

# CORPORATION OF THE TOWN OF EAST GWILLIMBURY

## BY-LAW # 2004-80

### A BY-LAW TO CONTROL NOISE

**WHEREAS** section 129 (1) of the Municipal Act 2001, S.O. 2001 c. 25 confers upon Council the Power to pass a by-law to prohibit and regulate noise and vibration; and

**WHEREAS** it is the policy of Council to reduce and control such noise and vibration;

**NOW THEREFORE**, the Council of the Corporation of the Town of East Gwillimbury enacts as follows:

#### PART 1 DEFINITIONS

- a) **Construction** includes erection, alteration, repairing, 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;
- b) **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 drives, pneumatic or by hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, generators, pavers, generators, off highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;
- c) **Council** means the Council of the Corporation of the Town of East Gwillimbury;
- d) **Highway** includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property line thereof; but does not include trails used or intended to be used for motorcycles, skidoos and all-terrain vehicles;
- e) **Motor Vehicle** includes an automobile, motorcycle, motor assisted bicycle unless otherwise indicated in the Act, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car, or other motor vehicles running only upon rails, or a motorized snow vehicle, farm tractor, or road building machine within the meaning of the Act; and yard maintenance equipment;
- f) **Municipality** means the land within the geographic limit of the Corporation of the Town of East Gwillimbury;
- g) **Noise** means noise or noises that are generated within East Gwillimbury and are likely to disturb the inhabitants of the Town or a neighbouring municipality;
- h) **Persistent** means to continue firmly or obstinately and to constantly repeat any act, course, function, etc;

- i) **Point of Reception** means any point on the premises of a person, where noise or vibration originating from other than those premises is received.

## PART 2 ZONES

- a) Residential/Rural Zone means any area in the Municipality zoned for residential use in the Town's Zoning By-law, as amended, in force from time to time passed pursuant to the Planning Act of Ontario or any predecessor or successor of such Act.
- b) Commercial Zone means any area in the Municipality zoned for commercial or industrial use in the Town's Zoning By-law, as amended, in force from time to time passed pursuant to the Planning Act of Ontario or any predecessor or successor of such Act.
- c) Quiet Zone means those areas of the Municipality within one hundred (100) meters of a hospital, convalescent home, nursing home or church property.

## PART 3 GENERAL PROHIBITIONS

1. No person shall emit or cause to permit the emissions of noise resulting from an act listed herein, which noise is audible at point of reception;
- a) operation of any motor vehicle other than in a racing event regulated by law;
- b) the operation of a motor vehicle in such a way that tires squeal;
- c) 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;
- d) the operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like noises due to an improperly secured load or equipment, or inadequate maintenance;
- e) operation of any device or group of connected devices incorporating one or more speakers or other electro-mechanical transducers and intended for the production, reproduction or amplification of sound;
- f) 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 a Residential, Rural or Quiet zone unless:
- i) 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
- ii) 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 and refuse compactors; or
- iii) 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; or

- iv) prevailing low temperature make idling periods necessary immediately after starting the motor or engine; or
- v) 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.
- g) the operation of a motor vehicle horn or other warning device except where authorized by law or in accordance with good safety practices;
- h) the operation of any item of construction equipment in a Quiet zone, Residential or Rural zone without effective muffling devices in good working order and in constant operation.

#### PART 4 PROHIBITIONS BY TIME AND PLACE

1. No person shall emit or cause or permit the emission of noise resulting from any act listed in Table 3-1 if clearly audible at a point of reception located in a zone of the Municipality within a prohibited time shown for such a zone.

#### PART 5 EXEMPTION

##### 1. Public Safety

- a) Notwithstanding any other provision of this by-law, it shall be lawful to emit, or cause, or permit the emission of noise or vibration in connection with emergency measures undertaken;
  - i) for the immediate health, safety or welfare of the inhabitants or any of them; or,
  - ii) for the preservation or restoration of property;
  - iii) for the ringing or sounding of church bells or chimes;
  - iv) for the sounds of any bell, horn, siren or other signaling device associated with any emergency or law enforcement vehicle;
  - v) for any noise arising from emergency road work or road improvements undertaken by or on behalf of the Town, Region of York or the Ministry of Transportation,

unless such noise or vibration is clearly of a longer duration or nature more disturbing than is reasonably necessary for the accomplishment of such emergency purpose.

#### PART 6 EXEMPTION OF TRADITIONAL, FESTIVE CULTURAL OR OTHER ACTIVITIES

1. Notwithstanding any other provisions of this by-law, this by-law does not apply to a person who emits, causes or permits the emission of noise or vibration in connection with any of the listed traditional, festive, cultural and other activities:
  - a) any annual fairs, sports days or community days;

