

TO:	CHAIR AND MEMBERS COMMUNITY AND PROTECTIVE SERVICES MEETING ON JULY 16TH, 2018
FROM:	G. KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL
SUBJECT:	By-law Amendments to the Sound By-law PW-12 and to the Public Nuisance By-law PH-18 Public Messaging in the Community - Nuisances

RECOMMENDATION

That on the Recommendation of the Managing Director, Development & Compliance Services and the Chief Building Official, the following actions be taken to amend various City of London by-laws:

- a) the attached proposed by-law (Appendix A) **BE INTRODUCED** at the Municipal Council meeting to be held July 24th, 2018 to amend the Sound By-law, PW-12 to include a new type of Temporary Noise Exemption Permit; (Schedule A) being the draft by-law in consolidated version, and
- b) the attached proposed by-law (Appendix B) **BE INTRODUCED** at the Municipal Council meeting to be held on July 24th, 2018 to amend the Public Nuisance By-law No. PH-18 to include regulations for live speech public messaging in the community, (Schedule A) being the draft by-law in consolidated version.

PREVIOUS REPORTS

Community and Protective Services Committee on Public Messaging in the Community - Nuisances held May 29th, 2018

BACKGROUND

Municipal Council, at its meeting held on June 12th, 2018 resolved:

That, on the recommendation of the Managing Director, Development and Compliance Services and Chief Building Official, the following actions be taken with respect to public messaging in public spaces:

- a) *the staff report dated May 29, 2018 BE RECEIVED;*
- b) *the Civic Administration BE DIRECTED to draft by-law amendments, for consideration, as soon as possible, by the Community and Protective Services Committee, to:*
 - i) *amend the Public Nuisance By-law to regulate abusive or insulting language that unnecessarily interferes with the use and enjoyment of public space by other persons; and,*
 - ii) *amend the Sound By-law to regulate amplified live speech; and,*
- c) *the City Solicitor BE REQUESTED to provide a companion legal report for the proposed amendments noted in the above, including Charter challenges, as appropriate;*

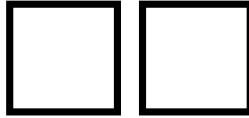
--	--

CONCLUSION

Civic Administration recommends the proposed amendments be adopted to regulate amplified live speech and to address public messaging in the community that has been deemed a nuisance due to the use of personal invective which is affecting citizen and visitor enjoyment of London’s public spaces.

PREPARED BY:	
H. CHAPMAN, MANAGER MUNICIPAL LAW ENFORCEMENT SERVICES	
CONCURRED BY:	RECOMMENDED BY:
O. KATOLYK, CHIEF MUNICIPAL LAW ENFORCEMENT OFFICER	G. KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL

cc: L. Marshall, City Solicitor’s Office



APPENDIX “A”

Bill No.
2018

By-law No.

A By-law to amend By-law PW-12, as amended, entitled “A By-law to provide for the Regulation and Prohibition of Noise and Sound” with respect to Amplified Live Speech

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, provides that a municipal power shall be exercised by by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Section 1.1 of By-law PW-12 is amended by inserting the following new definition of “Amplified Live Speech” after the definition of “Agricultural Operation” as follows:

“Amplified Live Speech” means live speech amplified by any means that is clearly audible at an outdoor public place, but does not include live speech that is incidental to a commercial, industrial, or institutional premise, and does not include live speech amplified by an assistive device used by a person due to a disability;

2. Section 4.1 of By-Law PW-12 is amended by:
 - (i) in the heading of Part 4 inserting the phrase “- **AMPLIFIED LIVE SPEECH**” after the phrase “(CLASS 2)”;
 - (ii) inserting the phrase “or Amplified Live Speech” after the phrase “Community Event (Class 2)” wherever it appears;
 - (iii) deleting the word “and” in subsection 4.1(2)(h);
 - (iv) deleting the “.” at the end of subsection 4.1(2)(i) and replacing it with “; and”;
 - (v) inserting a new subsection 4.1(2)(j), as follows:
 - “(j) despite subsections (h) and (i) of subsection (2), there shall be no fees associated with a permit for Amplified Live Speech.”

3. Subsection 6.1(q) of By-law PW-12 is deleted and replaced with the following new subsections 6.1(q) as follows:

Temporary Noise Permit – Construction – Community Event (Class 2) - Amplified Live Speech

- (q) Construction or a Community Event (Class 2) or Amplified Live Speech, but only if a valid temporary noise permit has been issued, and only if the terms and conditions of the temporary noise permit are complied with;

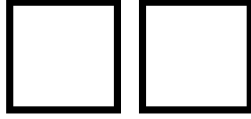
4. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on _____, 2018.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading –
Second Reading –
Third Reading –



SCHEDULE “A”

**Sound By-law
(Consolidated with draft amendments highlighted)**

Bill No. 217
2009

By-law No. PW-12

A by-law to provide for the Regulation and Prohibition of Noise and Sound.

WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: in paragraph 5, Economic, social and environmental well-being of the municipality; in paragraph 6, Health, safety and well-being of persons; in paragraph 7, Services and things that the municipality is authorized to provide under subsection (1); in paragraph 8, Protection of persons and property; in paragraph 9, Animals; in paragraph 9, Structures including fences and signs;

AND WHEREAS section 129 of the *Municipal Act, 2001* provides that, without limiting sections 9 and 10 of the Act, a municipality may: (a) prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors; and (b) prohibit the matters described in clause (a) unless a permit is obtained from the municipality for those matters and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND 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 in the opinion of Council for the City of London, certain kinds of noise are or could become a public nuisance;

AND WHEREAS subsection 391(1) of the *Municipal Act, 2001* provides that a municipality may impose fees and charges on persons,

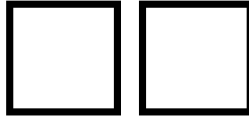
- (a) for services or activities provided or done by or on behalf of it;
- (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and,
- (c) for the use of its property including property under its control;

AND WHEREAS Section 23.2 of the *Municipal Act, 2001* permits a municipality to delegate certain legislative and quasi-judicial powers;

AND WHEREAS section 444 of the *Municipal Act, 2001* provides that the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity, and any person who contravenes such an order is guilty of an offence;

AND WHEREAS section 447.8 of the *Municipal Act, 2001* provides that a by-law of a municipality made under this or any other Act may,

- (a) adopt by reference, in whole or in part, with such changes as the council considers appropriate, any code, standard, procedure or regulation as it stands



at a specific date, as it stands at the time of adoption or as amended from time to time; and

- (b) require compliance with any code, standard, procedure or regulation so adopted;

AND WHEREAS section 195 of the *Highway Traffic Act*, R.S.O. 1990, c. H.8 provides in section 195 that “If a provision of a municipal by-law passed by the council of a municipality...for regulating noise...created by the operation of motor vehicles on the highways...is inconsistent with this Act or the regulations, the provision of the by-law shall be deemed to be repealed upon the inconsistency arising”;

AND WHEREAS section 179 of the *Environmental Protection Act*, R.S.O. 1990, c. E.19 provides in section 179 “Where a conflict appears between any provisions of this Act or the regulations and any other Act or regulation in a matter related to the natural environment or a matter specifically dealt with in this Act or the regulations, the provision of this Act or the regulations shall prevail”;

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

PART 1

DEFINITIONS

1.1 For the purpose of this by-law:

“Agricultural Operation” has the same meaning as contained in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, C. 1, as amended, or any successor legislation;

“Amplified Live Speech” means live speech amplified by any electronic device that is clearly audible at an outdoor public place, but does not include live speech that is incidental to a commercial, industrial, or institutional premise, and does not include live speech amplified by an assistive device used by a person due to a disability;

“Animal” means any member of the animal kingdom, other than a human, and without limiting the generality of the foregoing, includes dogs, cats, and birds;

“City” means The Corporation of the City of London;

“Community Event (Class1)” means: the Western Fair Association’s annual week-long Western Fair held at the Western Fairgrounds; the annual week-long orientation events and campus life events that are held on campus at the University of Western Ontario and affiliated colleges; and the annual week-long orientation events and campus life events that are held on campus at Fanshawe College;

“Community Event (Class 2)” means: an event open to the public, including a public fair, public exhibition, public celebration, public sporting event, public concert; or a university or college event; or a school board event. A Community Event (Class 2) does not include a Special Event or a Community Event (Class 1);

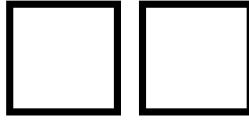
“Construction” includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and highway building, concreting, equipment installation and alteration and the structural installation of construction components and materials in any form for any purpose, and includes any work in connection therewith;

“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;

“Council” means the Council for the City;

“Hearings Officer” means a Hearings Officer appointed under the City’s Hearings Officer By-law A.-6653-121, as amended;

“Manager of By-law Enforcement” means the Manager of By-law Enforcement for the City, or his or her designate;



“Municipality” means the land within the geographic limit of the City of London;

“Normal Farm Practice” has the same meaning as contained in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, C. 1, as amended, or any successor legislation;

“Point of Reception” means any point on the premises where sound originating from other than those premises is received;

“Residential Area” means any area of the Municipality where residential use is permitted under the provisions of the City’s Zoning By-law from time to time, including but not limited to land zoned R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, or R11;

“Rural Area” means land in the Municipality zoned AG, AGC, or UR from time to time under the City’s Zoning By-law;

“Special Event” means a Special Event as defined in the City’s Special Events Policies and Procedures Manual, and that is recognized by the City as a special event;

“Stationary Source” means a source of sound which does not normally move from place to place, and includes the premises of a person as one stationary source unless the dominant source of sound on those premises is Construction or a Conveyance;

1.2 Any word or term not defined in this By-law, that is defined in the Ontario Ministry of the Environment Publication Noise Pollution Control NPC-101, 102, 103, 104, 115, 205, 206, 215 or 232 (as set out in Part 3 of this By-law) shall have the meaning ascribed to it in such NPC Publication.

