

**THE CORPORATION OF THE
MUNICIPALITY OF ARRAN-ELDERSLIE**

BY-LAW NO. 61-09

A By-law to Amend the Municipal Code – Schedule B – Protection to Persons
and Property – Noise

WHEREAS Section 129 of the *Municipal Act, 2001* permits a local municipality to prohibit and regulate with respect to noise and vibration and to prohibit such matters unless a permit is obtained from the municipality for those matters and that a municipality may also impose conditions for obtaining, continuing to hold and renewing any such permit, including the submission of plans;

AND WHEREAS Council at its meeting of November 9, 2009 adopted the recommendation in SRCAO.09.59 regarding amendments to the Municipal Code – Schedule B – Protection to Persons and Property - Noise;

NOW THEREFORE THE CORPORATION OF THE MUNICIPALITY OF ARRAN-ELDERSLIE HEREBY ENACTS AS FOLLOWS:

1. That the Municipal Code – Schedule B – Protection to Persons and Property be amended by the addition of Schedule A attached to this by-law.
2. That Schedule A attached shall form part of this by-law.

READ A FIRST AND SECOND TIME THIS 9TH DAY OF NOVEMBER, 2009.

READ A THIRD TIME AND PASSED THIS 9TH DAY OF NOVEMBER, 2009.

Original Signed by

RON L. OSWALD, MAYOR

Original Signed by

A.P. CRAWFORD, CLERK

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Schedule B – Protection to Persons and Property – Noise

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Article 1

CITATION

1.2 Citation

This by-law may be cited as the “Noise By-law”.

Article 2

DEFINITIONS

2.7 Construction – defined

“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, the structural installation of construction components and materials in any form or for any purpose, and includes any work in connection therewith.

2.8 Construction equipment – defined

“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.

2.9 Conveyance – defined

“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.

2.10 Council – defined

“council” means the Council of The Corporation of the Municipality of Arran-Elderslie.

2.11 Highway – defined

“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 the passage of vehicles.

2.12 Motor Vehicle – defined

“motor vehicle” includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular, gravitational or wind 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*.

2.7 Municipality - defined

“municipality” means the land within the geographic limit of the Municipality of Arran-Elderslie.

2.8 Noise - defined

“noise” means sound and vibration arising therefrom, emitted in such a manner or with such volume as to likely disturb local inhabitants.

2.9 Noise Control Administrator - defined

“Noise Control Administrator” means the person or persons designated by Council as responsible for the administration of this by-law and shall be the Chief Building Official for the Municipality of Arran-Elderslie.

2.10 Point of reception - defined

“point of reception” means any point on the premises of a person where sound or vibration originating from other than those premises is received.

2.11 Quiet zone - defined

“quiet zone” means those areas of the municipality in which there is located a hospital, funeral home, nursing home or senior citizens’ housing.

2.12 Residential area - defined

“residential area” means all those areas designated for any kind of residential use by the various restricted area by-laws of The Municipality of Arran-Elderslie, plus all properties within twenty (20) metres of such areas.

Article 3

GENERAL PROHIBITIONS

3.1 Sounds - acts emitting noise - clearly audible - set out

No person shall emit or cause or permit the emission of sound resulting from an act listed in Sections 3.2 through 3.6 inclusive, and which sound is clearly audible at a point of reception.

3.2 Racing - motorized conveyance - not regulated

No person shall race or cause or permit to be raced any motorized conveyance in contravention of Section 3.1, other than in a racing event regulated by law.

3.3 Tires - squealing - vehicle

No person shall operate or cause or permit the operation of a motor vehicle in such a way that the tires squeal in contravention of Section 3.1.

3.4 Vehicle - operation - improperly secured - load

No person shall operate or cause or permit the operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sounds in contravention of Section 3.1 due to improperly secured load or equipment, or inadequate maintenance.

3.5 Engine - without muffler

No person shall operate or cause or permit the operation of any combustion engine or pneumatic device in contravention of Section 3.1 without an effective exhaust or intake muffling device in good working order and in constant operation.

3.6 Engine - continuous - operation - while stationary

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 (5) minutes, while such vehicle is stationary in a residential area or a quiet zone shall be a contravention of Section 3.1 unless the provisions of Sections 3.7 through 3.11 inclusive apply.

3.7 Idling period - manufacturer - specification

The provisions of Section 3.6 shall not apply when 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.

3.8 Operation - essential to function

The provisions of Section 3.6 shall not apply when 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 and refuse compactors.

3.9 Weather conditions - justify heating - air conditioning

The provisions of Section 3.6 shall not apply when 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 purposes of delivery or loading.

3.10 Temperatures - low - idling necessary - after starting

The provisions of Section 3.6 shall not apply when prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine.

3.11 Repair - seasonal servicing - non-profit

The provisions of Section 3.6 shall not apply when 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.

3.12 Horn - use - good safety practices - only

The operation of a motor vehicle horn or other warning device shall be a contravention of Section 1055.2.1, except where required or authorized by law or in accordance with good safety practices.

