

MUNICIPALITY OF WEST ELGIN

BY-LAW NO. 2004-77

A BY-LAW TO CONTROL NOISE

AS AMENDED BY:

By-law No. 2012-68            December 20, 2012

By-law No. 2015-64            September 10, 2015

THE CORPORATION OF THE MUNICIPALITY OF WEST ELGIN

BY-LAW NO.2004-77

A BY-LAW TO CONTROL NOISE

WHEREAS Section 129 of the Municipal Act, S.O. 2001, c.25, as amended, permits a municipality to prohibit and regulate noise;

AND WHEREAS it is the policy of the Council of the Municipality of West Elgin to reduce and control unusual or unnecessary sound or vibrations which may degrade the quality and tranquility of the lives of the inhabitants of the Municipality of West Elgin;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF WEST ELGIN ENACTS AS FOLLOWS:

1. INTERPRETATION

In this by-law,

(a) By-law Enforcement Officer

“By-law Enforcement Officer” means the By-law Enforcement Officer as appointed by the Council of the Municipality of West Elgin;

(b) 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;

(c) 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;

(d) Council

“Council” means the Council of the Corporation of the Municipality of West Elgin;

(e) 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;

(f) 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;

- (g) Motor Vehicle  
“motor vehicle” includes an automobile, motorcycles, 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;
- (h) Motorized Conveyance  
“motorized conveyance” means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- (i) Noise  
“noise” means unwanted sound;
- (j) 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 are received;
- (k) Public Park  
“public park” means any open space or recreational area, owned or controlled by the Municipality or any board, commission or other authority established under any statute of the Province of Ontario and may include one or more athletic fields, field houses, community centres, bleachers, swimming pools, bandstands, skating rinks, tennis courts, bowling greens, boat liveries, bathing stations, curling rinks, refreshment rooms, fair grounds, arenas or similar uses;
- (l) Municipality  
“Municipality” means the Corporation of the Municipality of West Elgin and or the lands within the geographic limits of the Corporation of the Municipality of West Elgin, depending on the context;
- (m) Zone 1  
“Zone 1” means the area encompassing the former Villages of Rodney and West Lorne and adjacent lands as shown on Schedules “A” and “B” to this by-law, excluding those lands located in Zone 3.
- (n) Zone 2  
“Zone 2” means those areas of the municipality specified as follows:  
HR Hamlet Residential Zone  
LR Lakeshore Residential Zone less than 5 acres  
RR Rural Residential Zone  
pursuant to West Elgin Zoning By-law No. 2015-36, as amended from time to time (By-law No. 2015-64).
- (o) Zone 3  
“Zone 3” means those area of the municipality specified as follows:  
M1 General Industrial Zone  
pursuant to West Elgin Zoning By-law N0. 2015-36, as amended from time to time (By-law No. 2015-64).
- (p) Zone 4  
“Zone 4” means those parts of the Municipality not within Zones 1, 2 or 3.

2. ADMINISTRATION

The By-law Enforcement Officer shall be responsible for the administration and enforcement of this by-law.

3. GENERAL PROHIBITIONS

No person shall emit or cause or permit the emission of sound resulting from an act listed in Schedule 1 – General Prohibitions, and which sound is clearly audible at a point of reception.

4. PROHIBITION BY TIME AND PLACE

No person shall emit or case or permit the emission of a sound resulting from and act listed in Schedule 2 – Prohibitions by Time and Place, if clearly audible at a point of reception located in an area of the municipality specified in Schedule 2 within a prohibited time shown for such an area.

5. PUBLIC SAFETY EXEMPTION

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.

6. AGRICULTURAL EXEMPTION

Notwithstanding any provisions of this by-law, it shall be lawful to emit or cause to permit the emission of sound or vibration in connection with the operation of any equipment, apparatus or device used in agriculture.

7. EXCEPTION OF CERTAIN ACTIVITIES

Notwithstanding any other provisions 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 the following:

- (a) In a public park or recreational area under control and management of the Municipality in connection with any public celebration or other lawful gathering duly authorized by Council;
- (b) Any parade duly authorized by Council;
- (c) Any fireworks display duly authorized by Council;
- (d) Any fireworks display safely detonated on private property on festive holidays such as Victoria Day (May), Canada Day (July), Civic Holiday (August) and New Years Eve;
- (e) Fall Fair in Rodney (September)
- (f) Downhill derby in Rodney and West Lorne duly authorized by Council.

8. GRANT OF EXEMPTION BY COUNCIL

(a) Application to Council

Council may, by resolution upon receipt of a written application, grant an exemption from any of the provisions of this by-law to any person, with respect to any source of sound or vibration for which that person might be prosecuted for such period of time and subject to such terms and conditions as Council deems advisable or Council may refuse to grant any exemption or may grant an exemption of lesser effect than applied for and any exemption granted shall specify the time period, not in excess of six months, during which it is effective.

(b) Details of Application for Exemption

An application mentioned in subsection 8 (a) shall be made in writing, in duplicate, and shall contain:

- (i) the name and address of the applicant;
- (ii) a description of the source of sound or vibration in respect of which exemption is sought;
- (iii) a statement of the particular provision or provisions of the by-law from which exemption is sought;
- (iv) the period of time, of a duration not in excess of six months, for which the exemption is sought;
- (v) the reasons why the exemption should be granted;
- (vi) a statement of the steps, if any, planned or presently being taken to bring about compliance with the by-law; and
- (vii) proof of publication within the preceding ten days, in a newspaper or publication of general circulation within the Municipality, of a notice of intention to apply for an exemption to this by-law, containing the information required in clauses (i) through (v) hereof, and further stating the date upon which it is intended that application will be made to Council.

