

THE CORPORATION OF THE TOWN OF ST. MARYS

BY-LAW NO. 43 of 2007

Being a by-law to Regulate and Control Noises within the Town of St. Marys

**WHEREAS** sections 9, 10 and 129 of the *Municipal Act, 2001* (the "Act") permit the Town of St. Marys to pass by-laws to prohibit and regulate noise and vibration;

**AND WHEREAS** the people have a right to and should be ensured an environment free from unusual, unnecessary or excessive vibration, sound or noise which may degrade the quality and tranquility of their life or cause nuisance;

**NOW THEREFORE** the Council of the Corporation of the Town of St. Marys enacts as follows:

1. Definitions

In this By-law,

**"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, 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 only within a building;

**"Council"** means the Council of the Town;

**"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;

**"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, diesel 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*;

**"Municipality"** means the land within the geographic limit of the Town;

**"Noise"** means unwanted sound;

**"Noise Control Officer"** means a person designated by Council as responsible for the administration of this By-law, and more specifically shall be the local policing authority;

**"Person"** includes a corporation, organization, association, partnership, and the like;

**“Point of Reception”** means any point on the premises of a person where sound or vibration originating from other than those premises is received;

**“Premises”** means building and lands appurtenant thereto;

**“Residential Area”** means land zoned residential within the Town;

**“Town”** means the Corporation of the Town of St. Marys.

### **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. Without limiting section 2, no person shall emit or cause or permit the emission of a sound resulting from an act listed in Schedule 1—General Prohibitions, and which is clearly audible at a point of reception at anywhere within the municipality, at any time.
4. Without limiting section 2, no person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule 2—Prohibition by Time and Place if clearly audible at a point of reception located in an area of the municipality within a prohibited time shown for such an area.

### **Exemption—Public Safety**

5. 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;
  - b. For the preservation or restoration of property; unless such sound or vibration is clearly of a longer duration or by nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

### **Grant of Exemption by Council**

6. 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 and the Town may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect and any exemption shall specify a time period, not in excess of six months, during which it is effective and may contain such terms and conditions as the municipality deems appropriate.
7. (1) **Application to Municipality**  
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 and the municipality may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect and any exemption granted shall specify a time period, not in excess of six months, during which it is effective and may contain such terms and conditions as the municipality deems appropriate.

(2) **Details of Application for Exemption**

The application mentioned in subsection 7(1) shall be made in writing, in the form attached as Schedule 4—Application for Exemption, and shall contain:

- (a) the name, address and telephone number of the applicant;
- (b) a description of the source and location of sound in respect of which the exemption is sought;
- (c) a statement of the particular provision or provisions of this 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;
- (e) the reasons why the exemption should be granted;
- (f) a statement of the steps, if any, planned or presently being taken to bring about compliance with the by-law.

(3) **Decision**

In deciding whether to grant the exemption, Council shall give the applicant and any person opposed to the applications an opportunity to be heard and may consider such other matters as it deems appropriate.

(4) **Breach**

A breach of any of the terms or conditions of an exemption granted by the Municipality that is caused or permitted by the applicant shall render the exemption null and void.

(5) Every person applying for an exemption shall, at least 10 business days prior to the Council meeting at which the request for exemption is to be addressed by Council, provide to the Clerk:

- (a) a complete and accurate application form as prescribed by the municipality setting out the particulars respecting the exemption requested; and
- (b) payment of the exemption processing fee in the amount set by Council and in effect at the time of such exemption request.

### **Exemption of Activities**

8. This by-law shall not apply to a person who emits or causes or permits the emission of sound in connection with any of the activities listed on Schedule 3—Exemption of Activities.

### **Severability**

9. 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.

### **Enforcement and Penalty Provisions**

- 10.(1) The provisions of this by-law shall be enforced pursuant to the provisions set out in Part I of the *Provincial Offences Act* and Part XIV of the *Municipal Act, 2001*.
- (2) Any person violating any of the provisions of this by-law is guilty of an offence and upon conviction shall be subject to a fine, exclusive of costs and all such fines shall be recoverable under the provisions of Part I of the *Provincial Offences Act* and Part XIV of the *Municipal Act, 2001*.
- (3) The set fines for a violation of this by-law shall be those as listed on Schedule 5.

**By-law Repealed**

11. Upon the coming into force of this by-law, Town by-law No. 9-85 is revoked.

**Short title**

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

**Read a first and a second time this 25<sup>th</sup> day of June 2007.**

**Read a third time and passed this 25<sup>th</sup> day of June 2007.**

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Jamie Hahn, Mayor

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Bruce Grant, CAO/Clerk

### Schedule 1—General Prohibitions

1. Racing of any motorized vehicle other than in a lawful racing event.
2. The operation of a motor vehicle in such a way that the tires squeal.
3. The operation of any combustion engine, pneumatic device or construction equipment without an effective exhaust or intake muffling device in good working order and in constant operation.
4. The operating of a motor vehicle with a trailer resulting in banging, clanking, squealing or other 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, anywhere within the geographic area of the Town, where the point of reception is in a Residential Area 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 trucks, lift platforms or refuse compactors; or
  - c. 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 purpose of delivery or loading; 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;
6. The use of any mechanical equipment that is not operating or being maintained in accordance with the manufacturers specifications resulting in noise other than that emitted in the normal operation of the equipment;
7. The operation of a motor vehicle horn or other warning device except where required or authorized by by-law or in accordance with good safety practices.
8. The operation of a stereo or other electronic device designed to amplify sound in, or on, a motor vehicle in such a way that the sound can easily be heard outside of the motor vehicle.