PART 2 – QUALITATIVE NOISE PROHIBITIONS

General Prohibition

2.1 No person shall make, cause or permit an unreasonable noise, or a noise that is likely to disturb the inhabitants.

Prohibitions - deemed

2.2 Without limiting the generality of section 2.1 of this By-law, the provisions of sections 2.3 through 2.4 shall be deemed to be unreasonable noise, or noise that is likely to disturb the inhabitants.

Prohibitions – deemed - any time, any location

2.3 At any time or location in the Municipality:

Vehicle - Warning Device - Unreasonable Period

(a) the sounding of any bell, horn, siren or other warning device on any motor vehicle or vehicle for an unnecessary or unreasonable period of time, except when permitted by law;

Vehicle - Disrepair - Maladjustment

(b) the grating, grinding or rattling sound caused by the condition of disrepair or maladjustment of any motor vehicle or vehicle or part or accessory thereof;

Vehicle – Load – Improperly Secured

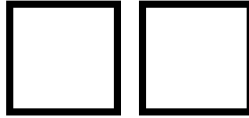
(c) the sound created by the operation of any motor vehicle, trailer or other vehicle bearing material, articles or things that are loaded upon such vehicle in such manner as to create excessive noise;

Vehicle - Exhaust- except through muffling device

(d) the sound from the discharge into the open air of the exhaust of any steam engine, internal combustion engine (including the engine of any motor vehicle), or pneumatic device without an effective exhaust or intake muffling device in good working order and in constant operation that prevents excessive noises that are loud or explosive;

Vehicle - Speakers

(e) the sound from or created by any radio, amplifier, loud speaker, public address system, or equipment, device or instrument that emits sound when the same is used or operated



from any motor vehicle, trailer or vehicle that is clearly audible at least 8 metres (25 feet) from the vehicle;

Attracting attention – to Performance – Advertising

- (f) the sound from or created by any instrument, radio, amplification device, loud speaker, public address system, equipment or device that emits sound when the same is used or operated for the purpose of advertising or for attracting attention to any performance or sale, show or display of goods or services and projects such sound into any street or other public place;

Whistle – attached to boiler – other mechanism

- (g) the sound from any steam whistle or air whistle attached to or used in connection with a boiler or other machine or mechanism, except for the purpose of giving notice of the time to commence or cease work, or as a warning of danger;

Alarm – Warning Device

- (h) the sounding of any alarm, bell, horn, siren or other warning device for an unnecessary or unreasonable period of time.

Prohibitions – deemed - Residential Area

2.4 At the specified times and clearly audible at a Point of Reception in a Residential Area:

Animal – any time

- (a) the persistent sound by any Animal under the care, control or ownership of the person that is clearly audible at a Point of Reception in a Residential Area at any time;

Amplified Sound – television – stereo – speakers – amplifiers – any time

- (b) the sound created by any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers intended for the production, reproduction or amplification of sound, including but not limited to a radio, television, amplifier, loud speaker, public address system, sound equipment, that is clearly audible at a Point of Reception in a Residential Area at any time;

Shouting, Yelling, Loud Hooting, Loud Whistling, Loud Singing – any time

- (c) any shouting, yelling, loud hooting, loud whistling or loud singing that is clearly audible at a Point of Reception in a Residential Area at any time;

Construction – Excavation – 6 p.m. to 7 a.m.

- (d) the noise arising from Construction that is clearly audible at a Point of Reception in a Residential Area between 6:00 p.m. and 7:00 a.m. of the following day (or 9:00 a.m. if the following day is Sunday);

Firearms – discharge – 9 p.m. to 7 a.m.

- (e) the sound caused by the discharge of any gun or other firearm, air gun, spring-gun of any class or type that is clearly audible at a Point of Reception in a Residential Area between 9:00 p.m. and 7:00 a.m. of the following day (or 9:00 a.m. if the following day is Sunday), except if lawfully discharged by a peace officer in the performance of their duties;

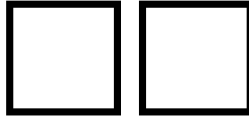
Power Equipment – use – 10 p.m. to 7 a.m.

- (f) the sound caused by the use or operation of a lawnmower, chain-saw, leaf-blower, or any other such noise-generating tool or device that is clearly audible at a Point of Reception in a Residential Area between 10:00 p.m. of any day and 7:00 a.m. of the next following day (or 9:00 a.m. if the following day is Sunday).

