

TOWN OF LADYSMITH

BYLAW NO. 1478

A Bylaw for abatement and control of noise in the Town of Ladysmith

The Municipal Council of the Town of Ladysmith in open meeting assembled enacts as follows:

1. DEFINITIONS

In this Bylaw, unless the context otherwise requires:

- a) **CONTINUOUS SOUND** means any sound occurring for a duration of more than 3 Minutes, or occurring continually, sporadically or erratically but totaling more than 3 minutes in any 15 minute period of time;
- b) **DECIBEL** means the ratio between levels of sound pressure expressed as 20 times the logarithm to the base of 10 of the said ratio;
- c) **DULY AUTHORIZED** means authorized by the Municipality;
- d) **FARM LAND** means land classified as a farm pursuant to the provisions of the *Assessment Act*;
- e) **HEAT PUMP** means a device which has the capability to transfer heat from the air outside a building or structure to the air inside a building or structure or vice versa, by means of a compressible refrigerant and includes an air conditioner, condenser, compressor, refrigeration unit and all equipment and devices accessory thereto;
- f) **MOTOR BOAT** means a vessel which is propelled by an internal combustion engine;
- g) **MUNICIPALITY** means the Town of Ladysmith
- h) **POINT OF RECEPTION** means:
 - i any place on a parcel where sound originating from any source, other than a source on such parcel, is received; or
 - ii any place on a highway sound is received;
- i) **QUIET ZONE** means any area of land or highway included within any zone under the provisions of the Zoning Bylaw of the Municipality in effect from time to time other than land in an Industrial Zone or Commercial Zone on which no residential dwelling units have been constructed;
- j) **SHOPPING CENTRE ZONE** means the C-2 and C-3 Zone in the area commonly referred to as "Coronation Square Mall" under the Zoning Bylaw of the Town of Ladysmith or any successor bylaw;
- k) **SOUND** means the oscillation in pressure, stress, particle displacement or particle velocity, in a medium with internal forces (i.e. elastic, viscous) or the super position of such propagated oscillations, which oscillations are capable of causing an auditory sensation;
- l) **SOUND LEVEL** is the average of the medians of 5 or more sets of lower and upper measurements of a series of A-weighted sound pressure levels read or recorded at a point of reception on a slow response of a sound level meter;
- m) **SOUND LEVEL METER** means a sound measuring device designated to meet the American National Standard A.N.S.I. S14-1971 or the C.S.A. Standard Z107.1-1973, as the same may exist from time to time and specifically shall include:

- .i Bruel and Kjaer – Sound Level Meter types 2205, 2208, 2213 and types 2203, 2204, 2206 and 2209, calibrated with a Bruel and Kjaer Sound Level Calibrator type 4230 or Pistophone type 4220;
 - .ii General Radio – Sound Level Meter model 156-B, 1511-C and model 1933 calibrated with a General Radio Sound Level Calibrator model 1562-A.
 - .iii Quest Electronics model 214 Sound Level Meter calibrated with a Quest Electronics Calibrator model CA-12.
- n) **STRUCTURE** means any construction, except a building, affixed to or sunk into land; includes fences and walls and excludes paved parking surfaces, on-grade patios and boats.
- o) **WATER PUMP** means a pump, which circulates water in a swimming pool or hot tub.
- p) **PERSONAL WATER CRAFT** means a vessel less than 4 m (13.1 ft.) in length, without a cockpit, propelled by equipment which includes an internal combustion engine and a jet pump and which is designed to be operated by a person sitting, standing or kneeling on the vessel.
- q) **MOTOR VEHICLE** means a vehicle, not run upon rails, that is designed to be self-propelled.
- r) **ROAD SURFACE** means gravel, asphalt, cement or material or any kind whatsoever placed upon any road, highway, bridge, viaduct, land or any way designed or intended for use by the general public for the passage of vehicles and every private place or passage-way to which the public, for the purpose of the parking or servicing of vehicles, has access or is invited

2. **GENERAL PROHIBITION**

- a) No person shall make or cause to be made any noise or sound in or on a highway or elsewhere in the Municipality which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity thereof.
- b) No person shall shout, use a megaphone or make other noise in or at or on streets, wharves, docks, piers, railway stations, or other public places which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity thereof.

