



OAKVILLE

Consolidated Version as of March 28, 2022 – Amended by By-law No: 2010-070, 2022-031

THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2007-143

A by-law to prohibit or regulate public nuisances, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors within the Town of Oakville

WHEREAS pursuant to section 128 of the *Municipal Act, 2001*, c. 25, as amended, (the "Act"), 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 WHEREAS pursuant to section 129 of the Act a municipality may prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors;

AND WHEREAS pursuant to section 129 of the Act a municipality may prohibit the matters described above 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 Council for the Corporation of the Town of Oakville desires to prohibit and regulate, including the issuance of permits, with respect to public nuisance, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors.

NOW THEREFORE the Council of the Corporation of the Town of Oakville **ENACTS AS FOLLOWS:**

1. DEFINITIONS

In this By-law:

"Abut" or "Abutting" means sharing a common property line; **(By-law No. 2010-070)**

"Adjacent" means nearby, within sufficient distance to experience the impacts regulated by this by-law; **(By-law No. 2010-070)**

“Administrative Penalties for Non-Parking Violations and Orders By-law” means By-law 2021-038, or successor by-laws; **(By-law 2022-031)**

“Appeals Committee” means a Committee or Tribunal duly appointed by by-law to conduct hearings under this by-law; **(By-law 2022-031)**

“Council” means the Council of the Corporation of the Town of Oakville;

“Designated Official” means the Director of Municipal Enforcement Services, or designate. **(By-law 2022-031)**

“Public Nuisance” means an activity or activities, intentional or negligent in origin, which have a detrimental impact on the use and enjoyment of properties in the vicinity of the premises.

“Occupier” means any Person who is in control of any Property and Occupant shall have a similar meaning;

“Officer” means any person authorized by the Corporation of the Town of Oakville to enforce by-laws and includes Municipal Law Enforcement Officers, provincial offences officers and Halton Regional Police Officers; **(By-law 2022-031)**

“Owner” means the registered owner of any Property, and his/her respective successors, assigns and agents;

“Penalty Notice” means a notice issued pursuant to the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law; **(By-law 2022-031)**

“Permit” means a permit issued under this by-law;

“Person” means an individual, business, firm, corporation, association, partnership, or any combination thereof;

“Property” means land, with or without improvements so affixed to the land;

“Rates and Fees Schedule” means the Town’s then current Rates and Fees Schedule approved by Council as part of the annual budget approval process; **(By-law 2022-031)**

“Sports Field” means the playing surface of an outdoor recreational field designed to accommodate the following sports: baseball, hardball, softball, soccer, field hockey/lacrosse, cricket, football, rugby and athletics, (track and field), including special events or other activities that may occur on such fields,

but does not include facilities used exclusively as tennis courts, golf courses or driving ranges; **(By-law No. 2010-070)**

"**Town**" means The Corporation of the Town of Oakville.

2. SCOPE

This By-law shall apply to all Properties within the Town and is a Designated By-law under the Administrative Penalties for Non-Parking Violations and Orders By-law. **(By-law 2022-031)**

2.1 GENERAL (By-law 2022-031)

- a) Pursuant to section 23.2 of the Municipal Act, Council hereby delegates:
 - i. to the Designated Official, the power to issue a permit granting an exemption from the provisions of this By-law in accordance with Section 5; and
 - ii. to the Appeals Committee, the power to grant an exemption from the provisions of this By-law in accordance with Section 5.1.
- b) Where the Appeals Committee conducts a hearing, the rules set out in the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22 shall apply.

3. PROHIBITION

Subject to section 4, **(By-law No. 2010-070)**

- a) No Person shall cause or permit any Public Nuisance.
- b) No Person shall cause or permit any activities on one Property which are obnoxious or which substantially reduce the enjoyment of another Property, including, without limiting the generality of this section, activities such as:
 - i. the creation of vibration; or
 - ii. the emission of smoke, dust, airborne particulate matter or objectionable odour.
- c) No Owner or Occupant of a Property shall cause or permit light to be broadcast directly from that Property onto another Property.

