

CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

BY-LAW NUMBER 41-2004

A BY-LAW TO PROVIDE FOR THE REGULATION AND PROHIBITION OF UNUSUAL NOISES OR NOISES LIKELY TO DISTURB THE PUBLIC AND FOR THE PREVENTION OF PUBLIC NUISANCES.

WHEREAS it is deemed expedient to exercise the power conferred upon the Council by the Municipal Act, 2001, S.O. 2001 as amended, and other statutory authority;

AND WHEREAS the people have a right to and should be ensured an environment free from unusual, unnecessary, or excessive sound or noise which may degrade the quality and tranquility of their life or cause nuisance;

NOW THEREFORE The Council of The Corporation of the Municipality of Chatham-Kent enacts as follows:

Interpretation

1. In this by-law:

“construction” includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, the laying of pipe, 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;

“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;

“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 premise of a person;

“Council” means the Council of The Corporation of the Municipality of Chatham-Kent;

“firearm” means any gun, including an air, pellet or spring gun, and a long-bow and a cross-bow;

“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 lines thereof;

“institutional area” means an area designated as an institutional zone in the Zoning By-law of The Corporation of the Municipality of Chatham-Kent as may be amended from time to time.

“motor vehicle” includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electric or steam railway, 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, c.H.8, as amended;

“municipality” means The Corporation of the Municipality of Chatham-Kent;

“noise” means sound that is of such a nature that it is likely to disturb the inhabitants of the Municipality of Chatham-Kent or any of them.

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

“residential area” means an area designated as residential in the Zoning By-law of the Municipality of Chatham-Kent, as may be amended from time to time;

“statutory holiday” means New Year’s Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day and Boxing Day;

#### General Prohibitions

2. No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule 1 – General Prohibitions, and which sound is clearly audible at a point of reception.

#### Prohibitions by Time

3. No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule 2 – Prohibitions by Time, if clearly audible at a point of reception within a prohibited time shown.

#### Exemption – Public Safety

4. Notwithstanding any other provision of this by-law, it shall be lawful to emit or cause or permit the emission of sound in connection with emergency measures undertaken:
  - a) for the immediate health, safety or welfare of the inhabitants of the Municipality or any of them; or,
  - b) for the preservation or restoration of property unless such sound is clearly of a longer duration or by nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose, as determined by the Chief Administrative Officer for the municipality.

#### Exemptions Granted by the Municipality

##### Application to the Municipality

5. (1) Notwithstanding anything contained in this by-law, any person may make application to Municipality for an exemption from any of the provisions of this by-law with respect to any source of sound and the Municipality 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 a time period, not in excess of six months, during which it is effective and may contain such terms and conditions as the Municipality deems appropriate.

##### Details of Application for Exemption

- (2) The application mentioned in subsection (1) shall be made in writing, in the form attached as Schedule 4, and shall contain:

- a) the name, address and telephone number of the applicant;
- b) a description of the source and location of sound in respect of which exemption is sought;
- c) a statement of the particular provision or provisions of this by-law from which exemption is sought;
- d) the period of time, of a duration not in excess of six 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 with the by-law;

#### Breach

- (3) A breach of any of the terms or conditions of an exemption granted by the Municipality that is caused or permitted by the applicant shall render the exemption null and void.

#### Exemption of Activities

6. This by-law shall not apply to a person who emits or causes or permits the emission of sound in connection with any of the activities listed in Schedule 3.

#### Exemption of Normal Farm Practices

7. This by-law shall not apply to a person who emits or causes or permits the emission of sound in connection with normal farming practices within the meaning of the *Farming and Food Production Protection Act*, 1998, S.O. 1998, c.1, as amended.

#### Severability

8. 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 shall remain in force.