PART 3 – QUANTITATIVE NOISE – STATIONARY SOURCES

ADOPTION OF STANDARDS AND PROCEDURES

- 3.1 The following Ontario Ministry of Environment Publications (NPC – Noise Pollution Control) standards and procedures are adopted and incorporated by reference into this by-law:
 - NPC 101 - Technical Definitions, as set out in the Ministry of the Environment’s “Model Municipal Noise Control By-law, Final Report, August 1978”;



- NPC 102 - Instrumentation, as set out in the Ministry of the Environment's "Model Municipal Noise Control By-law, Final Report, August 1978";
- NPC 103 - Procedures, as set out in the Ministry of the Environment's "Model Municipal Noise Control By-law, Final Report, August 1978";
- NPC 104 - Sound Level Adjustments, as set out in the Ministry of the Environment's "Model Municipal Noise Control By-law, Final Report, August 1978";
- NPC 115 - Construction Equipment, as set out in the Ministry of the Environment's "Model Municipal Noise Control By-law, Final Report, August 1978";
- NPC 205 - Sound Level Limits for Stationary Sources in Class 1 & 2 Areas (Urban), dated October 1995;
- NPC 206 - Sound Levels Due to Road Traffic, dated October 1995;
- NPC 216 - Residential Air Conditioning Devices, dated October 1993;
- NPC 232 - Sound Level Limits for Stationary Sources in Class 3 Areas (Rural), dated October 1995

QUANTITATIVE NOISE PROHIBITIONS

3.2 No person shall emit or cause or permit the emission of sound from a Stationary Source such that the level of sound from that source at the Point of Reception:

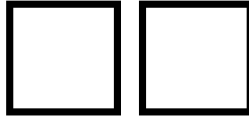
- (a) in a Residential Area exceeds the applicable sound level limit prescribed in publication NPC-205– Sound Level Limits for Stationary Sources in Class 1 & 2 Areas (Urban), dated October 1995; or
- (b) in a Rural Area exceeds the applicable sound level limit prescribed in publication NPC-232 – Sound Level Limits for Stationary Sources in Class 3 Areas (Rural), dated October 1995; or
- (c) in a Residential Area exceeds the applicable sound level limit prescribed in publication NPC-216 – Residential Air Conditioning Devices, dated October 1993.

3.3 Where a source of sound is subject to more than one subsection in section 3.2, the least restrictive provision shall prevail.

PART 4 – TEMPORARY NOISE PERMIT - CONSTRUCTION – COMMUNITY EVENT (CLASS 2) – AMPLIFIED LIVE SPEECH

Application for a Temporary Noise Permit

- 4.1 (1) Any person may submit an application for a temporary noise permit for Construction or for a Community Event (Class 2) **or Amplified Live Speech**.
- (2) The application in subsection (1) shall be made in writing to the Manager of By-law Enforcement, and shall contain all of the following:
- (a) the name and address of the applicant;
 - (b) a description of the event and how it meets the definition of Community Event (Class 2) **or Amplified Live Speech** or Construction;
 - (c) the location of the event or activity for which the temporary noise permit is sought;
 - (d) a description of the source of sound and level of sound for which the temporary noise permit is sought;
 - (e) the times of day, and the period of time (not in excess of six months) for which the temporary noise permit is sought;
 - (f) the reasons why the temporary noise permit should be granted;
 - (g) a statement of the steps, if any, planned or presently being taken to minimize the noise or sound;
 - (h) a non-refundable application fee of \$75.00;
 - (i) a temporary noise permit fee of \$100.00, refundable if the application is not approved; **and**
 - (j) **despite subsections (h) and (i) of subsection 2, there shall be no fees associated with a permit for Amplified Live Speech.**
- (3) The following power and authority is delegated to the Manager of By-law Enforcement with respect to Construction or a Community Event (Class 2) **or Amplified Live Speech**:
- (a) to issue a temporary noise permit; and

