

THE CORPORATION OF THE  
TOWN OF PELHAM

BY-LAW NUMBER 3130 (2010)

Being a by-law to regulate and control noise in the Town of Pelham.

WHEREAS section 129 of the Municipal Act, 2001, S.O. 2001, c.25 authorizes municipalities to pass by-laws to prohibit and regulate noise;

AND WHEREAS it is in the public interest to reduce the level of noise in the Town of Pelham so as to preserve, protect and promote the public health, safety, welfare and the peace and quiet of the inhabitants of the Town of Pelham;

SHORT TITLE

1. The By-law may be referred to as the "Noise Control By-law"

INTERPRETATION

2. For the purpose of this By-law, the following terms shall have the corresponding meanings:
  - (a) "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;
  - (b) "animal" means any member of the animal kingdom, other than human and, without limiting the generality of the forgoing, includes dogs, cats and birds;
  - (c) "commercial" in reference to a building, structure, vehicle, lot, use or activity means for the purpose of the buying or selling of commodities, warehousing, assembling of goods, manufacturing, transporting, construction, or similar uses and also includes the supplying of services for remuneration;
  - (d) "community event" means any event open to the public including, but not limited to, public fair, public exhibition, public celebration, public sporting event, parade, or an event supported by the Town;
  - (e) "construction" includes, but is not limited to, erection, alteration, repair, dismantling, demolition, structural maintenance, painting, land clearing, earth moving, grading, excavation, the laying of pipe or conduit whether above or below grade, street or highway building, application of concrete, 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;
  - (f) "construction equipment" means any equipment or device designed and intended for use in construction or material handling, including, but not limited to, hand tools, power tools, air compressors, pile drivers, pneumatic and hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or materials handling equipment;
  - (g) "conveyance" includes a vehicle and any other device employed to transport a person or persons or goods from place to place;

- (h) "Council" means the council of The Corporation of the Town of Pelham;
  - (i) "highway" shall have the same meaning as in the Highway Traffic Act, R.S.O. 1990, c. H.8;
  - (j) "Holiday" means any holiday set out as a holiday in the Retail Business Holidays Act, R.S.O. 1990, c. R.30, as amended or any successor thereof;
  - (k) "inhabitants" means one or more persons who reside in the Municipality;
  - (l) "motor vehicle" includes an automobile, motorcycle, motor assisted bicycle and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electrical or steam railways, or other motor vehicles running only upon rails, or traction engine, farm tractor, self propelled implement of husbandry or road-building machine within the meaning of the Highway Traffic Act;
  - (m) "Municipality" means the land within the geographic limits of the Town of Pelham;
  - (n) "noise" means any unwanted sound or vibration;
  - (o) "persistent" means constantly repeated over a period of fifteen (15) minutes;
  - (p) "point of reception" means any point on the premises of a person where sound or vibration originating from other than those premises is received;
  - (q) "residential area" means those areas in the Town designated as residential in the Town of Pelham's Zoning By-law No. 1136 (1987) as amended, including but not limited to RV1, RV2, RMV1, RMV2, R1, R2, R3, RM1 and RM2;
  - (r) "renovation" means any work, other than work performed by a contractor, consisting of construction at a residential property by a person residing at a property or the owner of the property;
  - (s) "Town" means The Corporation of the Town of Pelham.
  - (t) "Town Clerk" means the clerk of The Corporation of the Town of Pelham.
3. For the purpose of this By-law, unless the context otherwise requires, words imparting the singular shall include the plural and words imparting the masculine gender shall include the feminine and vice versa.
  4. Should any section, clause or provision of this By-law be held by a court of competent jurisdiction to be invalid, the validity of the remainder of this By-law shall not be vitiated.

#### GENERAL EXEMPTIONS

5. This By-law shall not apply to a person who emits or causes or permits the emission of sound or vibration in connection with:
  - (a) Measures undertaken for the immediate health or welfare of the inhabitants under emergency circumstances or in circumstances of public necessity.

