

THE CORPORATION OF THE CITY OF CLARENCE-ROCKLAND

BY-LAW NO. 1999-55

BEING a by-law of the Corporation of the City of Clarence-Rockland to prohibit or regulate certain noises and to prohibit and abate public nuisance;

WHEREAS pursuant to the provisions of Section 210 Subsections 138 and 140 of the Municipal Act R.S.O. 1990, Chapter M.45, Council of local municipalities may pass a by-law to prohibit and abate public nuisances;

WHEREAS the purpose of this by-law is to provide for an environment free from unusual, unnecessary or excessive noises which may degrade the quality and tranquillity of life, and cause a public nuisance;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF CLARENCE-ROCKLAND ENACTS AS FOLLOWS:

1. INTERPRETATION

In this By-law

- (a) **"Adverse effect"** means one or more of,
 - a) harms or material discomfort to any person,
 - b) an adverse effect on health of any person,
 - c) loss of enjoyment of normal use of property, and
 - d) interference with the normal conduct of business.
- (b) **"Agriculture"** means the practice of cultivating the soil or the keeping/raising of animals;
- (c) **"Air Conditioner"** includes an air conditioner, a fan, a heat pump or other similar device.
- (d) **"Attached Housing"** means a building otherwise complete in itself which is connected to, and which depends for structural support upon a division wall or walls shaped in common with adjacent building or buildings;
- (e) **"Auxiliary Equipment"** means any device, attachment, delivery body or apparatus attached to a motor vehicle, either permanently or temporarily, for the purpose of:
 - (i) hauling property, vehicles or animals;
 - (ii) mixing concrete or like material; or

- (iii) preserving perishable cargo through the use of heating or refrigerating systems.
- (f) "**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 and the structural installation of construction components and materials in any form or for any purpose and includes any work in connection therewith;
- (g) "**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, drills, loaders, scrapers, pavers, generators, off-highway hauliers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment;
- (h) "**Council**" means the Council of the Corporation of the City of Clarence-Rockland;
- (i) "**Inhabitants**" means any owner, tenant, occupier or licensee of real property within the Corporation of the City of Clarence-Rockland;
- (j) "**Intermittent**" mean to cause to cease for a time or at intervals;
- (k) "**Leisure Vehicle**" means any all-terrain vehicle or snowmobile;
- (l) "**Motor Vehicle**" includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include all-terrain vehicles, snowmobiles or other motor vehicles running only upon rails, construction equipment, farm tractor or a self-propelled implement of husbandry;
- (m) "**Municipal Law Enforcement Officer**" means a peace officer for the purpose of enforcing municipal by-laws;
- (n) "**Municipality**" means the land within the geographic limit of the Corporation of the City of Clarence-Rockland;
- (o) "**Noise**" means any loud, unnecessary or unusual noise or any noise whatsoever which either annoys, disturbs or injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within the limits of the municipality;

- (p) **"Person"** includes any physical or corporate entity, partnership or any association and the heirs, executors, administrators, successors and assigns or other legal representative thereof to whom the context may apply;
- (q) **"Point of Reception"** means any point on the premises of a person where sound or vibration originating from other than those premises is received;
- (r) **"Residential Area"** means all properties within the Corporation of the City of Clarence-Rockland designated as "Residential A" area under the Zoning By-Law, as amended;
- (s) **"Rural Area"** means all properties within the Corporation of the City of Clarence-Rockland designated as "Rural Area" under the Zoning By-law, as amended;
- (t) **"Solid Waste Bulk Lift"** means a vehicle designated to load, unload and transport containers for handling refuse;
- (u) **"Sound Amplifying Device"** means any device which is primarily used or intended to be used to amplify or create sound and includes, but is not limited to, radios, phonographs, televisions, musical instruments, loud speakers and electronic devices or electro-mechanical transducers, used in the reproduction or amplification of music, speech or other sounds, but does not include fire alarms, smoke detectors or security alarms;
- (v) **"Trailer"** means any vehicle so constructed that it is suitable for being attached to a motor vehicle for the purpose of being self propelled, drawn or propelled by the motor vehicle and capable of being used for the living, sleeping or eating accommodation of persons;
- (x) **"Urban Area"** means all properties within the Corporation of the City of Clarence-Rockland designated as "Urban Area" under the Zoning By-law, as amended;

2. GENERAL PROHIBITIONS

- (1) No person shall make, cause or permit the emission of noise that disturbs or may disturb the quiet, peace, rest, enjoyment, comfort or convenience of the inhabitants.
- (2) Notwithstanding the generality of the provisions of Section 2(1), no person shall make, cause or permit the emission of noise resulting from an activity listed herein, if clearly audible at a point of reception located in an area of the Municipality, indicated within the prohibited time shown for such an area, as such noise is deemed objectionable or liable to disturb the peace, quiet, rest, enjoyment, comfort or convenience of the inhabitants and is hereby strictly prohibited.

