



## CORPORATION OF THE TOWN OF NEWMARKET

### BY-LAW NUMBER 2004-94

A BY-LAW TO REPEAL BY-LAW 1991-140, AS AMENDED AND ENACT A BY-LAW TO PROHIBIT AND REGULATE UNUSUAL NOISES OR NOISES LIKELY TO DISTURB THE INHABITANTS OF THE TOWN OF NEWMARKET.

WHEREAS it is in the public interest to reduce the noise level in the Town of Newmarket so as to preserve, protect and promote the public health, safety, welfare and the peace and quiet of the inhabitants of the Town;

AND WHEREAS the making, creation or maintenance of excessive and unreasonable noises within the Town affects and is a detriment to public health, comfort, convenience, safety, welfare and the prosperity of the inhabitants of the Town;

AND WHEREAS s. 129 of the *Municipal Act, 2001*, S.O. 2001, c. 25 authorizes a municipality to pass a bylaw to prohibit and regulate noise in the municipality;

AND WHEREAS Council of the Town of Newmarket deems it advisable to repeal By-law 1991-140 and all amendments thereto.

THEREFORE the Council of The Corporation of the Town of Newmarket enacts as follows:

#### **SHORT TITLE**

1. This By-law may be referred to as the "Noise Control By-law".

#### **INTERPRETATION**

2. For the purposes of this By-law the following terms shall have the corresponding meanings:

"Town" means the Corporation of the Town of Newmarket;

"construction equipment" includes a bulldozer, excavator, trencher, jack hammer, crane, loader, scraper, paver, compactor, roller, grader, concrete mixer and the like;

"Council" means the Council of the Town;

"holiday" means any holiday set out as a holiday in the *Retail Business Holidays Act*, R.S.O. 1990, c. R.30, or any successor thereof;

"inhabitants" means one or more persons who reside in the Town;

"noise" means sound that is of such a volume or nature that it is likely to disturb the inhabitants of the Town of Newmarket;

"person" includes a corporation, organization, association, partnership and the like.

#### **GENERAL EXEMPTIONS**

3. This By-law does not apply to sound emitted or caused or permitted in connection with:
  - a. Measures undertaken for the immediate health, safety or welfare of inhabitants of the Town under emergency circumstances or in circumstances of public necessity;

- b. Measures undertaken by the Town, its servants, employees, contractors or agents to carrying out Town operations or to operate, maintain or install municipally-owned infrastructure, facilities or the like, or to deliver municipal services;
- c. The activities of snow plowing and/or removal on highways or on real property occupied by the Town or owned and occupied by the Town;
- d. Road or bicycle races, parades, circuses, entertainment activities in public parks or neighbourhood social activities when such events are approved by Council and such activity or event is in compliance with the conditions set by Council in approving such activity or event;
- e. Sport or recreational events in public parks where a permit has been issued by the Town authorizing such event and the event complies with all of the conditions of such permit;
- f. The use of implements of husbandry in the operation of agricultural endeavours; or
- g. The operation of excavation equipment when used in a cemetery in conjunction with interment services.

#### **EXEMPTIONS BY COUNCIL**

- 4.
  - a. Despite the provisions of this By-law, any person may apply to Council for an exemption to any provision of this By-law with respect to any noise to allow such person to emit, cause or permit such noise for the period of time set out in such application, and Council may grant such exemption, grant an alternative exemption or refuse such exemption, and may set out conditions to be met as Council sees fit for any exemption granted;
  - b. Where an exemption is granted by Council, breach of any of the terms or conditions of the exemption shall render the exemption null and void.
  - c. Every person applying for an exemption shall, at least 10 business days prior to the Council meeting at which the request for exemption is to be addressed by Council, provide to the Chief Building Official of the Town:
    - i. A complete and accurate application form as provided by the Town setting out the particulars respecting the exemption requested; and
    - ii. Payment of the exemption processing fee in the amount set by Council and in effect at the time of such exemption request.

