THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2024-079

A by-law to prohibit and regulate noise and to repeal By-law 2008-098, By-law 2009-081, By-law 2011-100, By-law 2013-028, and By-law 2016-016 A by-law to prohibit and regulate noise and to repeal By-law 2008-098

WHEREAS section 129 of the *Municipal Act, 2001,* S.O. 2001, c.25 authorizes municipalities to pass by-laws to prohibit and regulate noise;

WHEREAS excessive sound and inadequately controlled noise may impair public health, safety and welfare and enjoyment of property;

WHEREAS a recognized body of scientific and technological knowledge exists by which sound may be reasonably and accurately measured and can be substantially reduced;

WHEREAS subsection 130(1) of the Municipal Act provides that a municipality does not have the power to prohibit and regulate with respect to noise made in the municipality in connection with the delivery of goods to retail business establishments, restaurants (including cafes and bars), hotels, motels and goods distribution facilities, except as otherwise authorized by regulation;

WHEREAS the *Ministry of the Environment, Conservation and Parks (*MECP*)* has guidelines to address the proper control of sources of noise emissions to the environment, which provide sound level limits that are applied by the MECP to stationary sources, such as industrial and commercial establishments and auxiliary transportation facilities. Compliance with these sound level limits is required for existing, planned, new, expanded, or modified stationary sources of sound through an Environmental Compliance Approval issued under the *Environmental Protection Act*;

WHEREAS Ontario's risk-based approach to environmental approvals includes an Environmental Activity and Sector Registry (EASR). The EASR is a public, web-based system that allows businesses conducting certain activities to register them with the MECP, rather than applying for an environmental approval. Registrants are required to follow MECP eligibility rules and regulations, and are subject to inspections and compliance penalties;

WHEREAS the MECP's sound level limits may be incorporated into noise control by-laws developed by municipalities in accordance with the *Municipal Act;*

COUNCIL ENACTS AS FOLLOWS:

1. Definitions

(1) In this By-law, the following terms shall have the following meanings:

"**Administrative Penalties for Non-Parking Violations and Orders By-law**" means By-law 2021-038, or successor by-laws;

"**Air Conditioning Device"** means a system for controlling the humidity, ventilation, and temperature in a building including heat pumps;

"**Authorized Emergency Vehicle**" includes any ambulance or hearse, any vehicle of the fire department, any vehicle of the local, provincial or federal police, any vehicle (including a snow plough) operated by or for the Town or a public utility company while actively engaged in the construction, maintenance or repair of any highway, or any equipment or facilities thereon, or a snow plough or other maintenance vehicle operated by or for the Ministry of Transportation or the Regional Municipality of Halton;

"**Background Sound Level**" is the sound level that is present in the environment, produced by noise sources other than the source under impact assessment. Background sound level may also be referred to as "ambient sound level";

"Business Improvement Area" means a defined area designated by the Town as a business improvement area pursuant to section 204(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25.

"**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, application of concrete, 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 including the delivery of construction vehicles and equipment;

"**Construction Equipment**" means any equipment or device designed and intended for use in construction or material handling, including but not limited to: hand tools, power tools, air compressors, vacuums, ladders, 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;

"Construction Noise" means unwanted sound, impacting any residential property or any commercial property not within the same property boundary as the source, caused by construction that has a building permit or requires a building permit;

"**Council**" means the Council of the Corporation of the Town of Oakville;

"**dBA**" means the A-weighted sound pressure level;

"Director" means the Director of Municipal Enforcement Services or designate;

"**Highway**" includes a common and public highway, street, avenue, parkway, square, place, bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicles;

"Indoor Living Area (ILA)" means an area that is inside a dwelling with windows and doors closed where sound level measurements are calculated from the centre of the room;

"Leq" or "equivalent continuous sound pressure level" means sound level, rounded to the nearest decibel, which, in a specified time period, conveys the same sound energy as does the actual time-varying sound level;

"Motorcycle" means a self-propelled vehicle having a seat or saddle for the use of the driver and designed to travel on not more than three wheels in contact with the ground, and includes a motor scooter, but does not include a motor assisted bicycle.

