

## **Noise Bylaw**

**Bylaw #:** 2004-52

**Description:** Regulates noise in the City of Kingston.

**Date passed:** March 2, 2004

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### [Introduction](#)

**Whereas** section 129 of the Municipal Act, 2001 authorizes the council of every local municipality to regulate and prohibit with respect to noise; and

**Whereas** section 434.1(1) of the Municipal Act, 2001, as amended from time to time, provides that a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a bylaw of the municipality passed under this Act;

**Therefore** the Council of The Corporation of the City of Kingston enacts as follows:

### [Part 1 - Definitions](#)

For the purposes of this Bylaw:

**Administrative Penalty** means an administrative penalty administered pursuant to "Bylaw 2020-69 of the Corporation of City of Kingston being "A Bylaw to Establish a Process for Administrative Penalties"

**Agricultural property** means a property that is zoned for agricultural use in the zoning bylaw that applies to the property;

**Chief Fire Official** means the assistant to the Fire Marshal who is the Fire Chief of the City of Kingston, or a member or members of Kingston Fire and Rescue appointed by the Fire Chief to be Chief Fire Officials, subject to the limitations and conditions as are set out in the appointment.

**City** and **City of Kingston** mean The Corporation of the City of Kingston, as incorporated on January 1, 1998, and all of its administrative units;

**Construction** includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavation, blasting and detonation of explosive devices other than fireworks, 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 associated or related work;

**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, trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment;

**Council** and **City Council** mean the Council of the City of Kingston;

**Downtown Kingston Business Improvement Area** means the geographical area as defined in Schedule E to this bylaw.

**Emergency** means a situation or an impending situation, often dangerous, caused by the forces of nature, an accident, an intentional act or otherwise, which arises suddenly and calls for prompt action;

**Emergency vehicle** includes a land ambulance, an air ambulance, a fire department vehicle, a police vehicle, and a motor vehicle being used to respond to an emergency;

**Explosives Act** means the Explosives Act, R.S.C. 1985, c. E-17, as amended, or any successor legislation thereof;

**Explosives Regulations** means the Explosives Regulations, 2013, SOR/2013-211, as amended, or any successor legislation thereof;

**Fireworks** means, in the context of this bylaw, consumer fireworks as classified by the Chief Inspector of Explosives in accordance with the Explosives Act and the Explosives Regulations. It also means display fireworks and special effect pyrotechnics, as classified by the Chief Inspector of Explosives in accordance with the Explosives Act and the Explosives Regulations, when the detonation of such has been authorized by the Chief Fire Official;

**Licensing and Enforcement Division** means the administrative unit of the Planning, Building and Licensing Services Department that is responsible for enforcing the general bylaws of the City or, in the event of organizational changes, another administrative unit designated by Council to carry out this responsibility;

**Manager of Licensing and Enforcement** means the Manager of the Licensing and Enforcement Division, of the Planning, Building and Licensing Services Department, his or her designate or, in the event of organizational changes, another employee designated by City Council.

**Motor vehicle** includes an automobile, bus, truck, motorcycle, motor assisted bicycle and any other vehicle propelled or driven other than by muscular power, but does not include a motorized snow vehicle, traction engine, farm tractor, other farm vehicle or road-building machine;

**Municipal service vehicle** means a vehicle operated by or on behalf of the City or a local board of the City while the vehicle is being used for the construction, repair or maintenance of a highway, including the clearing and removal of snow, the construction, repair or maintenance of a utility, the collection or transportation of waste, or other municipal purpose;

**Noise** means sound that is unusual or excessive, or that is unwanted by or disturbing to persons;

**Other areas** means the lands designated in Schedule D as "other areas";

**Penalty Notice** means a notice given pursuant to sections 2.2 and 2.4 of "Bylaw 2020-69 of the Corporation of the City of Kingston being "A Bylaw to Establish a Process for Administrative Penalties"