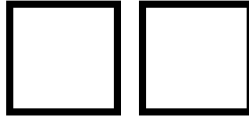


- (b) to refuse to issue, cancel, revoke or suspend a temporary noise permit, and to impose conditions (including special conditions) on a temporary noise permit.
- (4) In making his or her determination under subsection (3), the Manager of By-law Enforcement shall:
- (i) determine whether the event falls within the definition of Construction or Community Event (Class 2) **or Amplified Live Speech**;
 - (ii) consider any negative effects the issuance of the temporary noise permit may have on neighbouring properties or on the City;
 - (iii) consider any benefits the issuance of the temporary noise permit may have for neighbouring properties or for the City;
 - (iv) consider any previous violations of this By-law or temporary noise permit conditions by the applicant; and
 - (v) consider anything the Manager of By-law Enforcement reasonably considers relevant.
- (5) (a) The Manager of By-law Enforcement may impose conditions on a temporary noise permit, including but not limited to:
- (i) the type and volume of sounds that may be made;
 - (ii) the times during which sounds may be made;
 - (ii) the date of expiry of the temporary noise permit (not in excess of six months);
 - (iv) requiring the posting of security prior to the activity; and
 - (v) that the applicant, City staff or a professional engineer monitor the sound levels resulting from the event or activity and require a report of the findings of the engineer be filed with the Manager of By-law Enforcement within 30 days of the event or activity, all at the applicant's expense.
- (b) The Manager of By-law Enforcement shall impose conditions on a temporary noise permit for Community Event (Class 2) **or Amplified Live Speech** with respect to:
- (i) the volume of amplified sound that may be made; and
 - (ii) the times during which sounds may be made.
- (c) The minimum conditions that the Manager of By-law Enforcement shall impose under subsection 5(b) are:
- (i) subject to subsection (ii), the volume of amplified sound that may be made shall not exceed a sound pressure of at most 90 decibels at a point of reception determined by the Manager of By-law Enforcement;
 - (ii) the volume of amplified sound that may be made from an outdoor patio shall not exceed a sound pressure of at most 70 decibels at a point of reception determined by the Manager of By-law Enforcement; and
 - (iii) the times during which sound may be made shall be limited to the hours of 9:00 a.m. at the earliest and 12:00 midnight at the latest.
- (6) Where the Manager of By-law Enforcement has made a decision under subsection (3)(b), he or she shall give written notice of that decision to the applicant by regular mail to the last known address of that person. The written notice shall:
- (a) set out the grounds for the decision;
 - (b) give reasonable particulars of the grounds;
 - (c) be signed by the Manager of By-law Enforcement;
 - (d) state that the applicant is entitled to a hearing by a Hearings Officer if the applicant files a notice of appeal with the City Clerk within 10 days after the notice is given, and pays the appeal fee of \$150.
- (7) Where no appeal is received within 10 days after the notice is given, the decision of the Manager of By-law Enforcement shall be final.
- (8) The Manager of By-law Enforcement shall report to Council annually on the temporary noise permits issued and refused.

Hearings

4.1(9) The power and authority to conduct hearings of appeals under the by-law are hereby delegated to the Hearings Officer. The provisions of the City's Hearings Officer By-law A.-6653-21, as amended apply to all hearings conducted by a Hearings Officer.

4.1(10) A request by the applicant for a hearing shall be made in writing and filed with the City



Clerk. The request shall consist of a notice of appeal and must comply with the requirements as set out in Schedule 1 of the City's Hearings Officer By-law A.-6653-121, as amended.

4.1(11) Subsection 4.1(4) and 4.1(5) of this by-law apply with necessary modifications to a Hearings Officer. A Hearings Officer may direct the Manager of By-law Enforcement to issue the temporary noise permit (including imposing any conditions), or refuse to issue a temporary noise permit.

4.1(12) The decision of the Hearings Officer shall be final.

Temporary Noise Permit Expiry

4.2 Any temporary noise permit issued under this By-law shall expire on the date set out on the temporary noise permit, or if no date is set out on the temporary noise permit, forty-eight hours after its issuance.

Breach of Terms or Conditions

4.3 Breach by the holder of the temporary noise permit of any of its terms or conditions shall render the temporary noise permit null and void.

Offence – Fail to Comply with Terms and Conditions

4.4 No holder of a temporary noise permit shall fail to comply with the terms and conditions of the temporary noise permit.

PART 5 – ENFORCEMENT

ORDERS

Order to Discontinue Activity

5.1 If a municipal law enforcement officer or a London Police Service police officer is satisfied that this by-law has been contravened, the officer may make an order, known as an Order to Discontinue Activity, requiring the person who contravened the by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravention.

Order to Discontinue Activity - particulars

- 5.2 An Order to Discontinue Activity shall set out:
- (a) the municipal address of the property on which the contravention occurred;
 - (b) the date of the contravention;
 - (c) the reasonable particulars of the contravention of the by-law; and
 - (d) the date by which there must be compliance with the order.

Order to Discontinue Activity - service

5.3 The Order to Discontinue Activity may be served personally on the person to whom it is directed or by regular mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed. Service on a corporation can be effected by registered mail to the corporate mailing address.

Contravention of Order

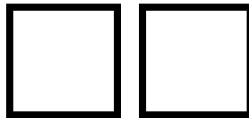
5.4 No person shall contravene an Order to Discontinue Activity.

Inspection Fee

- 5.5 (1) 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 Discontinue Activity, the fee or charge set out in the applicable Fees and Charges By-law for inspection may be imposed on the owner, person responsible for the noise or sound, or temporary noise permit holder.
- (2) The fees imposed constitute a debt of the person to the City. The City Treasurer may add fees to the tax roll and collect them in the same manner as municipal taxes on any property for which all the owners are responsible for paying the fees.

Hinder or Obstruct

5.6 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law, including carrying out an inspection.