#### Enforcement

9. This by-law shall be enforced by members of the Chatham-Kent Police Services.

#### Penalty

10. Every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not more than \$5,000.00, exclusive of costs and every such fine is recoverable under the *Provincial Offences Act*, R.S.O.1990, c.P.33.
11. The following by-laws, and any amendments thereto, are hereby repealed:

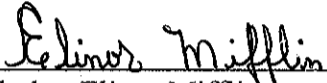
Town of Blenheim by-law number 34-87  
 Town of Bothwell by-law number 168-61  
 City of Chatham by-law number 9625  
 Township of Dover by-law number 96-92  
 Town of Dresden by-law number 16-95  
 Village of Erieau by-law number 312  
 Township of Harwich by-law number 182-91  
 Township of Raleigh by-law 5391  
 Town of Ridgetown by-law number 5-97  
 Township of Romney by-law number 36-89  
 Village of Thamesville by-law number 747-60  
 Town of Tilbury by-law number 1889-86

Township of Tilbury East, 2451  
Town of Wallaceburg by-law number 82-86  
Village of Wheatley by-law number 10011

12. This by-law shall come into full force and effect on the date of the final passing thereof.

READ FOR A FIRST SECOND AND THIRD TIME AND FINALLY PASSED, this  
16<sup>th</sup> day of February, 2004.

  
\_\_\_\_\_  
Mayor - Diane Gagner

  
\_\_\_\_\_  
Clerk - Elinor Mifflin

## SCHEDULE 1

### General Prohibitions

1. Racing of any motorized vehicle other than in a lawful racing event.
2. The operation of a motor vehicle in such a way that the tires squeal.
3. The operation of any combustion engine, pneumatic device or construction equipment without an effective exhaust or intake-muffling device in good working order and in constant operation.
4. The operation of a motor vehicle or a motor vehicle with a trailer resulting in banging, clanking, squealing or other sounds due to improperly secured load or equipment, or inadequate maintenance.
5. 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 minutes, anywhere within the geographic area of the Municipality of Chatham-Kent, where the point of reception is in a Residential Area or Institutional Area 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-mixed concrete trucks, lift platforms or 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 temperatures make longer 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.
6. The use of any mechanical equipment that is not operating or being maintained in accordance with the manufacturers specifications resulting in noise other than that emitted in the normal operation of the equipment.
7. The operation of a motor vehicle horn or other warning device except where required or authorized by-law or in accordance with good safety practices.
8. The operation of a stereo or other electronic device designed to amplify sound in, or on, a motor vehicle in such a way that the sound can easily be heard outside of the motor vehicle.

SCHEDULE 2

PROHIBITIONS BY TIME

<p>1. 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 to authorize by law or in accordance with good safety practices.</p>	<p>Monday – Saturday Between 11:00p.m. and 7:00a.m. Sunday and Statutory Holidays – at all times.</p>
<p>2. The operation of any electronic device or group of connected electronic devices incorporated one or more loudspeakers or other electromechanical transducers, and intended for the production, reproduction or amplification of sound in a residential area.</p>	<p>Monday – Saturday Between 11:00p.m. and 7:00a.m. Sunday and Statutory Holidays – at all times.</p>
<p>3. All selling or advertising by shouting or outcry or amplified sound.</p>	<p>Monday – Saturday Between 11:00p.m. and 7:00a.m. Sunday and Statutory Holidays – at all times.</p>
<p>4. 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.</p>	<p>Monday – Saturday Between 11:00p.m. and 7:00a.m. Sunday and Statutory Holidays – at all times.</p>
<p>5. The operation of any construction equipment in connection with construction.</p>	<p>Monday – Saturday Between 11:00p.m. and 7:00a.m. Sunday and Statutory Holidays – at all times.</p>
<p>6. The operation of a combustion engine which, i) is, ii) is used in, or iii) is intended for use in, a toy or model or replica of a larger device, which model or replica has no function other than amusement and which is not a conveyance.</p>	<p>Monday – Sunday Between 11:00p.m. and 7:00a.m. Including Statutory Holidays.</p>
<p>7. The operation of any motorized conveyance other than on a highway or other place intended for its operation.</p>	<p>Monday – Sunday Between 11:00p.m. and 7:00a.m. Including Statutory Holidays.</p>
<p>8. The venting, release or pressure relief of air, steam or other gaseous material, produce or compound from any autoclave, boiler, pressure vessel, pipe, valve, machine, device or system.</p>	<p>Monday – Saturday Between 11:00p.m. and 7:00a.m. Sunday and Statutory Holidays – at all times.</p>
<p>9. Persistent barking, calling or whining by any dog or other persistent noise making by any pet.</p>	<p>At all times.</p>
<p>10. The operation of any powered or non-powered tool for domestic purposes other than snow removal.</p>	<p>Monday – Sunday Between 11:00p.m. and 7:00a.m. Including Statutory Holidays.</p>
<p>11. The operation of solid waste bulk lift or refuse compacting equipment.</p>	<p>Monday – Saturday between 11:00p.m. and 7:00a.m. Sunday and Statutory Holidays – at all times.</p>
<p>12. Yelling or shouting.</p>	<p>At all times.</p>
<p>13. The discharge of firearms, other than as part of an otherwise lawful hunt, gun club, or where such discharge has agricultural purposes.</p>	<p>At all times.</p>
<p>14. The detonation of fireworks or explosive devices not used in construction.</p>	<p>At all times except for the celebration of Victoria Day, the birthday of the reigning Sovereign, Canada Day (July 1<sup>st</sup>)</p>