**Person** includes a corporation as well as an individual, and shall include the owner of a property;

**Premises** means a piece of land and any buildings and structures on it, and includes a place of business, a public highway, private road, lane, pathway and sidewalk, and any other location or place;

**Residence** means a room, suite of rooms, or dwelling, including a mobile trailer, operated as a housekeeping unit that is used or intended to be used as a separate domicile by one or more persons, and that normally contains cooking, eating, living, sleeping and sanitary facilities;

**Residential areas** means all lands within the geographic boundaries of the City except for those lands designated in Schedule D as "other areas";

**Sports field** means any area, not on property with a residential use, or vacant and eligible for a residential use, as defined in the City's zoning bylaws, whether or not delineated by lines, that is designated as a playing surface, and includes any adjacent seating area or stands;

**Statutory holiday** includes Boxing Day and any day within the definition of "holiday" in the Retail Business Holidays Act R.S.O. 1990, Ch. R.30, as amended, or any successor thereof;

**Utility** means a system that is used to provide a utility service to the public, including water, sewage, electricity, gas, communications networks and cable services;

**Utility service vehicle** means a vehicle operated by or on behalf of Utilities Kingston, its subsidiary companies, and by any other company or agency that supplies or manages a utility within the City while the vehicle is being used for the construction, repair or maintenance of that utility;

**Vehicle** includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine and other vehicle propelled or driven other than by muscular power; and

**Zoning bylaw** means a bylaw passed under section 34 of the Planning Act that restricts the use of land.

## [Part 2 - Application](#)

2.1 The general prohibitions on activities described in Schedule A apply to the lands within the residential areas and other areas of the City designated in Schedule D at all times.

2.2 The prohibitions on activities by time and place described in Schedule B apply to the lands within the residential areas and other areas of the City designated in Schedule D during the days and between the hours specified in Schedule B.

## [Part 3 - Administration](#)

3.1 The Licensing and Enforcement Division is responsible for the administration of this bylaw.

3.2 All Provincial Offences Officers with authority to enforce the bylaws of the City are responsible for enforcing the provisions of this bylaw.

3.3 Any person may submit an application to the Licensing and Enforcement Division requesting an exemption from any of the prohibitions described in Schedules A and B.

3.4 Council approved exemptions will be in effect for the dates specified, and Council may impose any conditions that it considers appropriate.

3.5 A Council approved exemption shall be invalid if these conditions are contravened.

3.6 Notwithstanding sections 3.3 and 3.4, the Manager of Licensing and Enforcement, or his or her designate, has delegated authority to approve an application for exemption from the noise prohibitions listed in section 1 and section 3 of Schedule B of this bylaw to permit the pouring, saw-cutting and finishing of concrete, between 1900 hours and 2300 hours, one day per week, excluding Sundays and Statutory Holidays.

3.7 Notwithstanding sections 3.3 and 3.4, the Manager of Licensing and Enforcement, or his or her designate, has delegated authority to approve an application for exemption from the noise prohibitions listed in section 1 and section 3 of Schedule B of this bylaw to permit construction activity and the operation of construction equipment in connection with construction between 1900 hours and 2100 hours, one day per week, excluding Saturdays, Sundays and Statutory Holidays.

3.8 Exemptions approved by the Manager of Licensing and Enforcement shall be in effect for the dates specified, and the Manager of Licensing and Enforcement may impose any conditions that he or she considers appropriate.

3.9 An exemption approved by the Manager of Licensing and Enforcement shall be invalid if these conditions are contravened.

#### Part 4 - Regulations

4.1 No person shall, at any time, make, cause or permit the making noise within the City that is the result of any of the described in Schedule A and that is audible to:

1. a person in a premises or a vehicle other than the or vehicle from which the noise is originating; or
2. a person in a residence other than the residence from the noise is originating.

