

THE CORPORATION OF THE

TOWNSHIP OF WAINFLEET

BY-LAW NO. 042-2018

AS AMENDED BY BY-LAW NO. 047-2019

Being a by-law to regulate noise
in the Township of Wainfleet.

WHEREAS section 128 of the *Municipal Act, 2001, S.O 2001, c. 25* authorizes a local municipality to prohibit and regulate matters that, in the opinion of council, are or could become public nuisances; and

WHEREAS section 129 of the *Municipal Act, 2001 S.O 2001*, authorizes municipalities to pass by-laws to prohibit and regulate noise; and

WHEREAS section 429(1) of the *Municipal Act, 2001*, provides that a municipality may establish a system of fines for an offence under a by-law passed under the *Act*; and

WHEREAS the Council of the Corporation of the Township of Wainfleet deems it expedient to enact a by-law to regulate noise in the municipality;

NOW THEREFORE the Council of the Corporation of the Township of Wainfleet enacts as follows:

1) Definitions:

1. **“Authorized Vehicle”** means any ambulance, hearse, any vehicle of the fire department or of the local, provincial or federal police, Canada Post, any public utility company while actively engaged in the construction, repair of highway, or any equipment thereon, any maintenance vehicle operated by or for the Ministry of Transportation, and any municipal or regional vehicle during their duties.
2. **“Construction”** means erection, alteration, repair, dismantling, demolition, structural maintenance, excavating, laying of pipe or conduit whether above or below ground level, street and highway building, equipment installation and alteration and the construction components and materials in any form or for any purpose and includes any work in connection therewith.
3. **“Construction Equipment”** means any for hire work equipment or device designed and intended for use in construction of material, material handling, including but not limited to air compressors exceeding 8 gallons and 1.5 hp, pile drivers, jack hammer exceeding 35lbs, pneumatic or hydraulic tools, bulldozers, TLB (tractors, loaders, backhoe) exceeding 35hp, trenchers, cranes, derricks, excavators (skid steer loaders, “bobcat” or equivalent) exceeding 3 ton, scrapers, pavers, generators exceeding 9200w, off highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers

exceeding 4 cu.ft of wet capacity, graders or other material handling equipment.

4. **“Domestic Construction Equipment”** means any equipment or device designed and intended for use in a domestic construction purpose by homeowners, including but not limited to air compressors not exceeding 8 gallons and 1.5hp, air tools in conjunction with compressor, any hand tool, battery operated tool or plug in tool, excavators (skid steer loaders, “bobcat” or equivalent) not exceeding 3 ton, TLB (tractors, loaders, backhoe) not exceeding 35hp, generators not exceeding 9200w, concrete mixers not exceeding 4 cu.ft of wet capacity, jack hammer not exceeding 35lbs.
5. **“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.
6. **“Council”** means the council of the Corporation of the Township of Wainfleet.
7. **“For Hire”** shall mean the hiring a person or company to work on any Construction project using Construction Equipment.
8. **“Highway”** means 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 passage of vehicles.
9. **“Ministry or MOECC”** means Ministry of the Environment and Climate Change.
10. **“Motor Vehicle”** means 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 of husbandry or road-building machine within the meaning of the *Highway Traffic Act*.
11. **“Motorized Conveyance”** means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power.
12. **“Municipality”** means the land within the geographical boundaries of the Township of Wainfleet.
13. **“Noise”** means any sounds or vibrations that exceed the levels or times set out in this by-law.
14. **“Officer”** means a By-law Enforcement Officer appointed by the Township of Wainfleet, a member of the Niagara Regional Police (NRP), Ontario Provincial Police (OPP), Royal Canadian Mounted Police (RCMP), Canadian National Police (CNP) or and other rail police, OSPCA Officer, and Ministry of Natural Resources Officer (MNR).

15. **“Owner”** means an owner of land and / or a person in possession of land by way of leasing or renting the property and will include a person, firm, partnership, corporation, company, association or organization of any kind and its principal.
16. **“Persistent”** means constantly repeated over a period of one half of an hour (30 mins).
17. **“Person”** includes a corporation, organization, association, partnership and the like.
18. **“Point of Reception”** shall mean point on the premises of a person where sound or vibration originating from other than those premises is received.

2) Exemptions

1. This by-law shall not apply to a Person who emits or causes or permits the emission of sounds or vibrations in connection with:
 - a. Snow removal equipment being used to remove snow.
 - b. Wind Turbines under normal operation.
 - c. The operation of any Authorized Vehicle.
 - d. Agricultural operations carried on as normal farm practices in accordance with the Farming and Food Production Protection Act, 1998, S.O. 1998, c.1, as amended;
 - e. The activities listed below:
 - a) Any celebration in commemoration of a Statutory Holiday,
 - b) Any celebration in commemoration of a Religious Holiday,
 - c) Remembrance Day Celebrations,
 - d) Any carnival or parade by a service club, recognized by Council,
 - e) Any supervised recreational activity recognized as such by Council,
 - f) Ringing of bells in connection with calling to worship or service by a recognized religious organization.

