

THE CORPORATION OF THE TOWNSHIP OF WILMOT

BY-LAW NO. 2023-36

BEING A BY-LAW TO CONTROL NOISE IN THE TOWNSHIP OF WILMOT

WHEREAS Sections 8, 9 and 10 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "***Municipal Act, 2001***"), authorize The Corporation of the Township of Wilmot (the "**Township**") to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6 and 8 of subsection 11(2) and paragraph 9 of subsection 11(3) authorize by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; the protection of persons and property; and animals; and

AND WHEREAS Section 128 of the *Municipal Act, 2001* authorizes the Township to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of the Council of the Township are or could become public nuisances; and

AND WHEREAS Section 129 of the *Municipal Act, 2001* authorizes the Township to prohibit and regulate with respect to noise and vibration and, in particular, to prohibit noise unless permission is obtained from the Township and to impose conditions for obtaining, continuing to hold and renewing the permission, including requiring the submission of plans; and

AND WHEREAS Section 425 of the *Municipal Act, 2001* authorizes the Township to pass by-laws providing that a person who contravenes a by-law of the Township passed under the *Municipal Act, 2001* is guilty of an offence; and

AND WHEREAS the *Municipal Act, 2001* further authorizes the Township, amongst other things, to delegate its authority to impose fees or charges on persons for services or activities provided or done by or on behalf of it, to provide for inspections and inspection orders, and to make orders to discontinue activity or to do work; and

AND WHEREAS the Council of the Township deems it desirable to regulate noise;

NOW THEREFORE, BE IT RESOLVED, THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WILMOT ENACTS AS FOLLOWS:

1. Short Title

This by-law shall be known, and may be cited, as the "Noise By-law."

2. Definitions

For the purposes of this By-law:

"Clerk" means the Municipal Clerk of the Township of Wilmot, as appointed under Section 228(1) of the Act or their designate;

"Council" means the Council of the Township of Wilmot;

"Emergency" means a situation or an impending situation, often dangerous, caused by the forces of nature, an accident, an intentional act or otherwise, which arises suddenly and calls for prompt action;

"Emergency Vehicle" includes a land ambulance, an air ambulance, a fire department vehicle, a police vehicle and a motor vehicle being used to respond to an emergency;

"Holiday" means any day within the definition of "holiday" in the *Retail Business Holidays Act*, R.S.O. 1990, Ch. R.30, as amended, or any successor thereof;

"Inhabitants" means one or more persons who reside permanently or temporarily in, or who are guests in, the Township;

"Motor vehicle" includes an automobile, motorcycle, or any vehicle propelled or driven otherwise than by muscular power; but does not include the cars or 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*, R.S.O. 1990, Ch. H.8, as amended;

"Motorized conveyance " means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;

"Municipal Law Enforcement Officer" means a municipal law enforcement officer of the Township of Wilmot appointed by Council pursuant to s. 15 of the *Police Services Act*, R.S.O. 1990, c P15, as amended;

"Point of reception" means any point on a property of a person where sound or vibration originating from other than that property is received;

"Police Officer" means a Police Officer appointed by the Waterloo Regional Police Service;

"Region" means The Regional Municipality of Waterloo;

"Township" means The Corporation of the Township of Wilmot.

3. General Exemptions

3.1 Notwithstanding any other provision of this By-law, it shall be lawful in an Emergency to make, cause or permit to be made any noise or vibration in connection with emergency measures.

3.2 This By-law does not apply to:

- (a) an authorized Emergency Vehicle;
- (b) the Township;
- (c) the Region;
- (d) bells, tones or whistles utilized as traffic control devices, including those at traffic signal locations and railway crossings, and train whistles;
- (e) snow removal equipment, while in the operation of snow removal;
- (f) the use of bells or chimes normally associated with places of religious worship;
- (g) activities or events related to Remembrance Day;
- (h) activities that would form part of a normal farm practice and carried out as part of an agricultural operation;
- (i) activities related to aggregate operations in compliance with the terms of their Ministry of Natural Resources and Forestry license under the Aggregate Resources Act;
- (j) normal cemetery activity in conjunction with interment services; and
- (k) Construction equipment and machinery, including snow removal equipment, used by or on behalf of the Township or Region while carrying on or engaged in the performance of public works, including but not limited too capital projects and maintenance operations.
- (l) Activities related to deliveries for businesses in appropriately Zoned areas.

4. General Prohibitions

4.1 No person shall, at any time, emit, or cause or permit the emission of, any noise or vibration likely to disturb the inhabitants of the Township, subject to section 5(1) of this By-law.

4.2 No person shall, at any time, emit, or cause or permit the emission of, any noise resulting from an act specified hereunder:

- (a) the persistent barking, calling or whining of any domestic animal, which does not include an animal used for, and located on, the property of an agricultural, livestock-based use as set out in the Township's Zoning By-law, as amended;
- (b) the operation of a motor vehicle in such a way that the tires squeal;
- (c) the use of a horn, whistle, alarm, bell, gong or the like, except for an auditory safety or warning device;
- (d) the detonation of explosives;

- (e) the discharge of a firearm within a settlement area of the Township;
- (f) the operation of an air conditioner, pool pump or filter, heat pump or similar device that is not in proper working order;
- (g) the operation of an engine or motor in, or on, any motor vehicle or item of attached auxiliary equipment for a continuous period exceeding ten (10) minutes, unless;
 - (i) the vehicle is in an enclosed structure constructed so as to effectively prevent excessive noise emission; or
 - (ii) the original equipment manufacturer specifically recommends a longer idling period for normal and efficient operation of the motor vehicle or equipment, in which case such recommended period shall not be exceeded; or
 - (iii) 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- mix concrete trucks, lift platforms or refuse compactors and heat exchange systems; or
 - (iv) 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; or
 - (v) prevailing low temperatures make longer idling periods necessary, immediately after starting the motor vehicle or engine; or
 - (vi) 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.
- (h) the operation of a combustion engine without an effective exhaust muffling device in proper working order.
- (i) fireworks as permitted pursuant to Fireworks By-law 2023-17.