3. **PRIVATE PROPERTY**

No person, being the owner or occupier or being in possession or control of real property shall suffer or permit any person to make or cause to be made any noise or sound therein or thereon which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity thereof.

4. **ANIMALS**

No person shall harbour or keep any animal or bird which by causing frequent or loud noise disturbs the quiet, rest, enjoyment, comfort or convenience of the neighbourhood or of persons at or near the source of such noise or sound.

5. **DOGS**

- a) The sound made by a dog barking, howling or creating any kind of sound continually or sporadically or erratically for any period of time in excess of ten minutes is, in the opinion of Council, an objectionable noise.

- b) It shall be unlawful for any person to harbour or keep a dog, which shall make an objectionable noise by barking, howling or creating any kind of sound continually or sporadically or erratically for any period of time in excess of ten minutes.

6. MOTOR BOAT

- a) No person shall launch a motor boat from any lands in the Municipality or remove a motor boat from any body of water onto any lands within the Municipality if that motor boat is equipped with an exhaust system that permits the exhaust gases from the engine to be expelled directly into the air and without first passing through water, unless the motor boat is equipped with a muffling device that ensures that the exhaust gases from the engine are cooled and expelled without excessive noise.
- b) No person shall use or operate a motor boat anywhere in the Municipality if that motor boat is equipped with an exhaust system that permits the exhaust gases from the engine to be expelled directly into the air and without first passing through water, unless the motor boat is equipped with a muffling device which ensures that the exhaust gases from the engine are cooled and expelled without excessive noise.
- c) Notwithstanding anything contained in this bylaw to the contrary, the Council, may, by Resolution, grant a permit for a race or regatta and in such event any motor boat competing in such race or regatta may be exempted from the provisions of this bylaw.

6.1 PERSONAL WATER CRAFT

- a) The Council believes that the noises produced by the operation of personal water craft in front of Transfer Beach Park are objectionable and liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals and members of the public within 25 metres of Transfer Beach Park.
- b) No person shall make noise by operating a personal water craft within 25 metres of Transfer Beach Park.

7. HEAT PUMPS AND WATER PUMPS

- a) The Council is of the opinion that the operation of a heat pump or water pump resulting in a sound level at a point of reception located in a Quiet Zone in excess of 50 decibels between 7:00 a.m. and 10:00 p.m. on any day, or in excess of 45 decibels between 10:00 p.m. and 7:00 a.m. of the following day is objectionable and liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public.
- b) No person shall emit or cause, suffer or permit the emission of sound from the operation of a heat pump or a water pump resulting in a sound level at a point of reception located in a Quiet Zone in excess of:
 - i. 50 decibels between 7:00 a.m. and 10:00 p.m. on any day, or
 - ii. 45 decibels between 10:00 p.m. and 7:00 a.m. of the following day.

7.1 ENGINE RETARDANT BRAKES

- a) The Council believes that the noise produced by the use of an engine retardant brake on a motor vehicle on any highway in the Town of Ladysmith is objectionable and liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals and members of the public.
- b) No person shall use an engine retardant brake while operating a motor vehicle on a highway in the Town of Ladysmith except to assist in stopping or slowing down the vehicle in an emergency.

8. SHOPPING CENTRES

- a) No person shall make, cause or permit to be made or caused continuous sound on any land within a Shopping Centre Zone, the sound level of which exceeds 58 decibels measured at a point of reception in a Quiet Zone any time between 9:00 a.m. and 10:00 p.m.
- b) Sections 2 and 3 of this bylaw shall not apply to any continuous sound made in a Shopping Centre Zone between 9:00 a.m. and 10:00 p.m. which does not exceed 58 decibels measured at a point of reception in a Quiet Zone.
- c) The provisions of Section 8 of this bylaw shall not apply to:
 - .i the sound emitted from a heat pump or water pump, or
 - .ii sounds caused by building or property maintenance or repair activities.