By-law Enforcement – London Police Service - enforce

5.7 This by-law may be enforced by a City municipal law enforcement officer or a London Police Service police officer.

PART 6 - EXEMPTIONS

6.1 Despite any provision of this By-law, this By-law shall not apply to the following sounds arising from:

Police – Fire Services – Ambulance

(a) a vehicle of the London Police Service, provincial or federal police, London Fire Services, or ambulance, while in performance of their duty;

Railway – Airport – operations

(b) any activity that is integral to the operation of any railway or airport within the legislative authority of Parliament;

Public Necessity - Emergency

(c) a matter of public necessity or public emergency;

City Equipment – City Snow Removal - Road Cleaning Equipment - etc

(d) the operation of machines and equipment by or on behalf of the City, including but not limited to snow removal equipment, road cleaning equipment, grass cutting or field maintenance equipment, tree and shrub pruning and mulching equipment, painting machines for crosswalks and highways;

Garbage & Recycling Collection / Disposal - City

(e) the collection or disposal of garbage, waste or recyclable material by or on behalf of the City;

Signalling Devices

(f) signalling devices utilized as traffic and pedestrian control devices at intersections and crosswalks;

City Construction Projects

(g) the operation of equipment in conjunction with City Construction projects, City general maintenance projects, and City emergency maintenance projects;

Fireworks – Pyrotechnics

(h) the discharge of consumer fireworks, display fireworks or pyrotechnic special effects fireworks if such discharge complies with the City's Fireworks By-law;

Bells – Clocks – Religious - City

(i) bells, chimes, carillons or clocks associated with religious or public buildings or uses;

Industrial Use in Industrial Zone

(j) activities from industrial uses located in lands zoned for industrial use if sound is in accordance with the terms and conditions of a valid Certificate of Approval, provisional Certificate of Approval or other approval issued under the *Environmental Protection Act*, R.S.O. 1990, c. E.19, where such approval addresses sound as a source of contamination;

Normal Farm Practice

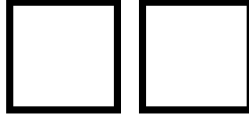
(k) activities as part of a Normal Farm Practice and carried on as part of an Agricultural Operation;

Public Utilities

(l) operation of machinery by or on behalf of a public utility where work needs to be done to minimize service interruptions;

Work Approval Permit - Streets By-law

(m) operation of construction equipment where the City has issued a Work Approval Permit under the Streets By-law and in issuing such permit the City requires the work to be



done to minimize traffic impacts;

Public election - gathering - authorized

- (n) 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 any other commodious space in connection with any public election meeting or other lawful gathering between 9:00 a.m. and 6:00 p.m.;

Special Event – compliance with Special Events Policy Manual

- (o) a Special Event but only if it is in compliance with the City’s Special Events Policy and Procedures Manual;

Community Event (Class 1) – compliance with Community Event (Class 1) Policy

- (p) a Community Event (Class 1) but only if it is in compliance with the City’s Community Event (Class 1) Noise Policy;

Temporary Noise Permit – Construction – Community Event (Class 2) – Amplified Live Speech

- (q) Construction or a Community Event (Class 2) or Amplified Live Speech, but only if a valid temporary noise permit has been issued, and only if the terms and conditions of the temporary noise permit are complied with;

Parade - band - authorized

- (r) a military or other band in a parade if the parade is operating under written permission of the City;

Tradesman - plying call - legitimacy - moderation

- (s) any newsboy, pedlar, hawker or petty tradesman plying his calling legitimately and moderately;

Snow Removal – Private Property

- (t) the use in a reasonable manner of vehicles and equipment when utilized for the clearing and the removal of snow from private property;

Animals – City – Police

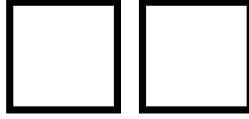
- (u) an Animal under the care or control of the City, including but not limited to those located at Storybook Gardens, and animals under the care or control of London Police Service or provincial or federal police.

6.2 Despite any provision of this By-law, this By-law shall not apply where:

- (a) a sound is from a facility that has been designed, developed, built, operated and maintained in accordance with the terms and conditions of a valid Certificate of Approval, provisional Certificate of Approval or other approval issued under the *Environmental Protection Act*, R.S.O. 1990, c. E.19, where such approval addresses sound as a source of contamination; or
- (b) an order or permit has been issued under the *Environmental Protection Act* that addresses the sound as a source of contamination.

PART 7- PENALTY

- 7.1 (1) Any person who contravenes any provision of this By-law is guilty of an offence.
(2) A director or officer of a corporation who knowingly concurs in the contravention of this By-law is guilty of an offence.
- 7.2 Any person convicted under this By-law is liable:
 - (a) upon a first conviction, to a minimum fine of \$175.00 and a maximum fine of \$5,000.00;
 - (b) upon a subsequent conviction, to a minimum fine of \$500.00 and a maximum fine of \$10,000.00.
- 7.3 Despite section 7.2, where the person convicted is a corporation, the corporation is liable,
 - (a) upon a first conviction, to a minimum fine of \$175 and a maximum fine of not more than Ten Thousand Dollars (\$10,000.); and
 - (b) upon any subsequent conviction, to a minimum fine \$1000 and a maximum fine of not more than Twenty Five Thousand Dollars (\$25,000).