- (b) The operation of a bell, horn, siren or other signaling device required by law, or associated with any emergency or law enforcement vehicle, or associated with the operation of a traffic control device at any intersection including any railway crossing;
- (c) Measures taken by the Town, the Regional Municipality of Niagara, the Province of Ontario, or the Government of Canada, or any of their servants, employees, contractors, or agents in carrying out any operations including the operation, maintenance, or installation of government owned infrastructure, facilities, or the like or to deliver government services;
- (d) The operation of any railway pursuant to the Railway Act of Canada, including but not limited to the operation of rail cars including locomotives, self propelled passenger cars and refrigeration cars and including any associated horn, bell, siren or other signaling device of such rails cars;
- (e) Normal agricultural operations;
- (f) Community events;
- (g) Sport or recreational events in public parks where permission has been granted by the Town authorizing such events and the events comply with all the conditions of such permission;
- (h) Firework displays authorized by the Town;
- (i) The ringing or sounding of bells or chimes by any church, by the Town, for any military service or by a mobile vendor operating in conformity with all prevailing federal, provincial or municipal law or regulations;
- (j) Operations or activities that the Ministry of Environment or the Ministry of Natural Resources has granted approval, if in compliance with the conditions of the said approval.

#### EXEMPTIONS BY COUNCIL

- 6. Any person may make application to Council to request an exemption from any part of the provisions of this By-law with respect to any source of sound provided a request in writing is submitted to the Town Clerk not less than 60 (sixty) days prior to the event or activity proposed to be undertaken and includes the following:
  - (a) the name, address and telephone number of the applicant and property owner;
  - (b) approval from the owner of the property in writing if different from the applicant;
  - (c) a description of the source and location of sound in respect of which the exemption is sought;
  - (d) a statement of the particular provisions of the By-law from which the exemption is sought;
  - (e) the period of time for which the exemption is sought;
  - (f) a reason why the exemption should be granted;
  - (g) payment of the processing fee, at the current rate.

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

#### PROHIBITIONS

8. No person shall, at any time within the limits of the Municipality, cause or permit to be caused any noise created by any of those acts set out below and which noise is clearly audible at a point of reception:
- (a) the operation of a motor vehicle in an unauthorized race;
  - (b) the operation of a motor vehicle in such a way that tires of the vehicle squeal;
  - (c) the operation of a motor vehicle, trailer, or other vehicle resulting in banging, clanking, squealing or other noise due to an improperly secured load or equipment, or inadequate maintenance;
  - (d) the operation of a combustion engine or pneumatic device without an effective exhaust, muffler or other sound alteration device of a type specified by the manufacturer that is in proper working order;
  - (e) the sounding or use of any bell, chimes, gong, horn, siren, whistle, alarm or the like, except where authorized by section 5 of this By-law or otherwise by law, or as an auditory safety alert, or as a warning device in accordance with good safety practices;
  - (f) the operation of any mechanical equipment that is not operating or being maintained in accordance with the manufacturers specifications including any air conditioner, heat pump, hot tub, pool or spa pump, or filter or the like that is not in proper working order;
  - (g) the persistent barking, calling or whining or other similar persistent noise made by any domestic pet or any other animal kept or used for any purpose other than agricultural operation.
9. No person shall, within the limits of the Municipality, cause or permit to be caused any noise resulting from any act listed in Schedule "A" of this By-law, if audible at a point of reception located within a prescribed area or within a prohibited time as shown in Schedule "A"

#### APPLICATION OF STRICTEST STANDARDS

10. Where a source of sound is subject to more than one provision of this By-law, the most restricted provision shall prevail.

#### PENALTY

11. Every person who contravenes any provision of this By-law is guilty of offence and is liable upon conviction to a fine recoverable pursuant to the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended or any successor thereof.

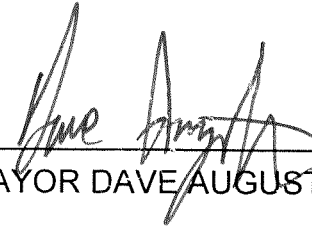
#### PRIOR BY-LAWS TO BE REPEALED

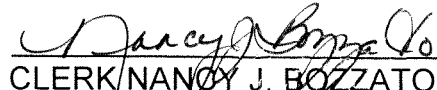
12. By-laws 1542(1993); 681(1981); 114(1971) of the Corporation are repealed as of the coming into force of this by-law.

EFFECTIVE DATE OF BY-LAW

13. This By-law shall come into force and take effect upon the date of passage.

READ A FIRST, SECOND AND THIRD TIME  
AND FINALLY PASSED BY COUNCIL THIS  
17<sup>th</sup> DAY OF JULY, 2010 A.D.