#### **GENERAL PROHIBITIONS**

- 5. No person shall, at any time, emit, cause or permit to be emitted or caused any noise created by:
  - a. The persistent barking, calling or whining of any domestic pet or any animal, except an animal used for and located on the property of an agriculture, livestock based use as set out in the Town's Zoning By-law;
  - b. The squealing of motor vehicle tires while such vehicle is on property other than a highway as set out in the *Highway Traffic Act*, R.S.O. 1990, c. H.8, or any successor thereof;
  - c. The use of a horn, whistle, alarm, bell, gong or the like, except where authorized by law, or for an auditory safety or warning device or chimes used in association with a religious establishment;
  - d. The operation of an air conditioner, pool pump or filter, heat pump or the like that is not in proper working order;
  - e. The idling of a vehicle motor in excess of 10 minutes, except:

- i. when such idling is recommended by the manufacturer of such vehicle and proof of such recommendation is provided by the vehicle operator upon the request of a police officer / bylaw officer;
  - ii. when such idling is necessary to the basic function of the equipment on a vehicle such as a concrete mixer on a concrete mixing truck, a lift platform, a refuse compactor or a heat exchange system;
  - iii. where such idling is necessary for the ease of start-up of a bus used for the provision of public transportation, or for the comfort of passengers on or the operation of systems on a bus used for the provision of public transportation; or
  - iv. when the weather conditions require the vehicle to idle in order to keep in operation a heating or refrigeration system necessary for the welfare or preservation of the cargo of such vehicle;
- f. the operation of a combustion engine without an effective exhaust muffling device in proper working order; or
  - g. the operation of a vehicle radio, stereo or the like; or
  - h. the operation of a radio, television, stereo or other electronic device including any amplification device or any musical or other sound producing instrument; or
  - i. the operation of roof top units.

**PROHIBITIONS BY TIME OF DAY**

- 6. No person shall emit, cause or permit to be emitted or caused any noise created by an activity listed in Column A Schedule "A" of this By-law during the time such noise is prohibited as set out in Column B of such Schedule.

**PENALTY**

- 7. Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine as set out in the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, or any successor thereof.

**SCHEDULE FORMS PART OF BY-LAW**

- 8. Schedule "A" attached hereto shall form part of this By-law.

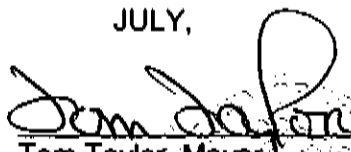
**PRIOR BY-LAWS REPEALED**

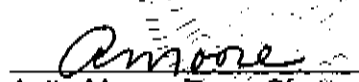
- 9. By-law Number 1991-140, as amended, is hereby repealed as of the date and time of this By-law coming into effect.

**EFFECTIVE DATE OF BY-LAW**

- 10. This By-law shall come into force and take effect immediately upon the final passing thereof.

ENACTED THIS 19TH DAY OF JULY, 2004.

  
Tom Taylor, Mayor

  
Anita Moore, Town Clerk

**SCHEDULE "A"**  
**By-law 2004-94**

<b>COLUMN A NOISE CAUSED OR EMITTED AS A RESULT OF THE FOLLOWING ACTIVITIES IS PROHIBITED during the hours specified on the corresponding line in Column B</b>	<b>COLUMN B PROHIBITED TIME OF THE DAY</b>
The operation of a car wash	9:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Saturdays, Sundays and holidays)
The operation of a waste collection vehicle, waste collection machinery or refuse compacting equipment.	9:00 p.m. to 6:00 a.m. (to 9:00 a.m. on Saturdays, Sundays and holidays)
Loading, unloading, packing, delivering or otherwise handling any container, product or material unless necessary for the maintenance of essential services	9:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Saturdays, Sundays and holidays)
The operation of any powered device used in the servicing, maintenance or repair of property except devices driven by muscular power only and snow blowers	9:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Saturdays, Sundays and holidays)
The operation of a lawn mower or other equipment or machinery used for yard maintenance purposes which is run by electricity or gasoline, including without limitation, whipper snippers, leaf vacuums, chain saws, hedge trimmers and the like	9:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Saturdays, Sundays and holidays)
The operation of any snowblower	9:00 p.m. to 6:00 a.m.
The operation of any motor vehicle engaged in the plowing of or removal of snow, unless otherwise permitted under this By-law	12:00 midnight to 6:00 a.m.
The operation of any construction equipment or the conduct of any alteration or repair of any building	8:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Saturdays, Sundays and holidays)
The operation of a dirt bike, all-terrain cycle, snowmobile, go-cart, dune buggy or like conveyance	7:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Saturdays) and at all times on Sundays and holidays
Yelling, shouting or the like	11:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Saturdays, Sundays and holidays)
The venting or release of steam, the operation of a generator or air filtrations system, noise from grinding, milling, the operation of machinery, or the like	9:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Saturdays, Sundays and holidays) times