9. MOTOR VEHICLES

The following noises are, in the opinion of the Council of the Town of Ladysmith, objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public:

- (a) the squeal of a tire on a road surface made by a motor vehicle which is accelerating or changing direction;
- (b) a loud, roaring or explosive sound emitted by a motor vehicle;
- (c) the amplified sound of a radio, television, player or other sound playback device or amplification equipment, or the sound of a musical instrument, that emanates from a motor vehicle and can easily be heard by someone outside the motor vehicle;
- (d) the sound from vehicle-mounted sound amplification equipment which is continuously made for more than two (2) minutes at the same location;
- (e) the sound of an automobile security system which is made, either continuously or intermittently, for a period exceeding one minute, or the sound of an automobile security system, but not including its activation status signal, which is made more than three times in a 24-hour period.

No person shall make or cause to be made any objectionable noise set forth in Section 9 hereof.

No person shall operate a motor vehicle so as to cause a nuisance by noise there from.

No person shall use or operate a horn or other warning device on a motor vehicle for any purpose other than as an audible warning incidental to the safe operation of the motor vehicle.

The prohibitions contained in this section shall not apply to participants in a motor vehicle race or a parade provided such race or parade has first been approved by Town Council.

10. SOUND MEASUREMENT

A sound level measurement shall be sufficient for all purposes if it is carried out in accordance with the following:

- a) sound level measurements shall be taken with a sound level meter;
- b) sound levels shall be measured on the A-weighted network and the slow meter response;
- c) the sound level meter shall be complete with calibrator and windscreen and shall be operated in the following manner:

- i. Sound level meters shall be used and operated in accordance with manufacturer's instructions. The sound level meter shall be calibrated before and after readings have been taken.
- ii. When determining the sound level from a source, the ambient or background noise or sound level shall be established at the appropriate position and during the relevant period of time wherever possible before taking sound measurements from the source. No measurement shall be attempted if the difference is 3 decibels or less.
- iii. Sound measurements shall be made at a distance of approximately 10 feet from any wall, buildings or other reflecting structures, with the microphone appropriately oriented to eliminate as much as possible all reflected sound.

11. INTERPRETATION

Where any word or term or name or abbreviated word or abbreviated term or abbreviated name that is not defined in this bylaw, or where any technical standard or abbreviated technical standard that is not set out in this bylaw, is used in this bylaw, such work, term, name, abbreviated word, abbreviated term, abbreviated name, technical standard or abbreviated-technical standard shall be interpreted by reference to the definitions and technical standards last published by the Canadian Standards Association (C.S.A.), or by the American National Standards Institute (A.N.S.I.), or by the International Organization for Standardization (I.O.S.) or by the International Electro-Technical Commission (I.E.C.) or by the Society of Automotive Engineers (S.A.E.) or by the Machinery and Equipment Manufacturers' Association of Canada (M.E.M.A.C.) as the context of this bylaw and the case may require.

12. EXEMPT NOISE

The provisions of this bylaw shall not apply to:

- a) The use, in a reasonable manner, of any apparatus or mechanism for the amplification of the human voice or of music in a public park or square in connection with any duly authorized public meeting, public celebration or other public gathering.
- b) Any duly authorized parade or performance by a military or other band.
- c) Any vehicle or equipment of the Municipality, the Police Department or any other public body engaged in carrying out a public service or carrying out work in or on a highway, park or the Municipal Public Works Yard.
- d) The sounding of a horn or other signaling device on any vehicle, boat or train where such sounding is properly and necessarily used as a danger or warning signal.
- e) The erection, demolition, construction, reconstruction, altering or repairing of any building or other structure within the Municipality or the excavating of any street, highway, lane or any other land between the hours of 7:00 a.m. and 6:00 p.m. on each day except Sunday, or in the case of urgent necessity, at any other time during the week if such work is essential to the health, safety or protection of the public.
- f) Persons and their agents, servants and employees or independent contractors under contract therewith and their agents, servants, and employees who are engaged in work of an essential or emergency nature and being done for the primary purpose of ensuring the health, safety or welfare of the residents of the Municipality.
- g) The use of bells or chimes on churches or any public body.
- h) Any delivery or collection service between the hours of 6:00 a.m. and 9:00 p.m. on each day except Sunday and any statutory holiday in any commercial, industrial or public zone as defined in the Zoning Bylaws of the Municipality, and between the