"**Motor Vehicle**" includes an automobile and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electric or steam railways, 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 and any successor legislation thereto;

"**Noise**" means unwanted sound impacting any residential property or any commercial property not within the same property boundary as the source;

"**Non-Profit Organization**" means associations, clubs or societies that are not charities and are organized and operated exclusively for social welfare, civic improvement, or any other purpose except profit;

"**Occupier**" includes a person who:

(a) is in physical possession of a premises;

(b) has responsibility for and control over the condition of a premises or the activities carried on at the premises, or control over persons allowed to enter the premises;

(c) is, for the time being, receiving the rent of a premises, whether as principal or as agent or trustee for another person, or who would so receive the rent if the premises were let, or who is responsible for the payment of municipal taxes;

(d) has been contracted to perform work at a premises; or

(e) who comes to visit, spend time with or stay with others at a premises;

although there is more than one occupier of the same premises;

"**Officer**" means any person authorized by the Corporation of the Town of Oakville to enforce by-laws and includes Municipal Law Enforcement Officers, provincial offences officers, and Halton Regional Police Officers;

"Order to Comply" means an order issued pursuant to Section 9 of this By-law

"Outdoor Living Area (OLA)" means:

(a) the nearest practical point 3m from the façade of a building, aligned with the midpoint of the subject façade at a minimum height of 1.5 metres above ground, typically in backyards, front yards, terraces or patios; or

(b) a balcony or elevated terrace (for example, a rooftop) provided it is not enclosed;

"**Penalty Notice**" means a notice issued pursuant to the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law;

“Persistent Noise" means any unwanted sound that is occurring intermittently at a point of reception for a period of 15 minutes or more over a 60-minute period that is not subject to a sound level (dBA) limit. Persistent noise is deemed to be likely to disturb the peace, rest, enjoyment, comfort or convenience of a reasonable person;

“**Person**” includes an individual, a corporation, a partnership and an association;

"Point of Reception" (**POR**) means the location on the premises of a person where sound originating from other than those premises is received;

“Premise” means the area contained within the property boundaries of a legal parcel of land and any building situated within those property boundaries and “premises” has a similar meaning;

“Property Boundary” means,

(a) in the case of a single-family dwelling, or a property used solely for non-residential purposes, the legal property line; or

(b) in the case of a structure containing two-family, multi-family or other non-single-family residential dwellings, the legal property line and any partition between separately occupied legal units within the property.

“**Rates and Fees Schedule”** means the Town’s then current Rates and Fees Schedule approved by Council as part of the annual budget approval process;

“Registered Charity” means:

(a) a charitable organization, private foundation or public foundation, within the meanings assigned by subsection 149.1(1) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp), that is resident in Canada and was either created or established in Canada; or,

(b) a branch, section, parish, congregation or other division of an organization or foundation described in paragraph (a), that is resident in Canada and was either created or established in Canada and that receives donations on its own behalf;

that is at that time registered as a charitable organization, private foundation or public foundation.

"**Residential Area**" means those areas of the Town designated as residential in the Zoning By-Law;

"**Residential Renovation**" means work, other than work performed by a contractor, consisting of construction at a residential property by a person residing at the property (with or without the assistance of other persons) that is not subject to a building permit;

"**Sound**" means an oscillation in pressure, stress, particle displacement and particle velocity which induce an auditory sensation;

"Sound Source" means any activity, matter, device, machine or thing that emits audible sound into the indoor or outdoor environment and excludes a Stationary Source;

"**Sound Level**" is the A-weighted sound pressure level;

"**Sound Level Meter**" is an instrument, approved by the Director, which is sensitive to and calibrated for the measurement of sound and is operated by the Director or an Officer;

"**Stationary Source**" means a source of sound or combination of sources of sound that are included and normally operated within the property lines of a premise that require an Environmental Compliance Approval (ECA) or EASR registration under the *Environmental Protection Act*, R.S.O.1990, c. E.19 (EPA) and the *Environmental Activity and Sector Registry* (EASR). Stationary sources are usually comprised of many sources of sound from various activities and equipment. The stationary source is understood to encompass all the activities taking place within the property boundary of the premise, including regular on-site truck traffic and material handling;

"Sound Vehicle" means any motor vehicle, or any other vehicle regardless of motive power, whether in motion or stationary, having mounted thereon or attached thereto any sound amplifying equipment;