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

PART 8- MISCELLANEOUS

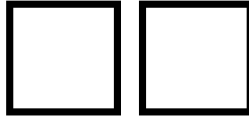
- 8.1 By-law PW-4 and any amendments thereto are hereby repealed.
- 8.2 This by-law may be referred to as the "Sound By-law".
- 8.3 This by-law shall come into force and effect on July 1, 2009.

PASSED in Open Council May 4, 2009.

Anne Marie DeCicco-Best
Mayor

Kevin Bain
City Clerk

First Reading – May 4, 2009
Second Reading – May 4, 2009
Third Reading – May 4, 2009



APPENDIX “B”

Bill No.
2018

By-law No. PH-18

A by-law to amend By-law PH-18 entitled, “A by-law to prohibit and regulate public nuisances within the City of London.” to prohibit unnecessary interference with another person’s use and enjoyment of a Public Place.

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25 (“*Municipal Act, 2001*”), provides that a municipal power shall be exercised by by-law;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: 5. Economic, social and environmental well-being of the municipality; 6. Health, safety and well-being of persons; 8. Protection of persons and property;

AND WHEREAS section 128 of the *Municipal Act, 2001* provides that, without limiting sections 9 and 10, a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances, and the opinion of Council under this section, if arrived at in good faith, is not subject to review by any court;

AND WHEREAS, in the opinion of Council, unnecessary interference with another person’s use and enjoyment of a Public Place by using abusive or insulting language as a personal invective, is or could become or cause a public nuisance;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. By-law PH-18 is amended by inserting the following new Section 4.1:

4.1 Unnecessary Interference with Use and Enjoyment of Public Place

(1) In section 4.1 only, “Public Place” is defined as:

“**Public Place**” includes a Highway, public park, or other lands to which the public has access as of right or by invitation and includes private property that is exposed to public view.

(2) No person shall, in a Public Place, unnecessarily interfere with another person’s use and enjoyment of the Public Place by using abusive or insulting language as a personal invective.

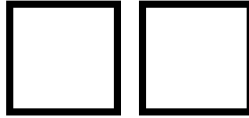
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on _____, 2018.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading -
Second Reading -
Third Reading -



SCHEDULE "B"

Public Nuisance By-law (Consolidated with draft amendments highlighted)

Bill No. 228
2012

By-law No. PH-18

A By-law to prohibit and regulate public nuisances within the City of London.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended ("the *Municipal Act, 2001*") provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a Municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS section 8 of the *Municipal Act, 2001* provides that the powers of a Municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

AND WHEREAS section 10 of the *Municipal Act, 2001* provides that a Municipality may pass by-laws respecting: Economic, social and environmental well-being of the Municipality; Health, safety and well-being of persons; Protection of persons and property; Structures, including fences and signs;

AND WHEREAS section 128 of the *Municipal Act, 2001* provides that, without limiting sections 9 and 10, a local Municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances, and the opinion of Council under this section, if arrived at in good faith, is not subject to review by any court;

AND WHEREAS, in the opinion of Council, nuisance parties, public urination and defecation, and knocking over objects on the Highway are or could become or cause public nuisances;

AND WHEREAS section 425 of the *Municipal Act, 2001* establishes that any person who contravenes any by-law of the Municipality is guilty of an offence;

AND WHEREAS section 435 of the *Municipal Act, 2001* and By-law A-30 provide for the exercise of powers of entry by municipal law enforcement officers and police officers;

AND WHEREAS section 444 of the *Municipal Act, 2001* provides that a municipality may make an order requiring a person who contravened a by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. DEFINITIONS

In this By-law,

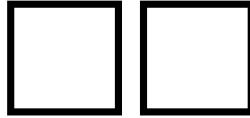
"**Building**" means any permanent structure consisting of a roof supported by walls or columns that is used or intended to be used for the shelter, accommodation or enclosure of persons, animals, goods, chattels or equipment;

"**Chief of Police**" means the Chief of Police of the London Police Service, or designate;

"**City**" means The Corporation of the City of London;

"**Dwelling**" means a Building containing one or more dwelling units;

"**Highway**" includes a common and public highway, highway, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles or persons, and includes the area between the lateral property lines thereof, including sidewalks and boulevards, and Highways shall have a corresponding meaning;



“**Municipality**” means the land within the geographic limit of the City of London;

“**Nuisance Party**” means a social gathering on Premises within the Municipality and which, by reason of the conduct of the persons in attendance, results in any one or more of the following activities occurring so as to constitute a public nuisance whether occurring on neighbouring public or private property:

- (a) disorderly conduct;
- (b) public drunkenness or public intoxication;
- (c) the unlawful sale, furnishing, or distribution of alcoholic beverages or controlled substances;
- (d) the deposit of refuse on public or private property;
- (e) damage to or destruction of public or private property;
- (f) pedestrian traffic, vehicular traffic, or illegal parking that obstructs the free flow of traffic or could interfere with the ability to provide emergency services;
- (g) unreasonable noise, including loud music or shouting;
- (h) unlawful open burning or fireworks;
- (i) public disturbances, including public brawls or public fights;
- (j) outdoor public urination or defecation;
- (k) use of or entry upon a roof not intended for such occupancy;

“**Premises**” means any public or private place in the Municipality, including but not limited to Highways, parks, parking lots, yards appurtenant to a Building or Dwelling or vacant lands, but does not mean a Building or Dwelling.