4. EXCEPTIONS

Notwithstanding section 3, the following activities are exempt from the requirements of this by-law: **(By-law No. 2010-070)**

- a) activities or lighting of the Town;
- b) activities or lighting of the federal, provincial or regional governments;
- c) activities or lighting contemplated by a site plan approval, subdivision agreement or site alteration permit to the extent that such activities are being conducted or such lighting is constructed in accordance with all conditions and requirements of such site plan approval, subdivision agreement or site alteration permit; and
- d) activities regulated by federal or provincial legislation or regulations provided the activities are conducted in compliance with such legislation and regulations.

4A. Notwithstanding Subsection 4(c), no Owner or Occupant of a Property shall permit light to be broadcast from light standards directly illuminating a sports field located on the Property, **(By-law No. 2010-070)**

- a) For sports fields illuminated prior to April 6, 2010:
 - i. at any time between the hours of 11 p.m. and 8 a.m. on the following day;
- b) For sports fields that were not illuminated prior to April 6, 2010:
 - (1) If the sports field does not abut any residential properties and is separated from any adjacent residential properties by a major arterial road or non-residential uses, other than recreational trails:
 - i. at any time between the hours of 11 p.m. and 8 a.m. on the following day.
 - (2) If the illumination of the sports field is the subject of a warning clause within a subdivision agreement registered against title to the adjacent residential properties:
 - i. at any time between the hours of 11 p.m. and 8 a.m. on the following day;

- ii. at all other times, at levels in excess of 1.1 lux, measurable on the horizontal plane, at the property line of any adjacent residential property.
 - (3) For all other sports fields adjacent to residential properties,
 - i. at any time between the hours of 9 p.m. on Friday and 8 a.m. on Monday or Tuesday if the Monday is a statutory holiday;
 - ii. at any time between the hours of 9 p.m. and 8 a.m. the following day, for days not subject to 4A(b)(3)(i);
 - iii. at all other times, at levels in excess of 1.1 lux, measurable on the horizontal and vertical planes, at the property line of the property on which the field is located or 0.11 lux measured on the horizontal plane 3 m beyond that property line;
- c) For the purposes of Section 4A b), light levels shall be measured by holding a light meter at a height of 1 m or more from the ground in a position parallel to sea level (to measure on the horizontal plane) or perpendicular to sea level (to measure on the vertical plane). **(By-law No. 2010-070)**

5. PERMITS

- a) Notwithstanding anything contained in this By-law, any Person may make application to be granted a Permit exempting the person from the provisions of this By-law with respect to any section under which the Person might be prosecuted.
- b) The application mentioned in subsection a) shall be made in writing, on the form prepared by the Designated Official and shall include: **(By-law 2022-031)**
 - i. the name and address of the applicant;
 - ii. a description and location of the activity in respect of which the exemption is sought;
 - iii. a statement of the particular provision or provisions of the By-law from which the exemption is sought;
 - iv. the period of time, of a duration not in excess of six months, for which the exemption is sought;

- v. the reasons why the exemption should be granted; and
- vi. the permit fee as set out in the rates and fees schedule. **(By-law 2022-031)**
- c) Where it appears to the Designated Official that the application is non-controversial and that the reason for the exemption is an unplanned activity requiring consideration on an urgent basis, the Designated Official may grant the Permit. **(By-law 2022-031)**
- d) In any other circumstance, the Designated Official shall give written notice to the Councillors of any ward where the event or activity for which the exemption is sought is to be held and, where the event or activity is to be held on a boundary street between wards, to all councillors of the adjoining ward(s). The Designated Official shall issue a Permit if all of the following conditions have been met:
 - i. all of the Councillors to whom the Designated Official is required to give written notice of the application either have not responded within 7 days of receipt of the notice, or have responded indicating that they have no objection to the application being approved;
 - ii. the applicant has complied with all terms and conditions of approval of any previous Permit issued to the applicant under this section, if any; and
 - iii. the applicant has provided all of the information required by subsection 5b) above. **(By-law 2022-031)**
- e) Where the above conditions are not satisfied, the Designated Official shall reject the application.
- f) A Permit issued under this by-law shall be subject to the following terms and conditions:
 - i. the event or activity shall be restricted to the approved location set out in the Permit; and
 - ii. the permission granted is only for the date(s) and times for the event or activity as set out in the Permit.
- g) Breach by the applicant of any of the terms or conditions of the Permit shall render the Permit null and void.