	and American Independence Day (July 4 <sup>th</sup> ).
15. The operation of a racing event licensed by the Municipality.	Monday – Saturday between 12:00p.m. and 7:00a.m. Sundays and Statutory Holidays – at all times.

### SCHEDULE 3

#### ACTIVITIES TO WHICH THE BY-LAW DOES NOT APPLY

A list of sources (activities) shall constitute this Schedule and shall specify those events which Council considers to be exempt from the provisions of the By-law.

- (i) Road and Bicycle races authorized by the Municipality of Chatham-Kent.
- (ii) Regimental salutes.
- (iii) Parades authorized by the Municipality of Chatham-Kent.
- (iv) Fireworks displays authorized by the Municipality of Chatham-Kent.
- (v) Midways and Circuses authorized by the Municipality of Chatham-Kent.
- (vi) Sporting, Recreational and Entertainment events in public parks, buildings or grounds authorized by the Municipality of Chatham-Kent.
- (vii) Musical and other performances in public parks, buildings or grounds authorized by the Municipality of Chatham-Kent.
- (viii) Special neighbourhood social activities on streets or other public land authorized by the Municipality of Chatham-Kent.
- (ix) The discharge of firearms by Police Officers acting in the due performance of their duties.
- (x) Transformers and diesel operated water pumps owned by the Public Utilities Commission or CK Hydro and necessary preventive maintenance work undertaken by the Public Utilities Commission or CK Hydro.
- (xi) Necessary municipal operations, including but not limited to snow clearing, street cleaning and garbage collection, undertaken by or on behalf of the Municipality of Chatham-Kent.
- (xii) Snow Removal that is essential for the normal operation of a business.
- (xiii) Church clocks striking the hour and chimes ringing and the playing of any carillon.



SCHEDULE 4

CHATHAM-KENT NOISE CONTROL BY-LAW

NOTICE OF INTENTION AND  
APPLICATION FOR EXEMPTION

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Source and location of sound: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Applicable by-law section: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Time Period of Exemption

From: \_\_\_\_\_ 200\_\_ to \_\_\_\_\_ 200\_\_.

Reason for Exemption: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attempts to comply: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

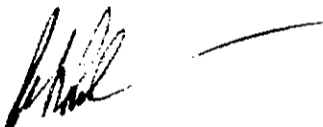
ONTARIO COURT OF JUSTICE

PROVINCIAL OFFENCES ACT

PART I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 41-2004 of the Municipality of Chatham-Kent, attached hereto is the set fine including costs, for those offences. This Order is to take effect March 29, 2004.

Dated at London this 29<sup>th</sup> day of March, 2004.