"Statutory Holiday" means public holidays recognized by the Province of Ontario;

"Tonal Sound" means specific sound which contains one or more distinguishable, discrete, continuous and measurable tones or notes including, without limitation:

(a) specific sound characterized by a "whine", "hiss", "screech" or "hum"; and

(b) music;

"**Town**" means the Corporation of the Town of Oakville or the geographic area of the Town of Oakville as the context requires;

"**Unreasonable Noise**" means any unwanted sound that is clearly audible at a point of reception and would likely disturb the peace, rest, enjoyment, comfort or convenience of a reasonable person in the circumstances but does not include commonplace household sounds such as sound from furniture being moved, children playing or people engaging in conversation, and includes any noise resulting from any act listed in Column 1 of subsection 5(1) within the prohibited period of time set out in Column 2 of subsection 5(1), which is clearly audible and received at a point of reception;

"**Zoning By-Law**" means the Town of Oakville Zoning By-laws, as amended from time to time.

2. General

(1) This By-law is a Designated By-law under the Administrative Penalties for Non-Parking Violations and Orders By-law.

(2) The following locations are considered to be points of reception:

(a) an Outdoor Living Area (OLA); or

(b) an Indoor Living Area (ILA);

Indoor measurements will only be conducted in the event an outdoor reading is not practicable. For clarity, either an outdoor reading or an indoor measurement may be conducted, but not both.

3. Exempt Activities

(1) The provisions of this By-law do not apply to the following:

(a) the operation of authorized emergency vehicles;

(b) emergency measures undertaken for the immediate health, safety or welfare of the inhabitants of the Town of Oakville, including emergency measures undertaken for the preservation or restoration of property;

(c) the operation of bells or other alarms utilized as traffic control devices, including the following:

(i) bells and other devices at traffic signal locations; and

(ii) bells at railway crossings;

(d) the operation of machines and equipment on behalf of the Town, including the following:

(i) painting machines for crosswalks and highways;

(ii) tree and shrub pruning and mulching equipment;

(iii) grass cutting or field maintenance equipment;

(iv) Town owned or contracted street cleaners and flushers; and

(v) construction equipment and machinery, including snow removal equipment, used by or on behalf of the Town while carrying on or engaged in the performance of public works, including but not limited the following, capital projects and maintenance operations.

(e) garbage pickup and removal by the Region of Halton;

(f) the operation of machinery by or on behalf of a public utility where the work may need to be done on weekends or overnight to minimize service interruptions;

(g) the operation of tools or equipment used for snow removal;

(h) sounds normally incidental to activities taking place pursuant to a Town issued road use permit or permit for outdoor recreational facilities, subject to any conditions applicable to such permit;

(i) despite Section 5(1)(h), sounds made in connection with deliveries of goods to any of the following:

(i) retail business establishments;

(ii) restaurants, including bars and cafes;

(iii) hotels and motels; or

(iv) goods distribution facilities;

(j) sounds normally incidental to activities in connection with athletic or recreational activities in municipal park areas, arenas or community centres between 7:00 am and 11:00 pm;

(k) the operation of bells, chimes, carillons, a noise reproduction device and clocks for religious purposes;

(l) sound in connection with any Town operated event such as a fair, exhibition, celebration or concert; or

(m) any Business Improvement Area activity or event approved by its Board of Directors, provided the Board notifies the Director in writing at least fifteen (15) days prior to the activity or event, unless Council determines that the activity would not be in the greater public interest.

(2) Any person who emits or causes or permits the emission of sound in connection with any event for religious purposes shall:

(a) ensure the sound emitted from any equipment shall not exceed an Leq of 85 dBA when measured 20 metres from the source over a five-minute period, and where the sound level exceeds 85 dBA, comply with any request from any person empowered under Section 12 of this By-law with respect to the volume of sound from the equipment to ensure compliance.

4. Prohibitions

(1) No person shall:

(a) make, cause or permit unreasonable noise;

(b) make or cause or permit any noise that exceeds the sound level (dBA) limits authorized by Section 6(1);

(c) make or cause or permit any noise that exceeds the sound level (dBA) limits authorized by Section 7; or

(d) fail to comply with any conditions of an exemption permit granted in accordance with Section 8.