2. PUBLIC URINATION / PUBLIC DEFECACTION

2(1) In Section 2 only, “Public Place” is defined as:

“**Public Place**” includes a Highway, public park, parking lot or other lands to which the public has access as of right or by invitation and includes private property that is exposed to public view, but does not include an enclosed washroom facility.

2(2) No person shall urinate or defecate in a Public Place.

3. MAILBOXES ETC. ON HIGHWAY

No person shall knock over or attempt to knock over a Canada Post mailbox, Canada Post relay box, newspaper box, Blue Box, or garbage container, lawfully located on a Highway. This section shall not apply to City employees, or any person under contract with the City, acting under the City’s Waste Management By-law.

4. NUISANCE PARTIES

4(1) No person shall sponsor, conduct, continue, host, create, attend, allow, cause or permit a Nuisance Party.

4(2) No person who, individually or jointly with others, is an owner, occupant, tenant, or who otherwise has rightful possession of or possessory control of any Premises, shall allow, cause or permit a Nuisance Party on said Premises under their possession or control.

4.1 UNNECESSARY INTERFERENCE WITH USE AND ENJOYMENT OF PUBLIC PLACE

(1) In section 4.1 only, “Public Place” is defined as:

“**Public Place**” includes a Highway, public park, or other lands to which the public has access as of right or by invitation and includes private property that is exposed to public view.

(2) No person shall, in a Public Place, unnecessarily interfere with another person’s use and enjoyment of the Public Place by using abusive or insulting language as a personal invective.

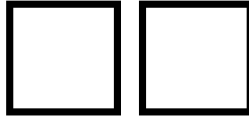
5. ORDER TO DISCONTINUE ACTIVITY

5(1) Upon the order of the Chief of Police or his or her designate or the City’s Manager of Licensing and Municipal Law Enforcement Services or his or her designate, a Nuisance Party shall cease and all persons not residing on the Premises shall leave the Premises where it is occurring.

5(2) An order under this section shall identify:

- (a) the location of the land on which the contravention occurred;
- (b) the reasonable particulars of the contravention of the By-law; and
- (c) the date and time by which there must be compliance with the order.

5(3) An order under this section may be given verbally or may be served personally on the person to whom it is directed. If the order is given by regular mail to the last known address of that person, and if given by registered mail, it shall be deemed to have been given on the third day after it is mailed. Service on a corporation can be effected by registered mail to the corporate mailing address.



5(4) No person shall fail to leave the Premises after having been directed to leave the Premises by an order to discontinue activity under this By-law.

6. CLOSE PUBLIC HIGHWAY

6(1) The Chief of Police, a London Police Service police officer, or a municipal law enforcement officer may temporarily close any Highway or portion thereof to public travel under this By-law where a Nuisance Party is occurring on or adjacent to the Highway by placing a notice on the Highway to be closed in accordance with the *Municipal Act, 2001*.

6(2) Where a Highway or portion of a Highway has been closed under this By-law, the common law right of passage by the public over the Highway and the common law right of access to the Highway by an owner of land abutting the Highway are restricted, as directed by the Chief of Police, a London Police Service police officer, or a municipal law enforcement officer.

6(3) No person shall use a Highway, or portion of a Highway that has been closed under this By-law except with lawful authority or in accordance with the direction of the Chief of Police or other officer pursuant to this section.

6(4) No person shall, without lawful authority, remove or deface any barricade, device, detour sign or notice placed on a Highway pursuant to this By-law.

7. ENFORCEMENT AND INSPECTION

7(1) The provisions of this By-law may be enforced by a municipal law enforcement officer, London Police Service police officer, or other individual duly appointed for the purpose of enforcing this By-law.

7(2) Every municipal law enforcement officer and London Police Service police officer may carry out an inspection to determine whether the provisions of this By-law are being complied with in accordance with the City's Inspections By-law and shall have the right to enter lands pursuant to the provisions of the Inspections By-law and the *Municipal Act, 2001*.

8. PENALTY

Every person who contravenes any provision of this By-law is guilty of an offence, and on conviction is liable to:

- (a) a maximum fine of \$10,000; and
- (b) for convictions under subsections 4(1), 4(2), or 5(4), a minimum fine of \$500.

9. SEVERABILITY

If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

10. CONTINUATION - REPETITION - PROHIBITED - BY ORDER

The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

11. SHORT TITLE OF BY-LAW

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

12. REPEAL

By-law PH-13 is hereby repealed.

13. FORCE AND EFFECT

This By-law shall come into force and effect on the day it is passed.

PASSED in Open Council on May 22, 2012.