5. Prohibitions by Time and Place

- 5.1 No person shall emit, or cause or permit the emission of, noise resulting from any act listed in Column 1 of **Schedule "A"** during the periods of time outlined in Column 2 of **Schedule "A"**.

6. Exemption Requests

- 6.1 Any person may apply for an exemption from this By-law by:
- (a) completing the application form, and fulfilling all of the requirements; and,
 - (b) paying the required fees, as outlined in the Township's latest Fees and Charges By-law.
- 6.2 The Supervisor of Municipal Law Enforcement, upon receiving a complete exemption application pursuant to section 6(1) of this By-law, may:
- (a) grant the requested exemption;
 - (b) grant the requested exemption subject to conditions as specified by the Supervisor of Municipal Law Enforcement ;
 - (c) grant an amended exemption;
 - (d) grant an amended exemption subject to conditions as specified by the Supervisor of Municipal Law Enforcement ; or,
 - (e) refuse to grant the requested exemption.
- 6.3 Where an exemption is granted by the Supervisor of Municipal Law Enforcement breach of any of the terms or conditions of the exemption shall render the exemption null and void.

- 6.4 Where an exemption is refused by the Supervisor of Municipal Law Enforcement, or where conditions are imposed by the Supervisor of Municipal Law Enforcement, the person who applied for the exemption may appeal the Supervisor of Municipal Law Enforcement 's refusal to grant the exemption, or the conditions imposed by the Supervisor of Municipal Law Enforcement, directly to Council. Council's decision on the matter shall be final.

7. Permanent Exemptions

Where Council as deemed it expedient to allow an annual event a permanent exemption to the Noise By-law for the purpose of playing amplified music/noise has been granted to the following:

- (a) Official Canada Day Event Celebrations
- (b) Mennonite Relief Sale
- (b) Moparfest
- (c) New Hamburg Fall Fair
- (d) Official Victoria Day Celebrations
- (e) Castle Kilbride Summer Concert Series
- (f) Baden Corn Festival
- (g) Baden Firefighters Association Co-ed Slo-Pitch Baseball Tournament
- (h) Waterloo-Oxford District Secondary School Relay for Life Event

8. Severability

- 8.1 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 remain in force.

9. Enforcement

- 9.1 Any person who contravenes any of the provisions of this By-law is guilty of an offence and, upon conviction, is liable to a fine pursuant to the *Provincial Offences Act*, R.S.O. 1990. c. P.33. as amended.
- 9.2 When a person has been convicted of an offence under this by-law, any Court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting continuation or repetition of the offence or the doing of any act or thing by the person convicted directly toward the continuation or repetition of the offence.
- 9.3 The provisions of this By-law may be enforced by Police Officers and Municipal Law Enforcement Officers.

10. Repeal Section

- 10.1 By-law Number 98-21 of the Township of Wilmot, and all by-laws amending the same and any other by-law inconsistent with the provisions of this by-law are hereby repealed on the date this by-law shall come into force and effect.

11. Effective Date of this By-law

(1) This by-law shall come into force and effect on the date of its passage by Council.

READ a First and Second time this 24th day of July, 2023.

READ a Third time and finally passed in Open Council this 24th day of July, 2023.

Mayor

Clerk

**THE CORPORATION OF THE TOWNSHIP OF WILMOT BY-
LAW NO. 2023-36
SCHEDULE "A"**

PROHIBITIONS BY TIME AND PLACE

Periods of Time

A - 11:00pm to 8:00am daily (or to 9:00am on Sundays or Holidays)
B - 7:00pm to 8:00am daily (or to 9:00am on Sundays or Holidays)
C - 9:00pm to 7:00am daily (8:00am on Saturdays or to 9:00am on Sundays or Holidays)

	COLUMN 1 - Prohibitions	COLUMN 2 – Periods of Time
1.	The operation of a combustion engine which: (i) is; or (ii) is used in; or (iii) 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	B
2.	The operation of a radio, television, stereo or other electronic device including any amplification device, or any musical or other sound producing instrument	A
3.	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	A
4.	The operation of any motorized conveyance other than on a highway or other place authorized by law for its operation	B
5.	The 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	A
6.	The operation of a commercial car wash	C
7.	Persistent or repetitive yelling, shouting, hooting, whistling, or singing	A
8.	All selling or advertising by shouting or outcry or amplified	B
9.	The loading, unloading, delivering, packing, unpacking or otherwise handling of containers, products, materials, or	A
10.	The operation of any equipment in connection with construction	C
11.	The operation or use of any tool or equipment for domestic purposes	C
12.	The operation of solid waste bulk lift or refuse compacting equipment	C