(2) No person having control or charge of a motor vehicle shall:

(a) sound any bell, horn or other signalling device so as to make an unreasonable noise on private property; or

(b) being the driver, at any time cause the motor vehicle to make any unreasonable noise on private property.

(3) No person shall operate a motorcycle on any highway if the motorcycle at idle emits any sound exceeding 92 dBA from the exhaust outlet as measured by a sound meter set to slow response while positioning the sound meter microphone 50 centimetres behind the exhaust outlet, at the same height and at 45 degrees from the line of travel of the motorcycle exhaust.

(4) A person may be found guilty of a contravention of subsections 4(1) and 4(2) whether or not the sound level:

(a) is measured; or

(b) if measured, exceeds any sound level limit prescribed by this By-law.

(5) No person shall make, cause or permit Stationary Sources of Sound that are ECA or EASR registered or require an ECA or EASR registration under the EPA and are operating without a valid ECA or EASR registration, that exceed the applicable sound level limit (dBA) set out in Section 6(1) of this By-law. In the event of any conflict, the sound level limits for Stationary Sources prescribed by the ECA or otherwise applicable by the EPA shall govern.

5. Unreasonable Noise by Time

(1) No person shall emit, cause or permit the emission of noise resulting from any act listed in Column 1 within the prohibited period of time set out in Column 2, which is clearly audible and received at a point of reception:

Column 1 - Activity	Column 2 - Period of Time – (POR)
(a) the detonation of fireworks or an explosive device not used in construction	at all times other than those permitted by other Town by-laws
(b) test a household generator for a duration of greater than one hour in any 30-day interval or an emergency generator used for utility and infrastructure applications for a duration greater than recommended by Provincial guidelines or discharge sound from emergency equipment operating in non-emergency situations that results in the sound level at the affected point of reception to exceed a sound level limit that is 5 dB higher than the applicable sound level limit	4:00 pm one day to 10:00 am the next day and all day on Saturdays and Sundays
(c) the operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers, and intended for the production, reproduction or amplification of sound	7:00 pm one day to 7:00 am the next day in any area other than a Business Improvement Area 10:00 pm one day to 7:00 am the next day within a designated Business Improvement Area
(d) the operation of any auditory signaling device, including but not limited to the ringing of bells 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 or authorized by law or in accordance with good safety practices	7:00 pm one day to 7:00 am the next day and all day on Sundays and Statutory Holidays
(e) persistent noise from animals such as barking, calling, whining or similar noise made by any domestic pet	at all times
(f) persistent noise from yelling, shouting, whistling or singing	at all times
(g) unamplified playing of musical instruments	7:00 pm one day to 7:00 am the next day in any area other than a Business Improvement Area 10:00 pm one day to 7:00 am the next day within a designated Business Improvement Area
(h) loading, unloading, delivering, packing, unpacking, or otherwise handling any equipment, containers, products,	7:00 pm one day to 7:00 am the next day and all day on Sundays and Statutory Holidays

Column 1 - Activity	Column 2 - Period of Time – (POR)
materials, or refuse (other than as contemplated by (k) below), whatsoever, unless necessary for the maintenance of essential services or the moving of private household effects (subject to the exemption in subsection 3(1)(i))	
(i) the operation of any construction equipment other than in connection with Residential Renovation	7:00 pm one day to 7:00 am the next day and all day on Sundays and Statutory Holidays
(j) the operation or use of any tool for domestic purposes, not including construction equipment used in connection with a Residential Renovation or equipment used for snow removal	9:00 pm one day to 7:00 am the next day
(k) the operation of solid waste bulk lift or refuse compacting equipment	7:00 pm one day to 7:00 am the next day
(l) the operation of any construction equipment in connection with Residential Renovation	7:00 pm one day to 7:00 am the next day
(m) the operation of an auditory pest deterrent device	at all times

(2) Section 5(1) does not apply to Stationary Sources of Sound that are ECA or EASR registered or require an ECA or EASR registration under the EPA, which are governed by the sound level limitations in Section 6(1).