4.2 No person shall, during the days and between the hours specified in Schedule B, make, cause or permit the making of noise within the residential areas and other areas designated in Schedule D that is the result of any of the activities described in Schedule B and that is audible to:

1. a person in a premises or a vehicle other than the premises or vehicle from which the noise is originating; or
2. a person in a residence other than the residence from which the noise is originating.

4.3 No person shall obstruct or hinder or attempt to obstruct or hinder a Provincial Offences Officer or other authorized employee or agent of the City in the exercise of a power or the performance of a duty under this bylaw.

4.4 Where a Provincial Offences Officer has reasonable grounds to believe that an offence under this Bylaw has been committed by a Person, the Provincial Offences Officer may require the name, address, and proof of identity of that Person.

4.5 Failure to provide proof of identification satisfactory to the Provincial Offences Officer when requested to do so pursuant to Section 4.4 of this Bylaw shall constitute obstruction of an Officer under Section 4.3 of this Bylaw.

#### Part 5 - Exemptions

5.1 The prohibitions described in Schedules A and B do not apply if the noise is the result of measures undertaken in an emergency for the:

1. immediate health, safety or welfare of the inhabitants; or
2. preservation or restoration of property;

the noise is clearly of a longer duration or of a more nature than is reasonably necessary to deal with emergency.

5.2 The prohibitions described in Schedules A and B do not apply the noise is the result of any of the activities described in C.

5.3 The prohibitions described in Schedules A and B do not apply the noise is the result of an activity that has been granted exemption under section 3.4, 3.6, or 3.7.

#### Part 6 - Schedules

The following schedules are attached to and form part of this bylaw:

- Schedule A -General Noise Prohibitions;
- Schedule B -Noise Prohibitions by Time and Place;
- Schedule C -Exemptions from the Noise Prohibitions; and
- Schedule D -Designated Residential Areas and Other Areas
- Schedule E-Downtown Kingston Business Improvement Area

#### Part 7 - Offence And Penalty Provisions

7.1a Every person who contravenes any provision of this Bylaw upon issuance of a Penalty Notice in accordance Administrative Penalty Process Bylaw 2020-69, be liable to to the City an Administrative Penalty in accordance with B of Administrative Penalty Process Bylaw 2020-69.

7.1 Notwithstanding section 7.1a of the Bylaw, every person, than a corporation, who contravenes any provision of this is guilty of an offence and on conviction is liable to a fine of more than \$10,000

for a first offence and \$25,000 for subsequent offence, as provided for in subsection 429 (2) (c) the Municipal Act, 2001, as amended from time to time

7.2 Notwithstanding section 7.1a of this Bylaw, every corporation contravenes any provision of this Bylaw and every officer director of a corporation who knowingly concurs in contravention is guilty of an offence and on conviction is liable a fine of not more than \$50,000 for a first offence and for any subsequent offence, as provided for in subsections and 429(2) (a) of the Municipal Act, 2001, as amended from time to time.

7.3 If this bylaw is contravened and a conviction entered, the court which the conviction has been entered and any court of jurisdiction thereafter may, in addition to any other remedy and any penalty that is imposed, make an order prohibiting continuation or repetition of the offence by the person convicted.

7.4 If a Person is required to pay an Administrative Penalty under section 7.1a in respect of a contravention of this Bylaw, the Person shall not be charged with an offence in respect of the same contravention.

7.5 In accordance with Section 351 of the Municipal Act, 2001, as amended from time to time, the treasurer of the City may add unpaid fees, charges and/or fines issued under this Bylaw to the tax roll and collect them in the same manner as property taxes.

#### Part 8 - Validity

8.1 If a court of competent jurisdiction declares any provision, or part of a provision, of this bylaw to be invalid, or to be of no and effect, it is the intention of Council in enacting this bylaw each and every provision of this bylaw authorized by law applied and enforced in accordance with its terms to the possible according to law.

#### Part 9 - Commencement

9.1 This bylaw comes into effect three months after the day that receives third reading and is passed.