



TOWN OF WINDSOR BYLAW # 33 PREVENTION OF EXCESSIVE NOISE BYLAW

With the authority vested in the Town by the Municipal Government Act to control noise, this bylaw is intended to establish acceptable standards for noise to encourage respect for the comfort, privacy and enjoyment of life for Town residents.

Be it therefore enacted by the Council of the Town of Windsor, as follows:

- 33.01** This Bylaw shall be know as Bylaw No. 33 and may be cited as the Noise Bylaw.
- 33.02** In this Bylaw:
- (1) “A-weighted Continuous Noise Level” and “dBA” both have the meaning used in Ontario Municipal Model Noise Code (1978);
 - (2) “Dwelling Unit” means living quarters, accessible from a private entrance either outside a building or in a common area within a building, that are occupied or, if unoccupied, are reasonably fit for occupancy, and that:
 - (a) Contain kitchen facilities within the unit; and
 - (b) Have toilet facilities that are not shared with the occupants of other dwelling units; and includes any additional space which the occupier is entitled to occupy, including by not limited to decks, patios, yards and driveways.
 - (3) “Occupier” means,
 - (a) A person who is in possession of a dwelling unit, or
 - (b) A person who has responsibility for a control over the condition of a dwelling unit or the activities there carried on, notwithstanding that there is more than one occupier of the same dwelling unit.
 - (4) “Sound System” includes a public address system, phonograph, gramophone, radio, cassette tape player, compact disc player, computer or computer accessory, loud speaker, microphone, or any other device or apparatus, whether operated electrically, mechanically or in any other way whatsoever, whether moveable or stationary, whether located inside or outside a dwelling unit or motor vehicle, that reproduces, amplifies, emits, or transmits sounds;
 - (5) “Town” means the Town of Windsor.

33.03

The following acts, among others, are hereby declared to be noises which disturb or tend to disturb the peace and tranquillity of the Town or any portion of it;

- (1) Making any noise or combination of noises which, when measured on the property or at a boundary line of the property on which the noise is heard or the noises are heard, exceeds the applicable A-weighted continuous noise level as follows:

Time	Commercial and Residential Property	Institutional Property
7:00 am – 10:00 pm	55 dBA	65 dBA
10:00 pm – 7:00 am	45 dBA	55 dBA

- (2) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor boat, except through a muffler or other device which will effectively prevent loud or explosive noises from it;
- (3) The operation of any noise-creating blower power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operation gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to attenuate such noise and the device is operated between the hours of 8 a.m. and 8 p.m.;

33.04

- (1) No person, in the Town, shall make any noise which disturbs or tends to disturb the peace and tranquillity of the Town or any portion of it.
- (2) No person who owns, or has under their supervision, a dog, shall permit the dog to make any noise which disturbs or tends to disturb the peace and tranquillity of the Town or any portion of it.
- (3) No person, in the Town, shall operate, or cause or permit to be operated any sound system at such a level that the resulting sound is heard, in a dwelling unit or other building, other than the dwelling unit or other building in which the sound system in question is located.
- (4) No person shall by
 - (a) fighting
 - (b) screaming
 - (c) shouting, or
 - (d) singing;
 cause any loud and unnecessary noise, the sounds of which are heard on another property or at a boundary line of the other property, or in a dwelling unit other than the dwelling unit in which the noise is generated.

33.05

- (1) No occupier shall allow or permit to occur in the dwelling unit of which that person is the occupier, any activity prohibited by Section 4 above.

- (2) No occupier shall permit noise to be made in or on the occupier's dwelling unit which disturbs the peace and tranquillity of the Town or any portion of it.
- (3) It is a defence to a charge under this section that there was another occupier who had a greater right of possession or greater responsibility and control over the dwelling unit in question at the time of the prohibited activity.
- (4) In a prosecution for a violation of the bylaw, evidence that one person is disturbed is *prima facie* evidence that the Town or any portion of it is disturbed.