(3) The noises listed in subsection 5(1)(b), (c), (d), (g), (h), (i), and (k) are subject to the sound level limitations contained in subsection 6(1) during the times not prohibited in Column 2 of subsection 5(1).

(4) Notwithstanding that it is occurring during a time not prohibited in Column 2 of subsection 5(1), a noise resulting from an act listed in Column 1 of subsection 5(1) is an unreasonable noise unless it is the result of the natural operation of the act listed in Column 1.

6. General Limitations on Sound Levels – Sound Source

(1) No person shall emit or cause or permit the emission of sound from a sound source such that the sound level from that source, when measured with a sound level meter at a point of reception located in an outdoor living area or an indoor living area exceeds both the background sound level and the maximum permitted sound level limit for that time specified in the following chart:

Sound Level (dBA)

Outdoor Living Area

Time of Day	
7:00 am to 7:00 pm	50
7:00 pm to 11:00 pm	47
11:00 pm to 7:00 am	45

Indoor Living Area

7:00 am to 7:00 pm	~~4~~ dBA over Background Sound Level
7:00 pm to 7:00 am	Unreasonable Noise not permitted

(2) Subsection 6(1) does not apply to noise resulting from any act listed in Column 1 within the prohibited period of time set out in Column 2 of Section 5(1), or specific sound sources that are governed by subsection 7(1).

(3) For the purposes of this By-law, the sound level of sound sources that produce a steady sound level, will be measured over a period of at least 15 seconds with the sound level meter set to SLOW response and repeated at least three times and reported. If the average sound level between any two observed average readings exceeds 3 dBA, a minimum of six measurements shall be made and reported.

(4) For a Sound Source from which the difference in sound level average (as measured above) between any two observed average readings exceeds 5 dBA, the measurement period shall be extended to a one hour Leq and the Leq measured and reported.

(5) A tonal sound adjustment may be applied to measurements taken with a sound level meter.

(6) If a sound has tonal components, that is, pure tones such as whistling or other unusual characteristics, such as buzz, screech, whine, hum, its (measured) sound level may be “penalized”/adjusted by +5 dBA if the tonality is confirmed by reviewing the constant level difference as outlined in Sec. 6(7).

(7) If a third octave band sound level exceeds the sound in both adjacent third octave bands by a specified amount, it can be concluded that the third octave band in question can contain an audible, discrete tone. The exceedance is

referred to as the “constant level difference” and shall be measured at a 20-minute Leq.

(8) For third octave bands indicated, the sound level measured at a 20-minute Leq constant level differences are:

25Hz to 125Hz: 15dB
160Hz to 400Hz: 8dB
500Hz to 10kHz: 5dB

7. Limitations Applicable to Specific Sound Source

(1) No person shall emit or cause or permit the emission of sound from the operation of a residential air conditioning device resulting in a sound level, when measured with a sound level meter at a point of reception within an Outdoor Living Area (OLA), in excess of both the background sound level and in excess of 50 dBA.

(2) Subsection 7(1) does not apply to air conditioning devices used in connection with institutional, commercial and industrial applications or multi-family dwellings sharing a common air conditioning device. The applicable sound level limits (dBA) set out in Section 6(1) of this By-law shall apply.

(3) The noise listed in subsection 5(c) and 5(g) referencing designated Business Improvement Areas shall be subject to a 50 dBA limit during the time not prohibited in Column 2 of subsection 5(1).

8. Noise Exemption Permit

(1) Any person may apply for a noise exemption permit for relief from any of the provisions of this By-law.

(2) A complete application for a noise exemption permit for construction noise shall be submitted to the Director at least 45 days prior to the event or activity. A complete application for a noise exemption permit for any noise other than construction noise shall be submitted to the Director at least 30 days prior to the event or activity.

(3) Receipt of an application for a noise exemption permit or the permit fee shall not constitute approval of the application for a noise exemption permit, nor shall it obligate the Director to issue any such permit.

(4) The Director will not accept an application for a noise exemption permit unless it has been filled out in total, contains correct information and required

documents, and is accompanied by the fee as set out in the Rates and Fees Schedule.

