

City of Brockville

Ontario, Canada



**A By-Law to
Control Noise in the City of Brockville**

**By-Law No. 090-2013
Consolidated Copy**

Enacted by Council October 22, 2013

The Corporation of the City of Brockville
By-law Number 090-2013 (as amended)

A By-law to Control Noise in the City of Brockville (as amended by By-law 103-2013)

WHEREAS Section 128 of the Municipal Act, 2001, provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that in the opinion of Council are or could become public nuisances;

AND WHEREAS Section 129 of the Municipal Act, 2001, provides that a municipality may pass bylaws to prohibit and regulate with respect to noise;

AND WHEREAS in the opinion of Council for the Corporation of the City of Brockville, excessive sounds and inadequately controlled noise may impair public health, safety and welfare and could become a public nuisance;

AND WHEREAS in the opinion of Council for the Corporation of the City of Brockville, that to do the benefit of individuals and the public at large, there must be regulations and prohibitions to the making of noise;

NOW THEREFORE, the Council of the Corporation of the City of Brockville enacts as follows:

(1) **Interpretation**

In this by-law,

(a) "approved sound meter" shall mean an instrument meeting American National Standard Institute's Standard SI-4-1971 or the most recent revision thereof for Type 1 or Type 2 sound meters, or an instrument and the associated recording and analyzing equipment that will provide equivalent data;

(b) **Construction**
"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, 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;

(c) **Construction Equipment**
"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, heaters, fans, boilers, off-highways haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment;

(d) **Conveyance**
"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 premises of a person;

- (e) Council
“Council” means the Council of the Corporation of the Municipality of Brockville;
- (f) dBA
“dBA” means the sound level in decibels obtained when using a sound level meter with the A-weighting;
- (g) Highway
“highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicles;
- (h) Minister
“Minister” means Minister of the Environment;
- (i) Ministry
“Ministry” means Ministry of the Environment;
- (j) Motor Vehicle
“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 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;
- (k) Motorized Conveyance
“motorized conveyance” means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- (l) Municipality
“municipality” means the land within the geographic limit of the Municipality of Brockville;
- (m) Noise
“noise” means unwanted sound prohibited in this by-law;
- (n) Persistent
“persistent” means continuing to exist or endure over a prolonged period exceeding 15 minutes.
- (o) Point of Reception
“point of reception” means any point on the premises of a person where sound originating from other than those premises is received;
- (p) “sound level” shall mean the total sound level in decibels of all sound as measured with an approved sound meter with a reference pressure of 20 micro-pascals using the “A” weighted network (scale) at slow response. The unit of measurement shall be defined as dB(A) or dBA.

(2) **Zones**

In this by-law

(a) **Residential Area**

“Residential Area” means those areas of the municipality specified as follows:
“residential area” means any area in the City of Brockville designated for residential use in any by-law in force from time to time passed pursuant to section 34 of the Planning Act, R.S.O. 1990, c.P.13, or any predecessor or successor of that section.

(b) **Quiet Zone**

“Quiet Zone” means those areas of the municipality specified as follows:
“quiet zone” means an area of the municipality so designated by Council in Appendix A of this by-law as a place where quiet is of a particular importance, such as, but not limited to, the immediate vicinity of a hospital.

(c) **Agricultural Area**

“Agricultural Area” means those areas of the municipality specified as follows:
“agricultural area” means any area in the City of Brockville designated for agricultural use in any by-law in force from time to time passed pursuant to section 34 of the Planning Act, R.S.O. 1990, c.P.13, or any predecessor or successor of that section.

2. Administration and Delegation of Authority

- (1) The Planning Department is responsible for the administration of this by-law.
- (2) All Peace Officers, Provincial Offences Officers and Municipal Law Enforcement Officers with the authority to enforce the by-laws of the Municipality are responsible for enforcing the provisions of this by-law.
- (3) The Chief Planning Officer or his/her designate is delegated the authority to grant temporary exemptions to this by-law.

3. General prohibitions

No person shall emit or cause or permit the emission of sound resulting from an act listed herein, and which sound is clearly audible at a point of reception:

- (1) Racing of any motorized conveyance other than in a racing event regulated by law.
- (2) The operation of a motor vehicle in such a way that the tires squeal.
- (3) The operation of a residential air conditioner, pool pump or filter, heat pump or the like that is not in proper working order and exceeds 50 dBA;
- (4) The operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in good working order.

