

The Corporation of the Township of North Huron

By-law No. 20-2009

A by-law to provide for the regulation and prohibition of unusual noises or noises likely to disturb the public and/or the prevention of public nuisances.

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The Corporation of the Township of North Huron

By-law No. 20-2009

Being a by-law to provide for the regulation and prohibition of unusual noises or noises likely to disturb the public and/or the prevention of public nuisances

WHEREAS it is expedient to exercise the power conferred upon the Council pursuant to the Municipal Act, S.O. 2001 c. 25, s. 129 as amended to regulate noise;

AND WHEREAS the people have a right to and should be ensured an environment free from unusual, unnecessary or excessive sound or noise which may degrade the quality and tranquility of their life or cause nuisance;

NOW THEREFORE the Council of the Corporation of the Township of North Huron enacts as follows:

1. Short Title

This by-law may be cited as the "noise control" by-law.

2. Interpretation

(1) For the purposes of this by-law, the following terms shall have the corresponding meaning;

- a. "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, denicks, loaders, scrapers, pavers, generators, off-highway haulers or tmcks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;
- b. "Highway" includes a common and public highway, street avenue, parkway, driveway, square, place, bridge, viaduct or trestle or any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral prope1iy lines thereof;
- c. "Institutional Area" means an area designated as an institutional zone in the Zoning By-law of the Township of North Huron
- d. "Motor Vehicle" includes an automobile, motorcycle, motor assisted vehicle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include a street car, or other motor vehicles mning 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;
- e. "Motorized Conveyance" means a conveyance propelled or driven otherwise than by muscular power; but does not include the cars of electric or steam railway, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-prope1led implement of husbandry or road-building machine within the meaning of the Highway Traffic Act, R.S.O., 1990, c.H.8, as amended;
- f. "Municipality" means the land within the geographic limit of the Corporation of the Township of North Huron
- g. "Noise" means sound that is of such a volume or nature that it is likely to disturb the inhabitants of the municipality;
- h. "Point of Reception" means any point on the premises of a person where sound or vibration originating from other than those premises is received;
- i. "Person" includes a corporation, organization, association, partnership and the like;

- j. “Residential Area” means an area designated as residential in the Zoning By-law of the Township of North Huron as may be amended from time to time;
- k. “Statutory Holiday” means New Year’s Day, Good Friday, Victoria Day, Family Day, Canada Day, Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day and Boxing Day.

3. General Prohibitions

No Person shall emit or cause or permit the emission of sound resulting from an act listed in Schedule 1- General Prohibitions, and which sound is clearly audible at a point of reception anywhere within the municipality, at any time.

4. Prohibitions by Time and Place

No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule 2 - Prohibitions by Time and Place if clearly audible at a point of reception located in an area of the municipality with in a prohibited time shown for such an area.

5. Exemption - Public Safety

Notwithstanding any other provision of this by-law, it shall be lawful to emit or cause or permit the emission of sound or vibration in connection with emergency measures undertaken:

- 1. For the immediate health, safety or welfare of the inhabitants or any of them; or,
- 2. For the preservation or restoration of property; unless such sound or vibration is clearly of a longer duration or by nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

6. Grant of Exemption by Council

(1) Application to Municipality

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 with respect to any source of sound and the municipality 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 a time period, not in excess of six months, during which it is effective and may contain such terms and conditions as the municipality deems appropriate.

(2) Details of Application for Exemption

The applicant mentioned in subsection 6 (1) shall be made in writing, in the fom1 attached as Schedule 4 - Application for Exemption, and shall contain:

- a. The name, address and telephone number of the applicant;
- b. A description of the source and location of sound in respect of which exemption is sought□
- c. A statement of the pailicular provision or provisions of this by-law from which exemption is sought;
- d. The period for time, of a duration not in excess of six months, for which the exemption is sought;
- e. The reasons why the exemption is sought;
- f. A statement of the steps, if any, planned or presently being taken on to bring about compliance with the by-law.

(3) Decision

In deciding whether to grant the exemption, Council shall give the applicant and any person opposed to the applications and opportunity to be heard and may consider such other matters as it deems appropriate.

(4) Breach

A breach of any of the terms or conditions of an exemption granted by the Municipality that is caused or permitted by the applicant shall render the exemption null and void.

(5) Every person applying for an exemption shall, at least 10 business days prior to the Council meeting at which the request for exemption is to be addressed by Council, provide to the Clerk or the Chief Building Official of the municipality:

- a. A complete and accurate application form as prescribed by the municipality setting out the particulars respecting the exemption requested; and
- b. Payment of the exemption processing fee in the amount set by Council and in effect at the time of such exemption request.

7. Exemption of Activities

This by-law shall not apply to a person who emits or causes or permits the emission of sound in connection with any of the activities listed on Schedule 3-Exemption of Activities.

8. Exemption of Normal Farm Practices

This by-law shall not apply to a person who emits or causes or permits the emission of sound in connection with normal farming practices within the meaning of the Fanning and Food Protection Act, 1998, S.O. 1998, c.1, as amended.

9. 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.

10. Enforcement and Penalty Provisions

1. The provisions of this by-law shall be enforced pursuant to the provisions set out in Part I of the Provincial Offences Act.

2. Any person violating any of the provisions of this by-law is guilty of an offence and upon conviction shall be subject to a fine, exclusive of costs and all such fines shall be recoverable under the provisions of Part I of the Provincial Offences Act.

11. The existing noise by-law of the former Town of Wingham By-Law No. 2336 (1998), passed prior to this By-law is hereby repealed.

Read a first and second time this 16th day of March, 2009.

Read a third time and passed this 16th day of March, 2009.

Neil Vincent, Reeve

CORPORATE SEAL

Kriss Snell, CAO/ Clerk