(5) The application for a noise exemption permit shall include:

(a) the name and address of the applicant and contact information of at least one person who will supervise the event or activity to ensure compliance with the terms and conditions of the permit;

(b) a description of the source of sound in respect of which exemption is sought together with a site plan indicating the location and direction of any sound amplifying devices and a list of any equipment to be used;

(c) the date, any alternate date, time and location of the event or activity for which the permit is sought and, where applicable, the number of people expected to attend;

(d) the period of time, of a duration not in excess of six months, for which the exemption is sought;

(e) a statement of the particular provision or provisions of the By-law from which exemption is sought;

(f) the reasons why the exemption should be granted;

(g) a draft Notice of Application for a Noise Exemption Permit, in a form provided by the Director;

(h) the noise exemption permit fee as set out in the Rates and Fees Schedule; and

(i) any other information or documents that may be required by the Director related to the noise exemption permit application.

(6) Despite subsection 8(4) and 8(5)(h), a non-profit organization, a registered charity, or a religious institution is not required to remit any fees for a noise exemption permit.

(7) Upon receipt of an application for a noise exemption permit, the Director shall schedule a pre-consultation with the applicant to assess the applicant's request for a permit.

(8) Following the pre-consultation referred to in subsection 8(7), the applicant shall provide the Notice of Application for a Noise Exemption Permit to all residents within 120 metres of the location where the event or activity is proposed.

(9) The applicant shall provide the Notice of Application for a Noise Exemption Permit required by subsection 8(8) as follows:

(a) if the Notice is hand-delivered: residents shall have fourteen (14) days from the date of delivery to provide comments to the Director;

(b) if the Notice is mailed: residents shall have twenty-one (21) days from the date of mailing to provide comments to the Director; or

(c) if the Notice is provided to residents of a condominium or apartment building: post the notice in a visible location within the lobby of the building or in the vicinity of the residents' mailboxes. Residents of the building shall have fourteen (14) days from the date the Notice is posted to provide comments to the Director. If notice in this fashion is not possible, the Notice shall be provided in accordance with subsection 8(9)(b).

(10) The applicant shall provide the following to the Director immediately following the provision of the Notice of Application for a Noise Exemption in accordance with subsection 8(8):

(a) a copy of the Notice of Application for a Noise Exemption; and

(b) a copy of the mailing list indicating where the Notice of Application for a Noise Exemption was sent.

(11) Pursuant to section 23.1 of the *Municipal Act, 2001*, S.O. 2001, c. 25, Council hereby delegates:

(a) to the Director the power to issue permits granting an exemption from any of the provisions of this By-law with respect to any source of sound for which the person might be prosecuted; and

(b) to the Appeals Committee, the power to hear and determine appeals relating to the issuance of noise exemption permits.

(12) The delegation of power in subsection 8(11) of this By-law may be revoked by Council at any time without notice.

(13) Where the Appeals Committee conducts a hearing, the rules set out in the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22 shall apply.

(14) The Director may refuse to grant any exemption or may grant the exemption 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 the Director sees fit.

(15) In determining whether to grant an exemption in accordance with subsection 8(14), the Director shall consider the following, if applicable:

(a) whether there are any objections from the residents where the event or activity for which the exemption is sought is to be held;

(b) whether approval of the exemption would be contrary to the general intent and purpose of this By-law;

(c) whether the applicant has complied with all terms and conditions of approval of any previous permit issued to the applicant under this section, if any;

(d) whether the applicant has provided all of the information required by subsection 8(3); and

(e) whether there have been previous complaints with regard to the location and/or the applicant.

(16) Despite subsection 8(15), the Director shall refuse to grant an exemption when:

(a) the applicant has any outstanding fines or fees with respect to this By-law; or

(b) the applicant's rationale for seeking an exemption is primarily based on expediting the timelines of construction.

(17) A permit issued under subsection 8(14) shall be, at minimum, subject to the following terms and conditions:

(a) the sound emitted from any equipment shall not exceed an Leq of 85 dBA when measured 20 metres from the source over a five-minute period;

(b) where the sound level exceeds 85 dBA, the applicant shall comply with any request from any person empowered under Section 12 of this By-law with respect to the volume of sound from the equipment to ensure compliance with subsection 8(17)(a);

(c) no construction equipment other than the equipment approved under the permit shall be used by the applicant;

(d) the event or activity shall be restricted to the approved location set out in the permit;

(e) the permission granted is only for the date(s) and time(s) for the event or activity as set out in the permit, and

(f) a permit issued to the applicant is not transferable.