5.1 APPEALS COMMITTEE (By-law 2022-031)

- a) Where the Designated Official refuses to grant a Permit under this By-law, the Designated Official shall inform the applicant, in writing, setting out the grounds for the decision with reasonable particulars and advise the applicant that they may appeal such decision to the Appeals Committee.
- b) The request for an appeal referred to in subsection 5.1 a) shall be submitted in writing to the Designated Official within 21 days of the date of the notice provided in accordance with subsection 5.1 a).
- c) Upon receipt of a request for an appeal, the Designated Official shall refer the request to the Town Clerk who will schedule a hearing of the Appeals Committee.
- d) In deciding whether to grant the exemption, the Appeals Committee shall consider the application, the Designated Official's decision and any written submission made by the applicant and the Appeals Committee may consider such other matters as it sees fit.
- e) The decision of the Appeals Committee to issue a Permit, to refuse to issue a Permit or to set terms and conditions for holding a Permit is final.
- f) Where no request for an appeal is received in accordance with subsection 5.1 b), the Designated Official's decision shall be final and binding.

5.2 ADMINISTRATIVE PENALTIES (By-law 2022-031)

- a) An Officer who finds or has reasonable cause to believe that a person has contravened any provision of this By-law, including any Schedules, may issue a penalty notice to the person.
- b) Each person who has been issued a penalty notice shall, upon issuance of the penalty notice, be liable to pay an administrative penalty to the Town in the amount of \$300 or as revised in the rates and fees schedule.
- c) If an Officer has issued a penalty notice under subsection 5.2 a) of this By-law and has reasonable cause to believe that the same person has contravened the same provisions of this By-law, including any Schedules, for a second time within twenty-four (24) months of the date the first penalty notice is deemed to be served, the Officer may issue a second penalty notice to the person.

- d) Upon issuance of the second penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$400 or as revised in the rates and fees schedule.
- e) If an Officer has issued a penalty notice under subsection 5.2 c) of this By-law and has reasonable cause to believe that the same person has contravened the same provision of this By-law, including any Schedules, for a third or subsequent time within twenty-four (24) months of the date the second penalty notice is deemed to be served, the Officer may issue a third or subsequent penalty notice to the person.
- f) Upon issuance of a third or subsequent penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$500 or as revised in the rates and fees schedule.
- g) A person who has been issued a penalty notice under this By-law may request a review of the penalty notice in accordance with the Administrative Penalties for Non-Parking Violations and Orders By-law.

5.3 ORDERS (By-law 2022-031)

- a) Where an Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Officer may issue an order to the person contravening this By-law in accordance with the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law.
- b) Any person who contravenes an order under this By-law is guilty of an offence.

5.4 SERVICE AND NOTICE (By-law 2022-031)

Service of any penalty notice, order, or any other notice may be given as specified in the Administrative Penalties for Non-Parking Violations and Orders By-law.

6. OFFENCE

Every person who contravenes any provision of this by-law is guilty of an offence.

7. PENALTY

- a) Every Person who is convicted of an offence is liable to a fine of not less than \$250 and not more than \$5,000 for a first offence and to a fine of not more than \$10,000 for a subsequent offence.
- b) If a corporation is convicted of an offence, the maximum penalty that may be imposed upon the corporation is \$50,000 for a first offence and \$100,000 for a subsequent offence and not as provided in subsection a).
- c) For the purposes of subsections a) and b), an offence is a subsequent offence if there has been a previous conviction under this by-law.
- d) In the case of a continuing offence, for each day or part of a day that the offence continues, in addition to the penalties mentioned in subsections a) and b), every Person is liable to a fine of not more than \$10,000 per day for every day the offence continues.

8. REPEAL

By-law 1963-29, as amended, is hereby repealed.

9. SEVERABILITY

Should any section, clause or provision of the by-law be declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of the by-law as a whole or any part thereof, other than the part which was declared to be invalid.

10. SHORT TITLE

This by-law may be cited as the Public Nuisance by-law.

PASSED by the Council this 3rd day of December, 2007.

MAYOR
ROB BURTON

(ACTING) CLERK
VICKI TYTANEK