(c) By-law Enforcement Officer

A copy of the application for exemption shall be delivered to the By-law Enforcement Officer who shall prepare a report to Council, which report shall contain the Officer's opinion on the merits of the application and recommendations as to terms and conditions, if any.

(d) Decision

In deciding whether to grant the exemption, Council shall consider the application, the report of the By-law Enforcement Officer and any written submission then received by Council and shall give the applicant and any person in support of or opposed to the application an opportunity to be heard and may consider such other matters as it sees fit.

(e) Breach

Breach by the applicant of any of the terms or conditions of the exemption shall render the exemption null and void.

9. SEVERABILITY

If a Court of competent jurisdiction should declare any section of 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.

10. PENALTY

Every person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine provided for in the *Provincial Offences Act*.

11. REPEAL OF BY-LAWS

THAT any by-laws or parts of by-laws for the former Township of Aldborough and the former Villages of West Lorne and Rodney inconsistent with this by-law are hereby repealed

12. ENFORCEMENT

Nothing herein shall be deemed to limit the ability of the Ontario Provincial Police to enforce this by-law at any time.

READ A FIRST AND SECOND TIME this 28<sup>th</sup> day of October, 2004

READ A THIRD TIME AND FINALLY PASSED this 28<sup>th</sup> day of October, 2004.

"Graham Warwick"  
Mayor

"Norma I. Bryant"  
Clerk

SCHEDULE 1  
GENERAL PROVISIONS

1. 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 Zones 1 and 2 unless:
  - (a) 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;
  - (b) 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 truck, lift platforms and refuse compactors; or,
  - (c) The use of heating or refrigeration systems powered by the motor or engine for the safety and welfare of the operator, passengers or animals or the loading/unloading of perishable cargo; or
  - (d) Prevailing low temperatures make longer idling periods necessary, immediately after starting the motor or engine; or,
  - (e) 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.
2. The racing of any motorized conveyance other than in a racing event regulated by law in any Zone.
3. The operation of a motor vehicle in such a way that the tires squeal in any Zone.
4. 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 in any Zone.
5. The operation of any item of construction equipment in any Zone without effective muffling devices in good working order and in constant operation.
6. 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 in any Zone.
7. 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 in any Zone

## SCHEDULE 2 – PROHIBITIONS BY TIME AND PLACE

		PROHIBITED PERIOD OF TIME			
		ZONE 1	ZONE 2	ZONE 3	ZONE 4
1.	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.	11 pm – 7 am	11 pm – 7 am	Midnight – 7 am	11 pm – 7 am
2.	The operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electromechanical transducers, and intended for the production, reproduction or amplification of sound.	11 pm – 7am	11 pm – 7a m	Midnight – 7 am	11 pm – 7am
3.	All selling or advertising by shouting or outcry or amplified sound.	9 pm – 7 am	9 pm – 7 am	9 pm – 7 am	9 pm – 7 am
4.	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.	11 pm – 7 am	11 pm – 7 am	N/A	11 pm – 7 am
5.	The operation of any construction equipment with the exception of power outages as a result of Hydro One outages (By-law No. 2012-88)	9 pm – 7 am	9 pm – 7 am	9 pm – 7 am	9 pm – 7 am
6.	The denotation of explosive devices not used in construction.	At all times	At all times	At all times	At all times
7.	The discharge of firearms.	At all times	At all times	At all times	7 pm – 7 am
8.	The operation of a combustion engine which, (a) Is, (b) Is used in, or (c) Is intended for use in  A toy or model or replica of a larger device, which model or replica has no functions other than amusement and which is not a conveyance.	9 pm – 7 am	9 pm – 7 am	At all times	9 pm – 7am
9.	The operation of any powered rail car including but not limited to refrigeration cars, locomotive, or self-propelled passenger cars, while stationary on property owned or controlled by a railway governed by the Canada Railway Act.	9 pm – 7 am	9 pm – 7 am	Midnight – 7 am	N/A
10.	The operation of any motorized conveyance other than on a highway or other place intended for its operation.	At all times	At all times	N/A	9 pm – 7 am
11.	The venting, release or pressure relief of air, steam or other gaseous material, product or compound from any auto-clave, boiler, pressure vessel pipe, valve, machine device or system.	9 pm – 7 am	9 pm – 7 am	N/A	N/A



## SCHEDULE 2 – PROHIBITIONS BY TIME AND PLACE

		PROHIBITED PERIOD OF TIME			
		ZONE 1	ZONE 2	ZONE 3	ZONE 4
12.	The operation of any powered or non-powered tool for domestic purposes other than snow removal.	11 pm – 7 am	11 pm – 7 am	N/A	N/A
13.	The operation of solid waste bulk lift or refuse compacting equipment, or delivery equipment hoist.	7 pm – 7 am	7 pm – 7 am	7 pm – 7 am	7 pm – 7 am
14.	The operation of a commercial car wash with air drying equipment	9 pm – 7 am	9 pm – 7 am	9 pm – 7 am	N/A
15.	The operation of a commercial car wash of a type other than mentioned in Item 14.	11 pm – 7 am	11 pm – 7 am	11 pm – 7 am	N/A
16.	Yelling, shouting, hooting, whistling or singing	11 pm - 7 am	11 pm - 7 am	11 pm - 7 am	11 pm - 7 am
17.	The operation of a power assisted hang glider or parafoil.	9 pm – 7 am	9 pm – 7 am	N/A	N/A
18.	Racing of any motorized conveyance at a racing facility	At all times	At all times	N/A	9 pm – 7 am
19.	The operation of any item of snow making equipment	At all times	At all times	N/A	N/A