(18) Where the Director refuses to grant a permit under subsection 8(13), or is unable to grant an exemption under subsection 8(14)(g), or grants any exemption of a lesser effect, the Director shall notify the applicant in writing advising the applicant that they may appeal the Director's decision to the Appeals Committee within 21 days of the date of the notice.

(19) The applicant shall provide a Notice of Appeal in a form provided by the Director to residents within 120m of the location where the event or activity is proposed. Said Notice shall be provided in accordance with subsection 8(9).

(20) An application for an appeal shall be made to the Director, in writing, and shall include:

(a) the reasons why the appeal should be granted;

(b) a copy of the Notice of Appeal the applicant provided to all residents within 120 metres of the location where the event or activity is proposed;

(c) a copy of the mailing list indicating where the Notice of Appeal was sent;

(d) other information that the Director may from time to time request; and

(e) the appeal fee set out in the Rates and Fees Schedule.

(21) Once all of the information required by subsection 8(20) is received from the applicant, the Director shall refer the application for an appeal to the Town Clerk who will schedule a hearing of the Appeals Committee.

(22) In determining whether to grant an appeal, the Appeals Committee shall consider the following:

(a) whether there are any objections from residents who were provided Notice of the Appeal in accordance with subsection 8(19); and

(b) whether the applicant has complied with all terms and conditions of approval of any previous permit issued to the applicant under this By-law, if any.

(23) The Appeals Committee may make a decision to either:

(a) grant the appeal, subject to conditions it may deem appropriate;

(b) deny the appeal;

(c) affirm or reverse the Director's decision to refuse to grant a noise exemption permit; or

(d) affirm, change or reverse any conditions imposed on a noise exemption permit by the Director.

(24) The Appeals Committee's decision shall be final and binding and is not subject to further appeal or review.

(25) Should an applicant not request an appeal of the Director's decision to refuse to grant a noise exemption permit, or should the applicant fail to submit their appeal in accordance with subsection 8(18), the Director's decision shall be final and binding.

(26) Breach by the applicant of any of the terms or conditions of the noise exemption permit shall render the permit null and void.

9. Order to Comply

(1) If an Officer is satisfied that this By-law has been contravened, the Officer may issue an Order to Comply requiring the person contravening this By-law or the owner or occupier of the land on which the contravention occurred to discontinue the contravention.

(2) The provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law shall apply to an Order to Comply issued in accordance with this By-law.

(3) Any person who contravenes an Order to Comply under this By-law is guilty of an offence.

(4) The Town may take remedial action as set out in the Administrative Penalties for Non-Parking Violations and Orders By-law if a person fails to do a matter or thing as directed or required by this By-law, including complying with an Order to Comply issued under this By-law.

10. Administrative Penalties

(1) An Officer who finds or has reasonable cause to believe that a person has contravened any provision of this By-law may issue a penalty notice to the person.

(2) Each person who has been issued a penalty notice shall, upon issuance of the penalty notice, be liable to pay an administrative penalty to the Town in the amount of $300 or as revised in the Rates and Fees Schedule.

(3) If an Officer has issued a penalty notice under subsection 10(1) of this By-law and has reasonable cause to believe that the same person has contravened the same provisions of this By-law for a second time within twenty-four (24) months of the date the first penalty notice is deemed to be served, the Officer may issue a second penalty notice to the person.

(4) Upon issuance of the second penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of $400 or as revised in the Rates and Fees Schedule.

(5) If an Officer has issued a penalty notice under subsection 10(3) of this By-law and has reasonable cause to believe that the same person has contravened the same provision of this By-law for a third or subsequent time within twenty-four (24) months of the date the second penalty notice is deemed to be served, the Officer may issue a third or subsequent penalty notice to the person.

(6) Upon issuance of a third or subsequent penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of $500 or as set out in the Rates and Fees Schedule.

(7) Despite subsections 10(1) to 10(6), an Officer who finds or has reasonable cause to believe that a person has contravened any construction noise provisions of this By-law or has failed to comply with a noise exemption permit for construction noise may issue a penalty notice to the person.