3) General Prohibitions

1. No Person shall at any time within the boundaries of the Township cause or permit to be caused any noise created by any of the acts set out below, which noise is clearly audible at a point of reception:

- a) The sounding of any bell or horn, siren or other warning device on vehicle for unnecessary or unreasonable period of time, except in the operation of a vehicle in a normal and safe manner.
- b) The racing of any motorized conveyance other than in a racing event regulated by law.
- c) The operation of a motor vehicle in such a way that the tires squeal.
- d) The persistent sounding of any alarm, bell, horn or other warning device.
- e) The persistent barking, calling, whining or similar persistent noise caused by any domestic animal, livestock or exotic or dangerous prohibited animal that is audible at a point or reception at any time.
- f) The sound or noise from, or created by, any radio, television, record player, tape player, digital music source, amplifier, loud speaker, public address system, musical instrument or equipment, device or instrument that emits sound when the same is played or operated in such a manner or with such volume that it is clearly audible within a residential unit or commercial unit with the windows and doors closed, other than the one in which the sound originates.

4) Prohibitions By Time

1. No Person shall, within the boundaries of the municipality, cause or permit to be caused any noise resulting from any of the acts set out below, which noise is clearly audible at a point of reception:
 - a) The racing of any motorized conveyance when regulated by law between 21:00 hrs of one day and 09:00 hrs the following day or 10:00 am on Sundays and holidays.
 - b) Any shouting, yelling, hooting, whistling or signing which disturbs the peace, quiet, comfort or repose of any person in any residential unit between 23:00 hrs of one day to 07:00 hrs the following day or 10:00 hrs on Sundays and holidays.
 - c) The operation of any combustion engine which is used or intended for use in any lawn, yard or garden maintenance equipment between the hours of 21:00 hrs of one day and 07:00 hrs the following day or 10:00 hrs on Sundays and holidays.
 - d) The operation of For Hire Construction Equipment in connection with any Construction:
 - i. Between 21:00 hrs of one day to 07:00 hrs the following day; or
 - ii. on Sundays and holidays.

- e) The operation of any Domestic Construction Equipment between 23:00 hrs to 07:00 hrs the following day or 10:00 hrs hrs on Sundays or holidays.
- f) The operation of any motorized conveyance other than on a highway or other place intended for its operation between 21:00 hrs of one day to 07:00 hrs the following day or 10:00 hrs on Sundays or holidays.

5) Temporary Noise Exemption

1. Every Person who wishes to make a request for a temporary noise exemption shall file a Noise Exemption Application, attached hereto as Schedule "A" and forming part of this by-law, and shall submit it to the Committee of Adjustment at least 45 days prior to the event.
2. The Noise Exemption Application shall be deemed incomplete and will not be presented to the Committee of Adjustment for consideration if not submitted with all details completed on the prescribed Noise Exemption Application form and submitted 45 days prior to the event.
3. In deciding whether to grant the Noise Exemption, the Committee of Adjustment shall give the applicant and any Person wishing to address the application an opportunity to be heard and may consider such information before approving or denying the application.
4. The Committee of Adjustment may impose conditions it considers appropriate on a proposed event including but not limited to;
 - a. Type and volume of sounds that may be made;
 - b. Times during which sounds may be made;
 - c. Date of exemption and expiry date of exemption.
5. The Committee of Adjustment shall provide a decision in writing at least 7 days prior to the event. Such decision shall include grounds on why the event was approved or denied and include any conditions imposed upon approved events.
6. Upon approval of a Temporary Noise Exemption by the Committee of Adjustment, the applicant shall pay to the Township a \$300.00 Noise Exemption Deposit. Following the event and provided that no valid issues resulted from the event, including but not limited to garbage left around the property or public complaints of excessive noise, an officer shall direct that the Noise Exemption Deposit be refunded to the applicant. If an officer determines that any valid issues did result from the event, the \$300.00 Noise Exemption Deposit will be forfeited to the Township in its entirety.

