the information and fulfil the requirements set out in Schedule 5.
- (3) The Chief Building Official may require an applicant to provide such further and other information as the Chief Building Official deems necessary to consider and evaluate the application.
- (4) No application shall be deemed complete until all required information has been provided by the applicant.
8. (1) The Chief Building Official shall prepare and submit a report to Council and Council may refuse to grant the exemption or may grant the exemption applied for, or any exemption of lesser effect and any exemption granted shall specify the time period, which shall not be in excess of six months, and may impose such terms and conditions as Council sees fit.
- (2) A breach by the applicant of any of the terms or conditions of the exemption granted by Council shall terminate the exemption forthwith.

Intention to maintain valid provisions by severance

9. The Council declares and confirms its intent that should any provision or any part of any provision of this By-law be held by a court of competent jurisdiction to be invalid, or of no force and effect, it is the intent of the Council in enacting this By-law, that each and every other provision of this By-law, and every part of any provision, authorized by law, stand and be applied and enforced in accordance with its terms to the extent possible according to law.

Enforcement

10. Any 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 under the provisions of the *Provincial Offences Act*.

Schedules- part of By-law

11. Schedules 1, 2, 3, 4 and 5 attached to this By-law shall form part of this By-law.

By-law Repealed

12. By-law No. 1967-7535 is repealed.

Short title

13. The short title of this By-law is the *Noise Control By-law*.

(Original By-law was)Passed this thirty-first day of May, 2004.

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DEAN IORFIDA, CITY CLERK

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R. T. (TED) SALCI, MAYOR

First Reading: May 31, 2004.
Second Reading: May 31, 2004.
Third Reading: May 31, 2004.

**SCHEDULE 1
EXEMPTED AREA**

See: "Sched.1 to Noise By-law.pdf"

SCHEDULE 2
SPECIFIC PROHIBITIONS

1. The revving of an engine or motor.
2. The operation of a motor vehicle in such a way that the tires squeal.
3. The operation of a motor vehicle, engine, motor, construction equipment or pneumatic device without an effective exhaust, intake-muffling or other sound attenuation device, which device is in good working order and in constant operation.
4. The operation of a conveyance or a motor vehicle, with or without a trailer, resulting in banging, clanking, squealing or other sounds due to improperly-secured loads or equipment, or inadequate maintenance.
5. 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.

**SCHEDULE 3
TIME AND ACTIVITY PROHIBITIONS**

Type of Act	Prohibited period of time	Exempted Area
1. The persistent barking, whining, calling or other similar sound made by any domestic pet or other animal kept or used for any purpose other than agriculture.	At any time	
2. Persistent yelling, shouting, screaming, whistling, hooting or singing.	At any time	
3. The activation of a security alarm resulting in sound for a duration in excess of five minutes.	At any time	
4. The operation of construction equipment in connection with construction.	Between 7:00 p.m. one day to 7:00 a.m. the next day, 9:00 a.m. on Saturdays, Sundays and statutory holidays	
5. The operation of any power device or non-power device or tool for domestic purposes, except snow blowers.	Between 9:00 p.m. one day to 7:00 a.m. the next day, 9:00 a.m. on Saturdays, Sundays and statutory holidays	
6. The operation of solid waste, refuse or recyclable bulk-lift or refuse-compacting equipment.	Between 9:00 p.m. one day to 7:00 a.m. the next day, 9:00 a.m. on Saturdays, Sundays and statutory holidays	Schedule 1

Type of Act	Prohibited period of time	Exempted Area
7. The operation of an engine or motor which is used in or is intended for use in, a toy or a model or replica of any device, which toy, model or replica has no function other than amusement and which is not a conveyance.	Between 9:00 p.m. one day and 7:00 a.m. the next day, 9:00 a.m. on Saturdays, Sundays and statutory holidays	
8. Vehicle repairs.	Between 9:00 p.m. one day and 7:00 a.m. the next day, 9:00 a.m. on Saturdays and statutory holidays and all day Sunday	
9. The loading, unloading, delivering, packing, unpacking or otherwise handling of any containers, products or materials.	Between 9:00 p.m. one day to 7:00 a.m. the next day, 9:00 a.m. on Saturdays, Sundays and statutory holidays	Schedule 1
10. The use 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.	Between 9:00 p.m. one day to 7:00 a.m. the next day, 9:00 a.m. on Saturdays, Sundays and statutory holidays	Schedule 1
11. The playing of music.	Between 9:00 p.m. one day to 7:00 a.m. the next day, 9:00 a.m. on Saturdays, Sundays and statutory holidays	Schedule 1

**SCHEDULE 4
EXEMPTED ACTIVITIES**

1. Incidental noise from any carnival, midway, exhibition, fair, circus or similar event for which a licence has been issued by the City.
2. Incidental noise from any parade authorized by Council.
3. Incidental noise from any sporting, recreational, musical, entertainment or similar event or performance which has been authorized by Council.
4. Incidental noise from any activity of the City, Regional Municipality of Niagara, Ontario Power Generation, Niagara Falls Hydro Inc. or the Provincial or Federal levels of government, their employees, agents or contractors, associated with the construction, repair, performance or maintenance of essential public services.
5. Incidental noise from the detonation of fireworks which detonation has been authorized by Council.

**SCHEDULE 5
APPLICATION FOR EXEMPTION**

1. Every application for exemption from any of the provisions of this By-law shall be in writing, submitted to the Chief Building Official and shall contain:
 - (a) the name and address of the applicant;
 - (b) a description of the source of sound or vibration in respect of which exemption is sought;
 - (c) a statement of the specific 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; and
 - (e) the permit fee.
2. The applicant shall submit such reports, drawings, graphs or other documents to support his/her application for exemption or as required by the Chief Building Official.
3. The applicant shall submit as a deposit an amount that the Chief Building Official deems reasonable, being the estimated cost of advertising the notice of intention to apply for an exemption to this By-law in a newspaper having general circulation in the City.