3.13 Construction - equipment - without muffler

The operation of any item of construction equipment in a quiet zone or residential area without effective muffling devices in good working order and in constant operation shall be a contravention of Section 3.1.

3.14 Radio - sound equipment -musical instrument - other

No person shall cause or permit the sound or noise from or created by any radio or phonograph, public address system, sound equipment, loud speaker or similar device or devices, or any musical or sound-producing instrument of whatever kind, when such device or instrument is played or operated in such a manner or with such volume as to annoy or disturb the peace, quiet, comfort or repose of any individual in any dwelling house, apartment house, hotel or any other type of residence.

3.15 Air-conditioning equipment – residential – commercial

No person shall permit sound or noise to be produced by the operation of residential or commercial air-conditioning equipment which disturbs the peace, quiet, comfort or repose of any person in any dwelling unit, hotel or other type of residence.

3.16 Commercial - audible - distance from property line

No person, manager, director or owner of any commercial business shall cause or permit the generation of a sound or noise from commercial use which is plainly audible at a distance of 15.25 metres (50 feet) from any property line of the property upon which the building or structure is located where the noise or sound is generated that disturbs or is likely to disturb an inhabitant.

3.17 Prohibitions - by time - place - table

No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule A if clearly audible at a point of reception located in an area of the municipality within a prohibited time shown for such an area

Article 4

EXEMPTIONS

4.1 Public safety - emergency - preservation of property

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.

4.2 Religious - traditional - festive activities

Notwithstanding any other provision 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 any of the listed traditional, festive, religious and other activities:

- a) Santa Claus parade;
- b) Remembrance Day parade;
- c) winter carnival;
- d) spring fair;
- e) fall fair(s) and associated parade(s); and
- f) summer concerts.

4.3 Firearms – discharge – exception – peace officers

Peace Officers in the performance of their duties shall be exempt from the provisions of this by-law with respect to the discharge of firearms in prohibited areas of the municipality.

4.4 Agricultural activity – where designated

None of the provisions of this by-law shall apply to the normal activities of agriculture on any lands designated for agricultural use within the Municipality.

Article 5

GRANT OF EXEMPTION

5.1 Application - to Council

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 or vibration for which he or she might be prosecuted.

5.2 Right of refusal - other - limitations

Council, by resolution, 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 the time period, not in excess of six (6) months, during which it is effective and may contain such terms and conditions as Council sees fit.

5.3 Hearing - application - decision

In deciding whether to grant an exemption to any of the provisions of this by-law, Council shall give the applicant and any person opposed to the application an opportunity to be heard and may consider such other matters as it sees fit.

5.4 Breach - exemption - null - void

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

Article 6

SEVERABILITY

6.1 Validity

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 enabling by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in force.

Article 7

ENFORCEMENT

7.1 Fine – for contravention

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 or penalty as provided for in the *Provincial Offences Act*.

7.2 Enforcement – Officers

The provisions of this by-law shall be enforced by individuals appointed by Council as By-law Enforcement Officers and by the Ontario Provincial Police.

Schedule A PROHIBITIONS BY PLACE AND TIME				
		Prohibited Period of Time		
		Quiet Zone	Residential Zone	Other Zone
1	Discharge of Firearms	At all times	At all times	
2	Operation of a combustion engine which is; or is used in; or 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 and which is not a conveyance	At all times	B	B
3	Operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electromechanical transducer, and intended for the production, reproduction or amplification of sound	At all times	At all times	B
4	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 public safety practices	At all times	A	A
5	Operation of any powered rail car including but not limited to refrigeration cars, locomotives or self-propelled passenger cars, while stationary on property not owned or controlled by a railway governed by the <i>Railway Act</i> (Canada)	At all times	B	
6	Operation of any motorized conveyance other than on a highway or other place intended for its operation	At all times	At all times	A
7	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	At all times	A & C	
8	Persistent barking, calling or whining or other similar persistent noise-making by any domestic pet or any other animal kept or used for any purpose other than agriculture	At all times	At all times	At all times
9	Operation of a commercial car wash with air drying equipment	At all times	B	
10	Yelling, shouting, hooting, whistling or singing	At all times	A	
11	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	B & C	B&C	
12	The operation of any equipment in connection with construction	B & C	B & C	B & C
13	Operation or use of any tool for domestic purposes other than snow removal	B	B	A
14	Operation of solid waste bulk lift or refuse compacting equipment	B	B	B

15	Detonation of fireworks or explosive devices not used in construction	At all times	At all times	B
16	All selling or advertising by shouting or outcry or amplified sound	At all times	At all times	At all times
17	Operation of a commercial car wash of a type other than mentioned in Item 9	At all times	B	A
	Periods of time set out: A – 11:00 p.m. one day to 7:00 a.m. the next day B – 7:00 p.m. one day to 7:00 a.m. the next day C – all day Sundays and statutory holidays			