- (5) The operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to improperly secured load or equipment, or inadequate maintenance.
- (6) 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 (5) minutes, while such vehicle is stationary in a Residential Area or a Quiet Zone 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 and 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.
- (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 any item of construction equipment in a Quiet Zone or Residential Area without effective muffling devices in good working order.
- (9) Use of construction equipment shall not create noise likely to cause a nuisance or disturb the inhabitants or exceed 85 dBA when measured at the point of reception.

4. Exemption

Public Safety

Notwithstanding any other provision of this by-law, it shall be lawful during an emergency 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 or any of them: or,

- (b) for the preservation or restoration of property; unless such sound is clearly of a longer duration or nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

5. Grant of Exemption

(1) Application for Temporary Exemption (up to 3 months)

(1) Application

Notwithstanding anything contained in this by-law, any person may make application to the Chief Planning Officer to be granted an exemption from any of the provisions of this by-law.

The application shall be made in writing at least thirty (30) days prior to the event or activity and shall contain, at a minimum, the following information:

- a) the name and address of the applicant;
- b) the name and address of the organization represented by the applicant, if applicable;
- c) a description of the source of sound in respect of which the exemption is sought;
- d) a drawing of the proposed property showing the location of the noise source that is the subject of the exemption and the distance to the nearest residential use that may be effected;
- e) the particular provision or provisions of the by-law from which the exemption is sought;
- f) the period of time, of a duration not in excess of three (3) months, for which the exemption is sought;
- g) the location of the event or activity for which the exemption is sought;
- h) the reason why the exemption should be granted; and,
- i) the applicable fee as set out in the City's Fee By-law.

(2) Decision

In deciding whether to grant the exemption, the Chief Planning Officer or his/her designate may require that notification be given.

The Chief Planning Officer or his/her designate 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 the time period, not in excess of three (3) months, during which it is effective and may contain such terms and conditions as the Chief Planning Officer or his/her designate sees fit.

(3) Appeals

Where the Chief Planning Officer or his/her designate refuses to grant an exemption under this section, the Chief Planning Officer or his/her designate shall notify in writing, the applicant and any other person who had requested notification, advising them that they may appeal the decision within ten (10) days of the date of the notice.

This appeal shall be requested in writing accompanied by the applicable fee as set out in the City's Fee By-law to the City Clerk of the Corporation of the City of Brockville. The appropriate standing committee shall hold a hearing pursuant to the provisions of the Statutory Powers Procedure Act within thirty (30) working days of the City Clerk's receipt for a hearing.

Such committee may:

- (a) Issue an exemption;
- (b) Refuse to issue an exemption; or
- (c) Issue an exemption with conditions

The committee's decision on the appeal is final.

(4) Appeal of Conditions of Approval

Where the Chief Planning Officer or his/her designate grants an exemption with conditions under this section, the Chief Planning Officer or his/her designate shall notify in writing, the applicant and any other person who had requested notification, advising them that they may appeal the decision within ten (10) days of the date of the notice.

This appeal shall be requested in writing accompanied by the applicable fee as set out in the City's Fee By-law to the City Clerk of the Corporation of the City of Brockville. The appropriate standing committee shall hold a hearing pursuant to the provisions of the Statutory Powers Procedure Act within thirty (30) working days of the City Clerk's receipt for a hearing.

Such committee may:

- (a) Dismiss the appeal;
- (b) Amend the conditions of approval; or
- (c) Withdraw the approval and refuse the exemption;

The committee's decision on the appeal is final.

(5) Breach

Breach by the applicant of any of the terms or conditions of any exemption granted shall render the exemption null and void.

(2) Application for Exemption (greater than 3 months)

(1) Application

Notwithstanding anything contained in this by-law, any person may make application to Council to be granted an exemption from any of the provisions of this by-law.

The application shall be made in writing at least sixty (60) days prior to the event or activity and shall contain, at a minimum, the following information:

- a) the name and address of the applicant;
- b) the name and address of the organization represented by the applicant, if applicable;
- c) a description of the source of sound in respect of which the exemption is sought;
- d) a drawing of the proposed property showing the location of the noise source that is the subject of the exemption and the distance to the nearest residential use that may be effected;
- e) the particular provision or provisions of the by-law from which the exemption is sought;
- f) the period of time for which the exemption is sought;
- g) the location of the event or activity for which the exemption is sought;
- h) the reason why the exemption should be granted; and,
- i) the applicable fee as set out in the City's Fee By-law.

(2) Decision

In deciding whether to grant the exemption, notification is to be given to persons within 120.0 metres (393.0 feet) in order to provide those persons in support or opposed to the application an opportunity to be heard and may consider such other matters as Council sees fit.