(a) Each person who has been issued a penalty notice shall, upon issuance of the penalty notice, be liable to pay an administrative penalty to the Town in the amount of $500 or as revised in the Rates and Fees Schedule.

(b) If an Officer has issued a penalty notice under subsection 10(7) of this By-law and has reasonable cause to believe that the same person has contravened the same provisions of this By-law for a second time within twenty-four (24) months of the date the first penalty notice is deemed to be served, the Officer may issue a second penalty notice to the person.

(c) Upon issuance of the second penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of $750 or as revised in the Rates and Fees Schedule.

(d) If an Officer has issued a penalty notice under subsection 10(7)(b) of this By-law and has reasonable cause to believe that the same person has contravened the same provision of this By-law for a third or subsequent time within twenty-four (24) months of the date the second penalty notice is deemed to be served, the Officer may issue a third or subsequent penalty notice to the person.

(e) Upon issuance of a third or subsequent penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of $1,000 or as set out in the Rates and Fees Schedule.

(8) A person who has been issued a penalty notice under this By-law may request a review of the penalty notice in accordance with the Administrative Penalties for Non-Parking Violations and Orders By-law.

11. Service and Notice

(1) Service of any penalty notice, Order to Comply or any other notice may be given as specified in the Administrative Penalties for Non-Parking Violations and Orders By-law.

12. Enforcement and Administration

(1) The Director shall administer and enforce this By-law.

(2) Municipal law enforcement officers employed by the Town and police constables who are members of the Halton Regional Police Services are hereby authorized to enforce this By-law.

(3) An Officer may, at all reasonable times, enter upon land for the purpose of carrying out an inspection to determine compliance with this By-law. Officers are empowered for the purpose of inspection to make examinations or take tests, samples or photographs alone or in conjunction with a Person possessing special or expert knowledge.

(4) No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law.

(5) Any person who is alleged to have contravened any of the provisions of this By-law shall identify themself to the Officer upon request. Failure to identify upon request shall be deemed as obstruction of the Officer.

(6) The owner of any real property, as registered on title at the Land Registry Office, is ultimately responsible for all activities on the property which may constitute prohibitions of this By-law.

(7) Where the municipal law enforcement officer determines that an activity producing noise or sound is not in compliance with this By-law or with an Order to Comply, the fee or charge set out in the Rates and Fees Schedule for inspection may be imposed on the owner, occupier, person responsible for the noise or sound, or temporary noise permit holder.

13. Penalties

(1) Every person who contravenes any of the provisions of this By-law is guilty of an offence and pursuant to section 429(2)(a) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, all contraventions of this By-law are designated as continuing offences.

(2) Every person who is convicted of an offence is liable to a fine of not less than $300 and not more than $25,000 for a first offence and a fine of not less than $300 to a maximum fine of $50,000 for a subsequent offence. If a corporation has contravened a provision of this By-law, including an Order to Comply issued under this By-law, every director and officer who knowingly concurred in such a contravention is guilty of an offence.

(3) Every corporation who is convicted of an offence is liable to a maximum fine of $50,000 for a first offence and a maximum fine of $100,000 for a subsequent offence.

(4) In addition to the fine amounts set out in subsections 13(1) and 13(3), for each day or part of a day that an offence continues, the minimum fine shall be $300 and the maximum fine shall be $10,000. The total of all daily fines for the offence is not limited to $100,000.

14. Severability

(1) 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 the remainder of the By-law shall be valid and shall remain in force.

15. References

(1) References in this By-law to any legislation or by-law means as may be amended or replaced from time to time, and includes any regulations thereunder.

16. Title

(1) This By-law may be cited as the “Noise By-law”.

17. Repeal

(1) By-law 2008-098, By-law 2009-081, By-law 2011-100, By-law 2013-028 and By-law 2016-016 are hereby repealed effective 12:01 a.m. on April 1, 2025.

18. Effective Date

(1) This By-law comes into force and effect at 12:01 a.m. on the 1st day of April, 2025.

PASSED this 18th day of November, 2024

_____		_____	
Rob Burton	Mayor	Vicki Tytaneck	Town Clerk