PROHIBITED ACTIVITIES BY TIME AND DATE		
ACTIVITY	RESIDENTIAL ZONE	RURAL ZONE
1. The detonation of fireworks or explosive devices not used in construction and without permit.	At all times	
2. The commercial or personal operation of any sound amplifying device.	11 pm to 7 am	11 pm to 7 am
3. The racing of any motor vehicle or leisure vehicle other than in a racing event regulated by law.	At all times	
4. The operation of any auditory signalling device, including but not limited to the ringing of bells, except for religious services, or gongs and 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.	11 pm to 7 am	11 pm to 7 am
5. Intermittent barking, calling or whining or other similar intermittent noise making, by any domestic pet or any other animal kept or used for any purpose other than agriculture or licensed kennels, if such noise persists for a period of time in excess of fifteen (15) minutes.	At all times	
6. The operation of a commercial car wash with air drying equipment abutting a residential area.	9 pm to 7 am	9 pm to 7 am
7. Yelling, shouting, hooting, whistling or singing.	11 pm to 8 am	11 pm to 8 am
8. All selling or advertising by shouting or outcry or amplified sound.	5 pm to 9 am	5 pm to 9 am
9. Loading, unloading, delivering, packing, unpacking or otherwise handling any containers, products, materials or refuse in a residential area or a business operation adjacent to a residential area, unless necessary for the maintenance of essential services or the moving of private household effects.	11 pm to 6 am	

10	The operation of any construction equipment or use of any power tools for the purpose of repairing or constructing.	10 pm to 7 am (Mon - Fri) 8 pm to 8 am (Saturday & Sunday & statutory holidays)	10 pm to 6:30 am
11.	The operation or use of any tool for household purposes other than snow removal.	10 pm to 7 am	10 pm to 6:30am
12.	The operation or use of an engine or motor in or on any leisure vehicle, motor vehicle or item of attached auxiliary equipment for a continuous period exceeding fifteen minutes, while such vehicle is stationary in or adjoining a residential area.	At all times	
13.	The operation of solid waste bulk lift or refuse compacting equipment.	11 pm to 7 am	
14.	The operation of a leisure vehicle or motor vehicle in such a way that the tires squeal.	At all times	
15.	The operation of any combustion engine or pneumatic device without effective exhaust or intake muffling device in good working order and in constant operation.	At all times	
16.	The operation of a leisure vehicle or motor vehicle with a trailer resulting in banging, clanking, squeaking or other like sounds due to improperly secured load or equipment or inadequate maintenance.	At all times	
17.	The operation of a leisure vehicle or motor vehicle horn or other warning device except where required or authorized by law or in accordance with good safety practices.	At all times	
18.	The operation of any air conditioner without an effective muffling device in good working order and in constant operation.	At all times	

19.	The operation of powered rail car including but not limited to refrigeration cars, locomotives or self-propelled passenger cars, while stationary on property not owned by or controlled by railway governed by the Canada Railway Act.	At all times	
20.	The venting, release or pressure relief of air, steam or gaseous material, product or compound from any autoclave, boiler, pressure vessel, pipe, valve, machine, device or system.	At all times	
21.	The operation of an electronic bug killer.	11 pm to 7 am	
22.	The operation of items of snow making equipment.	At all times	
23.	The discharge of firearms.	At all times	Half hour after sunset to half hour before sunrise
24.	The operation of any refrigeration unit, chilling unit or similar devices in or on any vehicle.	At all times	

3. EXEMPTION

(1) Public Safety

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.

(2) Attached Housing

This by-Law does not apply to noise between a common shared wall of floor by two adjacent dwelling units within an apartment, condominium or townhouse building, row buildings or carriage homes unless the sound can be clearly audible from the exterior of the building.

(3) Snow Removal

This by-Law does not apply to noise generating from the operation of removing or clearing of snow or of sanding and salting.

(1) Fireworks

Notwithstanding any other provisions of this by-law, this by-law does not apply to a person who emits or causes or permits the emission of sounds or vibrations in connections with fireworks during any of the listed traditional festive activities such as Canada day, Victoria day and St-Jean Batiste day.

(5) Farming Operation

This by-Law does not apply to any noise generated from the operation of any agricultural machinery, equipment and implement of husbandry whether self-propelled or motorized, which is used in accordance with normal farm practice for the cultivation of land, production and harvesting of agricultural crops (including mushrooms, greenhouse crops and nursery stock), raising of livestock, poultry, fur-bearing animals and game birds and includes but is not limited to any noise generated from:

- (i) irrigation pumps;
- (ii) the application of fertilizers, conditioners and pesticides;
- (iii) the storage, disposal or use of organic wastes for farm purposes; and
- (iv) grain dryers

(6) Grant of Exemption by Council

(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 might be prosecuted and Council, by resolution, may refuse to grant any exception or may grant the exemption applied for or any 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 sees fit.

(2) Decision

In deciding whether to grant the exemption, 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.

(3) Breach

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

4. SEVERABILITY

It is hereby declared that each and every of the foregoing provisions of this by-law is severable and that, if any provisions of this by-law should for any reason be declared invalid by any Court, it is the intention and desire of this Council that each and every of the remaining provisions hereof shall remain in full force and effect.

5. PENALTY

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 as set out in the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

In addition to the imposition of a fine or other remedy, a court of competent jurisdiction may, upon conviction of an offence under this by-law, issue an order prohibiting the continuation or repetition of the violation by the person convicted.

6. By-law No.1989-10, as amended (City of Rockland) and By-law No. 1992-106, as amended (ClarenceTownship) are hereby repealed.

This By-law shall come into effect on the day it is adopted by Council.

**READ A FIRST, SECOND AND DULY PASSED UPON THE THIRD READING,
THIS 14TH DAY OF SEPTEMBER 1999.**


MAYOR


CLERK