- b) any event sponsored by the Sharon Temple Group and/or Heritage East Gwillimbury;
- c) singing and the use of musical instruments inside a building while it is lawfully being used as a church, community hall, public hall or school;
- d) sporting and recreational activities lawfully carried on in a public or private park, playground, schoolyard, or recreational center between 08.00 hrs. (8:00 a.m.) and 23.00 hrs. (11:00 p.m.);
- e) the lawful use and detonation of fireworks or similar explosive devices on the two statutory holidays referred to as Dominion Day or Canada Day and Victoria Day as per the Towns' Fireworks By-Law #98-84, as amended, or any successor legislation thereto;
- f) auctions lawfully conducted by an auctioneer between the hours 07.00 hrs (7:00 a.m.), and 09.00 hrs (9:00 a.m.) on Sundays and sunset on any day;
- g) activities lawfully sponsored or carried on between the hours of 07.00 hrs (7:00 a.m.) and sunset on any day, by licensed Gun Clubs situated in rural areas;
- h) any agriculture or farm activity for food crop seeding, chemical spraying or harvesting, carried on by a farmer but not including the use of sound bangers and other similar equipment or devices;
- i) any activity carried on in the regular maintenance of private property between the hours of 07.00 hrs. (7:00 a.m.), 09.00 hrs. (9:00 a.m.) on Sundays, and 21.30 hrs. (9:30 p.m.) on any day.
- j) Notwithstanding any other provision of this by-law, it shall be lawful between the hours of 09:00 hrs. (9:00 a.m. ) and 23.00 hrs. (11:00 p.m.) to emit, cause, or permit the emission of sound or vibration from any commercial use located within a commercial zone as defined by By-Law #97-50, as amended, provided such noise is normally incidental to the activities lawfully undertaken in the commercial zone.

## PART 7 GRANT OF EXEMPTION BY COUNCIL

### 1. Grant of Exemption by 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 noise or vibration for which he/she might be prosecuted and Council, by resolution, may refuse to grant any exemption or may grant exemption applied for, or any exemption of lesser effect, and any exemption granted shall specify the time period, not in excess of six months, during which it is effective and may contain such terms and conditions as Council see fit.

### 2. Decision

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

The applicant shall take all reasonable actions to notify affected persons of the request for exemption.

3. Breach

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

4. Application for Exemption

The application mentioned in Part 7, 1., shall be made in writing, in duplicate, and shall contain:

- a) The name and address of the applicant
- b) A description of the source of sound or vibration in respect of which exemption is sought;
- c) A statement of the particular provision or provisions from which exemption is sought;
- d) The period of time, of a duration not in excess of six (6) 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 to this by-law.
- g) A non-refundable fee for the exemption request of one hundred and five dollars (\$105.00) payable to the Town of East Gwillimbury non-refundable.

PART 8 SEVERABILITY

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

PART 9 PENALTY

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 as provided for in the Provincial Offences Act.

PART 10 REPEAL

By-law 96-58, as amended, is repealed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED ON THE  
DAY OF \_\_\_\_\_, 2004.

\_\_\_\_\_  
James Young, Mayor

\_\_\_\_\_  
Lucille King, Municipal Clerk

**TABLE 3-1**

**PROHIBITIONS BY TIME AND PLACE**

		<b>PROHIBITED PERIOD OF TIME</b>	
		<b>QUIET ZONE</b>	<b>RURAL/ RESIDENTIAL ZONE</b>
1.	The operation of a combustion engine, which is intended for use in a toy, model or replica or any device, which model or replica has no function other than amusement and which is not a conveyance.	AT ALL TIMES	B
2.	The 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 Canada Railway Act.	AT ALL TIMES	B
3.	The operation of any motorized vehicle other than on a highway or other place intended for its operation is prohibited within four hundred (400) meters of a residential dwelling.	AT ALL TIMES	F
4.	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.	AT ALL TIMES	A
5.	The operation of a commercial car wash with air-drying equipment.	AT ALL TIMES	C
6.	Yelling, shouting, hooting, whistling or singing.	AT ALL TIMES	A
7.	The operation of a power assisted hang glider or parafoil.	AT ALL TIMES	A
8.	All selling or advertising by shouting, outcry.	AT ALL TIMES	B
9.	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.	C	C
10.	The operation of any equipment in connection with construction.	C & D	B
11.	The operation or use of any power tool for domestic purposes other than snow removal.	B	E

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|---|--------------|--------------|
| 12. The operation of solid waste bulk lift or refuse compacting equipment.  | B            | B            |
| 13. The operation of a commercial car wash of a type other than mentioned in item 6.  | B            | A            |
| 14. Persistent barking, calling or whining or other similar persistent noise made by any domestic pet or any other animal kept for any purpose other than agricultural. | AT ALL TIMES | AT ALL TIMES |
| 15. Discharge of firearms except during a period authorized as a hunting season and in an area defined by Council as an area where Firearms discharge is prohibited.    | AT ALL TIMES | AT ALL TIMES |

## PROHIBITED PERIODS OF TIME

- A. 23.00 hrs. (11:00 p.m.) one day to 07.00 hrs. (7:00 a.m.) next day  
09.00 hrs. (9:00 a.m.) Sundays.
- B. 19.00 hrs. (7:00 p.m.) one day to 07.00 hrs. (7:00 a.m.) next day  
09.00 hrs. (9:00 a.m.) Sundays.
- C. All day Sunday and Statutory Holidays.
- D. 19.00 hrs. (7:00 p.m.) one day to 07.00 hrs. (7:00 a.m.) next day.
- E. 21.30 hrs. (9:30 p.m.) one day to 07.00 hrs. (7:00 a.m.) next day.
- F. 19.00 hrs. (7:00 p.m.) one day to 09.00 hrs. (9:00 a.m.) next day.