Alexander M. Graham  
Regional Senior Justice  
West Region

**MUNICIPALITY OF CHATHAM-KENT**

*PART I Provincial Offences Act*

By-law # 41-2004, Noise By-law

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision	COLUMN 3 Set Fine (includes costs)
1	Causing or permitting noise by racing a motorized vehicle	Section 2 Schedule 1-1	\$150.00
2	Causing or permitting noise from squealing tires	Section 2 Schedule 1-2	\$150.00
3	Causing or permitting noise by operating a combustion engine	Section 2 Schedule 1-3	\$150.00
4	Causing or permitting noise by operating a pneumatic device	Section 2 Schedule 1-3	\$150.00
5	Causing or permitting noise by operating construction equipment	Section 2 Schedule 1-3	\$150.00
6	Causing or permitting noise from the operation of a motor vehicle with a trailer	Section 2 Schedule 1-4	\$150.00

NOTE: The penalty provision for the offences indicated above is Section 10 of By-law No. 41-2004, a certified copy of which has been filed.

**MUNICIPALITY OF CHATHAM-KENT**

*PART I Provincial Offences Act*

By-law # 41-2004, Noise By-law

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision	COLUMN 3 Set Fine (includes costs)
7	Causing or permitting noise from the idling of a vehicle	Section 2 Schedule 1-5	\$150.00
8	Causing or permitting noise from mechanical equipment that is not properly maintained	Section 2 Schedule 1-6	\$150.00
9	Causing or permitting noise from a vehicle horn or other warning device	Section 2 Schedule 1-7	\$150.00
10	Causing or permitting noise from a vehicle stereo or other electronic device	Section 2 Schedule 1-8	\$150.00
11	Causing or permitting noise from a whistle, bell, gong or horn	Section 2 Schedule 2-1	\$150.00
12	Causing or permitting sound from any electronic device or sound producing equipment	Section 2 Schedule 2-2	\$150.00

NOTE: The penalty provision for the offences indicated above is Section 10 of By-law No. 41-2004, a certified copy of which has been filed.

## MUNICIPALITY OF CHATHAM-KENT

## PART I Provincial Offences Act

By-law # 41-2004, Noise By-law

Page # 3

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision	COLUMN 3 Set Fine (includes costs)
13	Causing or permitting noise from loading, unloading, packing, delivering or handling a container, product or material	Section 2 Schedule 2-4	\$150.00
14	Causing or permitting noise from the operation of construction equipment	Section 2 Schedule 2-5	\$150.00
15	Causing or permitting noise from the operation of a combustion engine for a toy or a model	Section 2 Schedule 2-6	\$150.00
16	Causing or permitting noise from the operation of a motorized conveyance	Section 2 Schedule 2-7	\$150.00
17	Causing or permitting noise from the release of air, steam or gaseous material	Section 2 Schedule 2-8	\$150.00
18	Permitting noise made by a dog or a pet	Section 2 Schedule 2-9	\$150.00

NOTE: The penalty provision for the offences indicated above is Section 10 of By-law No. 41-2004, a certified copy of which has been filed.

## MUNICIPALITY OF CHATHAM-KENT

## PART I Provincial Offences Act

By-law # 41-2004, Noise By-law

Page # 4

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision	COLUMN 3 Set Fine (includes costs)
19	Causing or permitting noise from the operation of a tool	Section 2 Schedule 2-10	\$150.00
20	Causing or permitting noise from the operation of waste collection or compacting equipment	Section 2 Schedule 2-11	\$150.00
21	Causing or permitting noise from yelling or shouting	Section 2 Schedule 2-12	\$150.00
22	Causing or permitting noise from the discharge of a firearm	Section 2 Schedule 2-13	\$150.00
23	Causing or permitting noise from the detonation of fireworks or explosive devices	Section 2 Schedule 2-14	\$150.00
24	Causing or permitting noise from a racing event licensed by the municipality other than during permitted hours	Section 2 Schedule 2-15	\$150.00

NOTE: The penalty provision for the offences indicated above is Section 10 of By-law No. 41-2004, a certified copy of which has been filed.