6) Administration and Enforcement

1. Where an officer is satisfied that this by-law has been contravened, the officer may make an order requiring the Person who contravened the by-law, or who caused or permitted the contravention, or the Owner of the land on which the contravention occurred, to discontinue the contravention.
2. The order shall include:
 - a) The municipal address of the property which the contravention occurred;
 - b) The time and date of the contravention;
 - c) The particulars of the contravention, including the section of the by-law referenced in relation to the contravention, and
 - d) A date by which compliance must be made with the order issued.
3. The order may be posted on site, hand delivered or served by regular or registered mail to the last known address of the Person or Owner. If served by mail, it shall be deemed served after 5 business days.
4. No Person shall contravene an order issued by an officer.

7) Offences and Penalties

1. Every Person who contravenes any of the provision of this By-law is guilty of an offence and, on conviction, is liable to a fine pursuant to the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.
2. An Officer may issue a penalty notice immediately upon evidence of a violation to the owner of the property in accordance with the AMPS By-law for Non-Parking Offences No. 027- 2019 (**AS AMENDED BY BY-LAW NO. 047-2019**)

8) Fees

1. The fees associated with the deposit will listed in the Township of Wainfleet Fees and Charges By-law that may be reviewed and amended annually.

9) Validity

1. Should a court of competent jurisdiction declare a part or whole of any provision of this by-law to be invalid or of no force and effect, the provision or part is deemed servable from this by-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under the law so as to provide a minimum standard for noise control.

10) By-laws Repealed

1. That By-law 014-2001 and 022-2014 of The Corporation of Township of Wainfleet and any other amendments thereto are hereby repealed.

11) Enactment

1. This by-law shall come into force and take effect on the date of final passage.

BY-LAW READ A FIRST TIME THIS 14TH DAY OF AUGUST, 2018.

BY-LAW READ A SECOND TIME THIS 14TH DAY OF AUGUST, 2018.

BY-LAW READ A THIRD TIME AND FINALLY PASSED THIS 14TH DAY OF AUGUST, 2018.

A. Jeffs, MAYOR

W. Kolasa, CLERK



SCHEDULE "A" TO BY-LAW NO. 042-2018

**Township of Wainfleet
Noise By-law Exemption Application**

Date Received: _____

Next Available Committee of Adjustment Meeting: _____

APPLICANTS INFORMATION		
Name		
Address		
Date of Event		
Type of Event		
Security Deposit	<input type="checkbox"/> Paid	<input type="checkbox"/> Forfeited <input type="checkbox"/> Refunded
Conditions		
Approved Date		
Denied Date		

SCHEDULE "B" TO BY-LAW NO. 042-2018

Short Form Wording and Administrative Penalties.

Section	Short Form Wording	Penalty
3. 1) a)	Cause/Permit Noise created by the sounding of any bell or horn, siren or other warning devices for unnecessary or unreasonable periods of time.	\$75.00
3. 1) b)	Cause/Permit Noise created by racing of any motorized conveyance other than at a racing event regulated by law.	\$75.00
3. 1) c)	Cause/Permit Noise created by squealing tires of a motor vehicle.	\$75.00
3. 1) d)	Cause/Permit Noise created by persistent sounding of any alarm, bell horn or other warning devices.	\$75.00
3. 1) e)	Cause/Permit Noise created by persistent barking, calling, whining or similar persistent noise from a domestic, animal, livestock, exotic / dangerous prohibited animal.	\$75.00
3.1 f)	Cause/Permit Noise created by sound or noise created by any sound making device in any zone hear from another property with their windows and doors closed.	\$250.00
4.1 a)	Cause/Permit Noise resulting from racing of any motorized conveyance other than at a racing event regulated by law.	\$75.00
4.1 b)	Cause/Permit Noise resulting from any shouting, yelling, hooting, whistling or singing which disrupts of any person between 23:00 hrs and 07:00 hrs or 11:00 hrs on Sundays or Holidays.	\$75.00
4.1 c)	Cause/Permit Noise resulting from operation of any combustion engine intended for all yard maintenance from 21:00 hrs of 1 day to 07:00 hrs the next day or 10:00 hrs on a Sunday or Holiday.	\$75.00
4. 1 d) i.	Cause/Permit Noise resulting from operation of any For Hire combustion equipment intended for all construction from 21:00 hrs of 1 day to 07:00 hrs the next day.	\$75.00
4.1 d) ii.	Cause/Permit Noise resulting from operation of any For Hire combustion equipment intended for all construction on Sundays and Holidays.	\$250.00
4.1 e)	Cause/Permit Noise resulting from operation of Domestic construction equipment between 23:00 hrs and 07:00 hrs the following day or 10:00 hrs Sunday and holidays.	\$75.00
4.1 f)	Cause/Permit Noise resulting from operation of any motorized conveyance other than on a highway or other place intended for its operation between 21:00 hrs of one day to 07:00 hrs the following day or 10:00 hrs on Sundays or holidays.	\$75.00