  
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MAYOR DAVE AUGUSTYN

  
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CLERK/NANCY J. BOZZATO

**SCHEDULE "A"**

Type of Event	Prohibited Period of Time	
	Residential Area	All Other Areas
1. 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 devise, which model or replica has no function other than amusement and which is not a conveyance.	1900 hrs one day to 0900 hrs the next day	1900 hrs one day to 0900 hrs the next day
2. The use 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.	2300 hrs one day to 0700 hrs the next day (0900 hrs on Saturdays, Sundays and Holidays)	2300 hrs one day to 0700 hrs the next day (0900 hrs on Saturdays, Sundays and Holidays)
3. The operation of any motorized conveyance other than on a highway .	1900 hrs one day to 0700 hrs the next day (0900 hrs on Sundays and Holidays)	1900 hrs one day to 0700 hrs the next day (0900 hrs on Sundays)
4. 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 of system.	2300 hrs one day to 0700 hrs the next day (0900 hrs on Sundays and Holidays)	2300 hrs one day to 0700 hrs the next day (0900 hrs on Sundays)
5. The operation of a commercial car wash.	At all times	2300 hrs one day to 0700 hrs the next day (0900 hrs on Sundays)
6. Persistent or repetitive yelling, shouting, hooting, whistling or singing.	2300hrs one day to 0900 hrs the next day	2300hrs one day to 0900 hrs the next day
7. 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.	1900 hrs one day to 0700 hrs the next day	Not restricted
8. The operation of any construction equipment other than in connection with a renovation.	All day Sundays and Holidays. 1900 hrs one day to 0700 hrs the next day	All day Sundays and Holidays. 1900 hrs one day to 0700 hrs the next day
9. The operation of any construction equipment in connection with a renovation.	2100 hrs one day to 0700 hrs the next day (0900 hrs on Sundays and Holidays)	2100 hrs one day to 0700 hrs the next day (0900 hrs on Sundays)

Type of Event	Prohibited Period of Time	
	Residential Area	All Other Areas
10. The operation or use of any tool for the purpose of property maintenance, other than motorized snow removal.	2100 hrs one day to 0800 hrs the next day (0900 hrs on Sundays and Holidays)	2100 hrs one day to 0700 hrs the next day (0900 hrs on Sundays)
11. The operation of solid waste bulk lift or refuse compacting equipment.	At all times	1900 hrs one day to 0700 hrs the next day (0900 hrs on Sundays)
12. The operation of animal scaring devices.	At all times	2100 hrs one day to 0700 hrs the next day (0900 hrs on Sundays)
13. Commercial vehicle idling.	At all times	Maximum 30 min.

THE CORPORATION OF THE TOWN OF PELHAM

BY-LAW # 3324 (2012)

Being a by-law to amend By-law No. 3130 (2010) being a by-law to regulate and control noise in the Town of Pelham.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

1. THAT By-law No. 3130 (2010) be amended by adding Subsection 2(o) as follows:

"2(o) "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."

AND FURTHER THAT the subsequent subsections under INTERPRETATION Section 2 be renumbered 2(p) through 2(u).

2. THAT By-law No. 3130 (2010) be amended by deleting Subsection 5 (e) in it's entirety and replaced it with the following:

"5(e) Activities that are a normal farm practice carried on by an agricultural operation;"

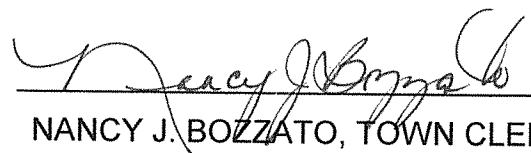
3. THAT By-law No. 3130 (2010) by amended by deleting Subsection 8(g) in it's entirety and replaced it with the following:

"8(g) the persistent barking, calling or whining or other similar persistent noise made by any domestic pet or any other animal kept or used for any purpose other than a normal farm practice carried on by an agricultural operation."

READ A FIRST, SECOND AND THIRD TIME  
AND FINALLY PASSED BY COUNCIL THIS  
17<sup>th</sup> DAY OF DECEMBER, 2012 A.D.



MAYOR D. AUGUSTYN



NANCY J. BOZZATO, TOWN CLERK