Council 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 the time period during which it is effective and may contain such terms and conditions as Council sees fit.

Council's decision to issue an exemption, refuse to issue an exemption or to set terms and conditions for the exemption is final.

(3) Breach

Breach by the applicant of any of the terms or conditions of any exemption granted shall render the exemption null and void.

6. Exemption of Traditional, Festive or Religious Activities

Notwithstanding any other provision of this by-law, this by-law does not apply to a person who emits or causes or permits the emission of sound in connection with any of the listed traditional, festive, religious and other activities.

- (1) Festivities in connection with statutory holidays.
- (2) Official City festivities or festivities authorized by the City.
- (3) The use of bells or chimes normally associated with municipal or church activities.
- (4) The collection of Municipal garbage and refuse by or on behalf of the City of Brockville.
- (5) The plowing and removal of snow by or on behalf of the City of Brockville.

- (6) The sanding and salting of roads and sidewalks by or on behalf of the City of Brockville.
- (7) The sweeping of streets by or on behalf of the City of Brockville.
- (8) Any road and sewer maintenance activities by, or on behalf of, the City of Brockville.

7. Prohibitions by Time, Place and Sound Levels

- (a) No person shall emit or cause or permit the emission of sound resulting from any act listed in Table 1 if clearly audible at a point of reception located in an area of the municipality indicated within a prohibited time shown for such an area.
- (b) No person shall make, cause or permit to be made within the City of Brockville a continuous sound with a sound level that, measured at a point of reception on an approved sound meter, exceeds allowable sound levels noted in Table 2.

8. Severability

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.

9. Offence and Penalty Provisions

Any person who contravenes and provision of this By-law is guilty of an offence and, upon conviction, is subject to a fine as provided in the *Provincial Offences Act*, as amended, and to any other applicable penalties.

10. Site Specific Exemptions

- 1) That Black & Decker Canada Inc. be granted relief to this by-law with respect to snow plowing at the location known municipally as 100 Central Avenue, Brockville.

11. Short Title

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

12. Repeal

That the City of Brockville By-law 138-80 be repealed.

Given Under the Seal of the Corporation of the
City of Brockville
and Passed this 10th, day of December, 2013

[sign by: D. Henderson]

Mayor

[signed by: S.M. Seale]

City Clerk

Table 1
PROHIBITIONS BY TIME, PLACE and SOUND LEVELS

	Prohibited period of Time, Place and Sound Levels	
	<u>Quiet Zone</u>	<u>Residential Area</u>
1. The detonation of fireworks or explosive devices not used in construction.	At all times	At all times
2. The discharge of firearms.	At all times	At all times
3. The operation of a combustion engine which, (i) is, or (ii) is used in, or (iii) is intended for use in, a toy, or a model or replica of any device, which model or replica has no function other than amusement and which is not a conveyance.	At all times	At all times
4. 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 which may include music.	At all times	B
5. The operation of any auditory signalling 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 or authorized by law or in accordance with good safety practices.	At all times	D & E
6. The operation of any powered rail car including but not limited to refrigeration cars, locomotives or self-propelled passenger cars, while stationary on property not owned or controlled by a railway governed by the Canada Railway Act.	At all times	B
7. The operation of any motorized conveyance other than on a highway or other place intended for its operation.	At all times	B

	Prohibited period of Time, Place and Sound Levels	
	<u>Quiet Zone</u>	<u>Residential Area</u>
8. The venting, release or pressure relief of air, steam or other gaseous material, product or compound from any autoclave, boiler, pressure vessel, pipe, valve, machine, device or system.	At all times	A
9. Persistent barking, calling or whining or other similar persistent noise making by any domestic pet.	At all times	A
10. The operation of a commercial car wash with air drying equipment.	At all times	D & E
11. Yelling, shouting, hooting, whistling, or singing.	At all times	A
12. The operation of a power assisted hang glider or parafoil.	At all times	D & E
13. The operation of any item of snow making equipment.	At all times	E
14. All selling or advertising by shouting or outcry or amplified sound.	At all times	D & E
15. 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.	D & E	D & E
16. The operation of any equipment in connection with construction.	D & E	D & E
17. The operation or use of any tool for domestic purposes other than snow removal.	C	B
18. The operation of a commercial car wash of a type other than mentioned in item 10.	C	A

Suggested Restricted Times:

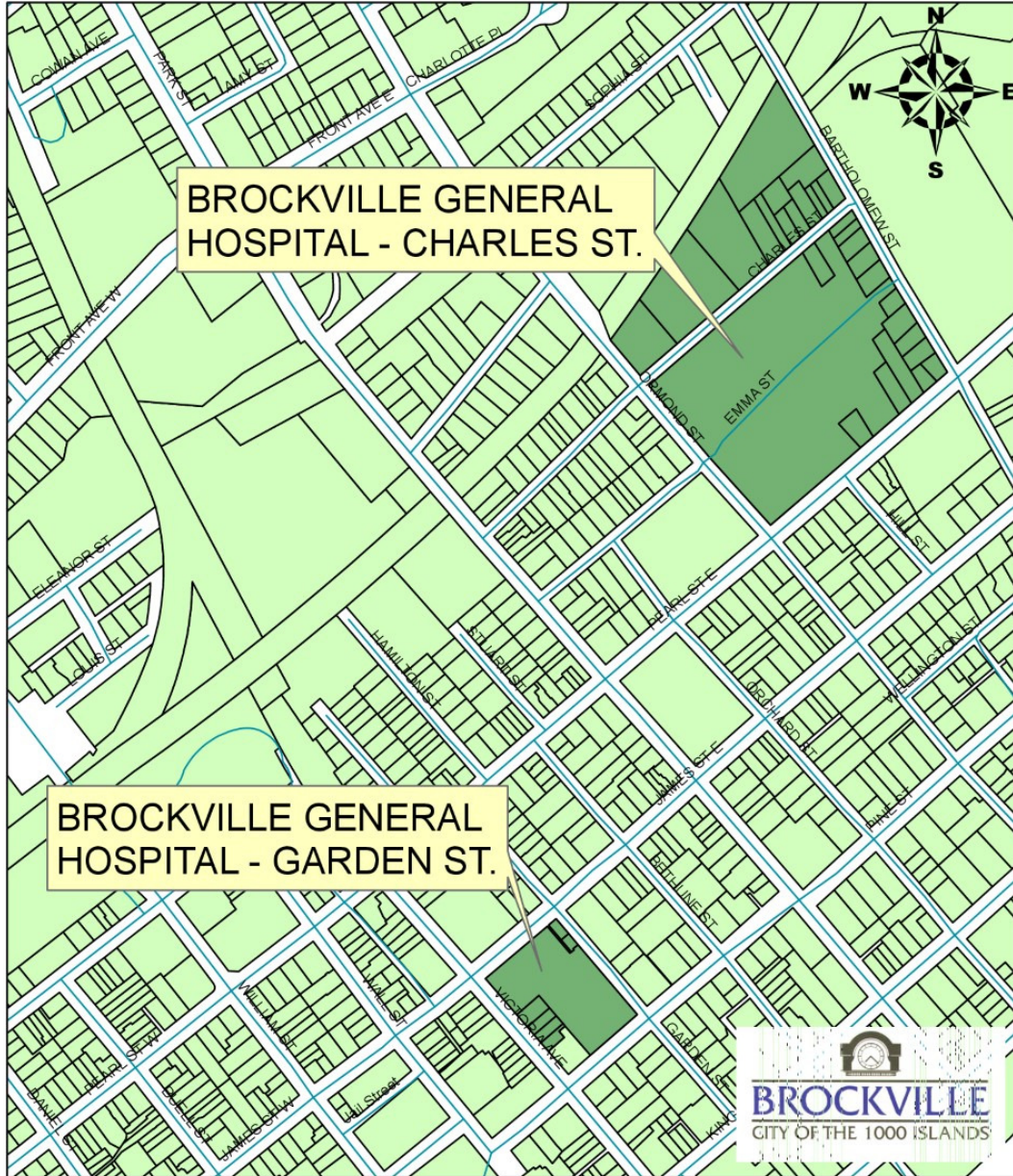
- A** 23:00 one day to 07:00 next day (09:00 Sundays)
- B** 21:00 one day to 07:00 next day (09:00 Sundays)
- C** 17:00 one day to 07:00 next day (09:00 Sundays)
- D** All day Sundays and Statutory Holidays
- E** 19:00 one day to 07:00 next day.

Table 2

PROHIBITIONS BY TIME, PLACE and SOUND LEVELS

Type of Land Use	Time Interval	Maximum Allowable Sound Level (dbA)
Residential	Night-time	50
	Daytime	55
Quiet Zone	Night-time	50
	Daytime	50
Agricultural	Night-time	65
	Daytime	70

CITY OF BROCKVILLE NOISE BY-LAW 090-2013 APPENDIX A



0 45 90 180 270 Meters