## Schedule 2—Prohibitions by Time and Place

### Prohibitions in a Residential Area

Act	Prohibited Period of Time
1. The discharge of firearms.	At all times.
2. 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.	A
3. The operation of any Motorized Conveyance other than on a highway or other place intended for its operation.	B
4. Yelling, shouting, hooting, whistling or singing.	A
5. Persistent barking, whining, calling or other similar persistent noise making by any domestic pet or any animals kept for commercial purposes	At all times
6. The operation of percussive instruments.	A

A—23 00 one day to 07 00 next day (09 00 Sundays)

B—21 00 one day to 07 00 next day (09 00 Sundays)

### **Schedule 3—Exemption of Activities**

A list of sources (activities) shall constitute this Schedule and shall specify those events which Council considers to be exempt from the provisions of this By-law.

1. Road and bicycle races authorized by the Town;
2. Regimental salutes;
3. Parades authorized by the Town;
4. Fireworks displays authorized by the Town;
5. Midways and circuses authorized by the Town;
6. Sporting, recreational and entertainment events in public parks, buildings or grounds, authorized by the Town;
7. Musical and other performances in public parks, buildings or grounds, authorized by the Town;
8. Special neighbourhood social activities on streets or other public land authorized by the Town;
9. Transformers and diesel operated pumps owned by the Town and necessary preventative maintenance works undertaken by the Town;
10. Town operations, including but not limited to snow clearing, street cleaning and garbage collection, undertaken by or on behalf of the Town;
11. Snow removal that is essential for the normal operation of a business;
12. Church clocks striking the hour and chimes ringing and the playing of any church carillon.

### Schedule 4—Application for Exemption

Application for Exemption Under Noise Control By-law 43-2007

Applicant Name

Applicant Name      Last      First

Applicant Address    Street    Postal Code

Applicant's Telephone Number

Group or Organization

Event Title

Date(s) of Event

Time of Event (if event is being held over more than one day, specify times for each day)

Description of Event—Include the source of sound or vibration in respect of which the exemption is being sought:

State the particular provision(s) of the By-law from which the exemption is being sought

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

\_\_\_\_\_

Title

Submit to Clerk's Office Town of St. Marys



**Schedule 5 --Set Fines**

Item	Column 1 Short Form Wording	Column 2 Offence Creating Provision	Column 3 Set Fine (Includes Costs)
1	Causing or permitting noise likely to disturb	Section 2	\$175.00
2	Causing or permitting vibration likely to disturb	Section 2	\$175.00
3	Causing or permitting noise by racing a motorized vehicle	Section 3 Schedule 1-1	\$350.00
4	Causing or permitting noise from squealing tires	Section 3 Schedule 1-2	\$350.00
5	Causing or permitting noise by operation of a combustion engine without exhaust in good working order	Section 3 Schedule 1-3	\$350.00
6	Causing or permitting noise by operating pneumatic device without exhaust in good working order	Section 3 Schedule 1-3	\$350.00
5	Causing or permitting noise by operating construction equipment without exhaust in good working order	Section 3 Schedule 1-3	\$350.00
8	Causing or permitting noise from the operation of a motor vehicle with a trailer	Section 3 Schedule 1-4	\$350.00
9	Causing or permitting noise from the idling of a vehicle	Section 3 Schedule 1-5	\$350.00
10	Causing or permitting noise from mechanical equipment that is not properly maintained	Section 3 Schedule 1-3	\$350.00
1	Causing or permitting noise from a vehicle horn or other warning device	Section 3 Schedule 1-1	\$350.00
12	Causing or permitting noise from a vehicle stereo or other electronic device	Section 3 Schedule 1-4	\$350.00
13	Causing or permitting noise from the discharge of a firearm	Section 4 Schedule 2-1	\$350.00
14	Causing or permitting noise from any electronic device or sound producing equipment	Section 4 Schedule 2-2	\$350.00
15	Causing or permitting noise from the operation of a motorized conveyance	Section 4 Schedule 2-3	\$350.00
16	Yelling, shouting, hooting, whistling or singing	Section 4 Schedule 2-4	\$350.00
17	Persistent barking, whining, calling of a domestic pet	Section 4 Schedule 2-4	\$350.00
18	Persistent barking, whining, calling of commercial animal	Section 4 Schedule 2-4	\$350.00
19	Operation of percussive instruments	Section 4 Schedule 2-6	\$350.00