

THE CORPORATION OF THE TOWN OF HANOVER

BY-LAW NO.3067-19

BEING 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 10, 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 Town of Hanover, 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 for

- a) services or activities provided or done by or on behalf of it;
- b) 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) 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;

NOW THEREFORE the Council of The Corporation of The Town of Hanover hereby enacts as follows:

This by-law may be cited as the "Noise and Sound Control By-law ".

1. INTERPRETATION

1.1. DEFINITIONS for the purpose of this bylaw:

"**construction equipment**" includes a bulldozer, excavator, trencher, jack hammer, crane, loader, scraper, paver, compactor, roller, grader, concrete mixer and the like;

"**Council**" means the Council of the Town of Hanover;

"**holiday**" means any holiday set out as a holiday in the Retail Business Holidays Act, R.S.O. 1990, Chap. R. 30, or any successor thereof;

"**noise**" means sound that is of such a volume or nature that it is likely to disturb the inhabitants of the Town of Hanover;

"**officer**" means a Municipal Law Enforcement Officer, Police Officer, or persons designated by Municipal Council for the purposes of enforcing all or any class of offences;

"**person**" includes a corporation, organization, association, partnership and the like;

"**Town**" means the Corporation of the Town of Hanover;

2. GENERAL EXEMPTIONS

2.1. This By-law does not apply:

2.1.1. during an emergency involving the health, safety or welfare of the public;

2.1.2. where the Town, its servants, employees, contractors or agents are carrying out town operations or operating, maintaining or installing municipally-owned infrastructure, facilities or the like, except for the detonation of explosives;

2.1.3. to noise created by the activity of snow removal;

2.1.4. to parades, circuses, entertainment activities in public parks or neighbourhood social activities when such events are approved by Council and such activity or event is in compliance with the conditions set by Council in approving such activity or event;

2.1.5. to sport or recreational events in public parks where a permit has been issued by the Town authorizing such event and the event complies with all of the conditions of such permit; or

2.1.6. to the operation of excavation equipment when used in a cemetery in conjunction with interment services.

3. EXEMPTIONS BY COUNCIL

3.1. Despite the provisions of this By-law, any person may apply to Council for an exemption to any provision of this by-law with respect to any noise to allow such person to emit, cause or permit such noise for the period of time set out in such application, and Council may grant such exemption, grant an alternative exemption or refuse such exemption, and may set out conditions to be met as Council sees fit for any exemptions granted.

3.2. Where an exemption is granted by council, breach of any of the terms or conditions of the exemption shall render the exemption null and void.

4. GENERAL PROHIBITIONS

4.1. No person shall, at any time, emit, cause or permit to be emitted or caused any noise created by:

4.1.1. the persistent barking, calling or whining of any domestic pet or any animal;

4.1.2. the squealing of motor vehicle tires while such vehicle is on property other than a highway as set out in the Highway Traffic Act, R.S.O. 1990, Chap. H.8, or any successor thereof;

4.1.3. the use of a horn, whistle, alarm, bell, gong or the like, except for an auditory safety or warning device or chimes used in association with a religious establishment;

- 4.1.4. the operation of an air conditioner that does not meet the requirements of the Ministry of the Environment Publication NPC-216, Residential Air Conditioning Devices or the operation of a pool pump or filter, heat pump or the like that is not in proper working order;
- 4.1.5. the idling of a vehicle motor in excess of 15 minutes, except:
 - 4.1.5.1. when such idling is recommended by the manufacturer of such vehicle and proof of such recommendation is provided by the vehicle operator upon the request of an officer;
 - 4.1.5.2. when such idling is necessary to the basic function of the equipment on a vehicle such as a concrete mixer on a concrete mixing truck, a lift platform, a refuse compactor or a heat exchange system;
 - 4.1.5.3. when the weather conditions require the vehicle to idle in order to keep in operation a heating or refrigeration system necessary for the welfare or preservation of the cargo of such vehicle; or
 - 4.1.5.4. the operation of a combustion engine without an effective exhaust muffling device in proper working order.
- 4.1.6. the operation of a vehicle radio, stereo or the like;
- 4.1.7. yelling, shouting or the like;
- 4.1.8. an electronic device, musical instrument, or sound production instrument.

5. OFFENCE

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

6. SEVERABILITY

Should any section of this by-law be declared by a Court of competent jurisdiction to be ultra vires or illegal for any reason, the remaining parts shall nevertheless remain valid and binding, and shall be read as if the offending section or part had been struck out.

7. PENALTY

Every person who is convicted of an offence under any provision of this By-law shall be liable to a penalty as set out in Section 61 of the *Provincial Offences Act, R.S.O. 1990, Chapter P.33*, or any successor thereof.

- 8. Schedule "A" attached hereto shall form part of this By-law.
- 9. That By-law No. 1606-04-21-87 is hereby repealed in its entirety.
- 10. THAT this by-law shall come into full force and effect as of the date of its passing.

READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED this 21st day of May, 2019.

Susan Paterson, Mayor

Brian Tocheri, CAO/Clerk

SCHEDULE ‘A’ TO BY-LAW NO. 3067-19

PART 1, PROVINCIAL OFFENCES ACT

BEING a by-law to provide for the Regulation and Prohibition of Noise and Sound within the boundaries of The Corporation of the Town of Hanover.

Short Form Wording	Provision Creating or Defining Offence	Set Fine
Permit noise made by animal	4.1.1	\$150.00
Cause noise by squealing tires	4.1.2	\$150.00
(Cause)(Permit) noise made by a (bell),(whistle),(gong),(horn)	4.1.3	\$150.00
Permitting noise made by a pool pump	4.1.4	\$150.00
(Cause)(Permit) noise made by an idling vehicle	4.1.5	\$150.00
(Cause)(Permit) noise made by a vehicle (radio)(stereo)	4.1.6	\$150.00
(Cause)(Permit) noise made by shouting	4.1.7	\$150.00
(Cause)(Permit) noise made by a(n) (electronic device)(musical instrument)(sound production instrument)	4.1.8	\$150.00