33.06

This Bylaw does not apply to the following:

- (1) Employees of the Town, the Government of Canada, the Province of Nova Scotia, Windsor & Hantsport Railway Company Limited, Registered Utility Companies when those employees are acting in the reasonable execution of their duties;
- (2) Noises emitted by machinery or equipment when used under the provisions of (1) above;
- (3) A person or corporation, or an employee of such person or corporation, reasonably performing work at the request of any party described in (1) above;
- (4) Noise emitted by machinery or equipment used in snow removal and snow clearing operations to provide safe and unimpeded access to and egress from health care and health service facilities, homes or health care providers, where the responsible health care provider has concluded that such operations must be carried out at that time;
- (5) Noises in connection with athletic, recreational or school activities in arenas, playing fields, courts, school grounds or in Town park areas between the hours of 7 a.m. and 11 p.m.;
- (6) Noises in relation to religious activities between the hours of 7 a.m. and 11 p.m.;
- (7) Noises in relation to parades, street dances, or other community activities between the hours of 7 a.m. and 11 p.m. subject to permission having been granted under Section 8 of this Bylaw;
- (8)
 - (a) The regulation of any loud and unnecessary noise in or from the engine, exhaust system, braking system, or from the contact of the tires with the roadway, by a motor vehicle from starting, driving, turning, stopping, or accelerating;
 - (b) The regulation, registration, licensing or identification of vehicles, or the use of the highway by such vehicles, both categories of which are within the jurisdiction of the Motor Vehicle Act.

33.07

Notwithstanding any other provision of this Bylaw, it is lawful to emit or cause or permit the emission of noise in connection with:

- (1) Emergency measures undertaken for the immediate health, safety and welfare, or any of them, of the inhabitants of the Town;
- (2) Emergency measures undertaken for the preservation of property;
- (3) Construction activities between the hours of 8 a.m. and 8 p.m. for which a Building Permit has been issued by the Town;
- (4) Agricultural activities carried on by a farm operation.

33.08

An exemption from the application of this Bylaw may be granted by the Council under the following terms:

- (1) Notwithstanding anything contained in this Bylaw any person may make application to the Council to be granted an exemption from any of the provisions of this Bylaw with respect to any emission of noise for which that person might be prosecuted. The Council may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser affect. Any exemption granted shall specify the time period, not in excess of six months, during which the exemption shall be effective and the exemption shall be in written form and shall include such terms and conditions as the Council deems appropriate;
- (2) In deciding whether or not to grant an exemption, the Council shall give consideration to the social or commercial benefit of the proposed activity to the Town, the views of any residents of the Town which may be expressed to the Council, the proposed hours of operation of the proposed noise making activity, and the proposed duration of the subject activity;
- (3) In deciding whether or not to grant an exemption the Council shall give the applicant and any person or persons who may be affected by the proposed activity an opportunity to be heard any may consider such other matters as the Council deems appropriate;
- (4) Any alleged breach by the applicant of any of the terms or conditions of any exemption granted by the Council shall be investigated by Town staff and reported to the Council in writing. The Council shall determine whether or not a breach has taken place. If the Council determines that a breach has taken place the Council may revoke the exemption.

33.09

Every person who contravenes or fails to comply with any of the provisions of the Bylaw shall be liable to a penalty of not less than fifty dollars (\$ 50.00) and not more than two hundred dollars (\$ 200.00), and default of payment, to imprisonment for a period not exceeding sixty (60) days.

Clerk's Annotation for Official Bylaw Book

Date of first reading of bylaw: June 28, 2005

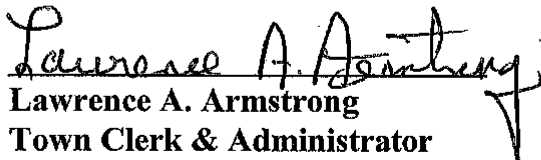
Date of advertisement of Notice of Intent to Consider: July 6, 2005

Date of second reading of bylaw: July 26, 2005

*Date of advertisement of Passage of Bylaw: August 3, 2005

Date of mailing to Minister a certified copy of Bylaw: Aug. 4, 2005

I certify that this Prevention of Excessive Noise bylaw was adopted by Council and published as indicated above.


Lawrence A. Armstrong
Town Clerk & Administrator
Town of Windsor

Aug. 4, 2005
Date