hours of 7:00 a.m. and 9:00 p.m. on each day except Sunday and any statutory holiday in all other districts defined in the said Zoning Bylaw.

- i) Any sound or noise caused by a farming activity carried out in a reasonable manner on farmland between the hours of 7:00 a.m. and 9:00 p.m.
 - j) Any sound or noise caused by a farming activity carried out in a reasonable manner on farmland between the hours of 9:00 p.m. and 7:00 a.m. if:
 - .i in the circumstances it is essential that the activity take place during such hours;
 - .ii the activity must, in accordance with sound farming practice, take place between such hours.
 - k) The use of a lawnmower between the hours of 8:00 a.m. and 9:00 p.m. on any day.
 - l) Any sound or noise caused by blasting or the operation of drills, compressors or other equipment used to prepare land for blasting between the hours of 8:00 a.m. and 5:00 p.m. on each day except Sunday or a statutory holidays.
13. Notwithstanding anything else contained in this bylaw, delivery or collection services to or from the lands and premises described as:

Lots A&B, District Lot 43, Oyster Land District, Plan VIP 70526 (Coronation Square Shopping Centre)

shall be exempt from the provisions of this bylaw between the hours of 8:00 a.m. and 9:00 p.m. on each day except Sundays and statutory holidays and the exemption set out in Section 11(h) of this bylaw shall not apply to these lands and premises.

14. A Peace Officer or Bylaw Enforcement Officer, and any person duly authorized by the Municipality to measure sound levels are hereby authorized to enter, at any reasonable time, upon any property in order to ascertain whether the provisions of this bylaw are being obeyed.

15 **OFFENCE**

Any person who violates any provision of this bylaw is guilty of an offence and liable upon summary conviction to a fine of not less than \$100 or more than \$500 for a first offence and of not less than \$250 or more than \$1,000 for a second or subsequent offence. For the purposes of this Section, an offence shall be deemed to occur upon each day during or on which violation occurs or continues.

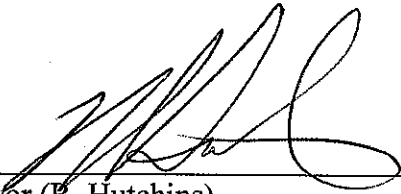
16 **REPEAL**

“Nuisance Regulation Bylaw 1993, No. 1094, Section 2(a)” and “Nuisance Regulation Bylaw 1993, No. 1094, Amendment Bylaw 1994, No. 1132” are hereby repealed.

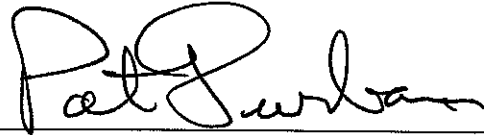
17 **CITATION**

This Bylaw may be cited for all purposes as “NOISE SUPPRESSION BYLAW 2003, NO. 1478”.

READ A FIRST TIME on the	3 rd	day of	FEBRUARY, 2003
READ A SECOND TIME on the	3 rd	day of	FEBRUARY, 2003
READ A THIRD TIME on the	17 th	day of	FEBRUARY, 2003
ADOPTED on the	03 rd	day of	MARCH, 2003



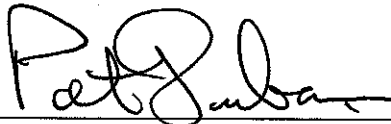
Mayor (R. Hutchins)



Manager of Corporate Services (P. Durban)



I hereby certify this to be a true and correct
Copy of "Noise Suppression Bylaw 2003,
No. 1478".



Manager of Corporate Services