

OFFICE CONSOLIDATION

CITY OF TIMMINS

A BY-LAW TO PROVIDE FOR THE PROHIBITION AND REGULATION OF CERTAIN NOISES

BY-LAW 2006 - 6339

AS AMENDED

Office Consolidation

This consolidated version of By-law No. 2006-6339, as amended, is prepared for the purpose of convenience only and for accurate reference, recourse should be had to the original By-law, and all amending By-laws.

Amendment: 2007-6420

THE CORPORATION OF THE CITY OF TIMMINS

BY-LAW NO. 2006-6339

BEING A BY-LAW to provide for the prohibition and regulation of certain Noises in the City of Timmins

WHEREAS the Municipal Act, 2001 S.O., C.25, S.129 (1), provides that a Municipality may pass by-laws for prohibiting Noises,

AND WHEREAS the Council of the City of Timmins deems it necessary to regulate and prohibit unusual Noises, or Noises likely to disturb the inhabitants of the Municipality,

NOW THEREFORE the Council of the Corporation of the City of Timmins enacts as follows:

1. Definitions

"Authorized Emergency Vehicle" includes any ambulance or hearse, any vehicle of the fire department, any vehicle of the local, provincial or federal police, any vehicle (including a snow plough) operated by or for the City of Timmins or a public utility company while actively engaged in the construction, maintenance or repair of any highway, or any equipment or facilities thereon, or a snow plough or other or other maintenance vehicle operated by or for the Corporation of the City of Timmins

"Commercial, Industrial, Rural Agricultural and Residential Zones" mean the various zones as defined in the City of Timmins Zoning By-law 1977-850 and amendments thereto.

"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 or for any purpose, and includes any work in connection therewith.

"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, derricks, loaders, scraper, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment.

"Corporation" means The Corporation of the City of Timmins

"Council" means the Council of The Corporation of the City of Timmins.

"Highway" includes a common and public highway, street, avenue, lane, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicles.

"Motor Vehicle" includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electric or steam railways, or other Motor Vehicle running 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.

"Municipality" means the land within the geographic boundaries of the Corporation of the City of Timmins.

"Noise" means unwanted sound.

“Person” includes a sole proprietorship, a firm, a partnership, a co-partnership, an association, a corporation, and the heirs, executors, administrators, or other legal representatives of a person to whom the context can apply according to law.

“Residential Area” means seasonal and permanent dwelling in the following zones: R1, R2, R3, RM1, RM2, RE1, RE2, RS and RMH.

2. General Prohibitions

2.1 Likely to Disturb – Unusual – Prohibited

No Person shall cause or permit to be caused any unusual *Noises*, or *Noises* likely to disturb the inhabitants.

2.1.1 Likely to Disturb – Unusual – Set Out

For the purpose of Section 2 of this by-law, *Noises* deemed to constitute unusual *Noises* or *Noises* likely to disturb the inhabitants shall include, but are not limited to, those set out in sections 2.1.2 to 2.1.10 of this by-law.

2.1.2 Horn – Siren – Bell – Restricted

The sounding of a bell, horn, siren, or signal device for an unnecessary or unreasonable period of time is restricted.

2.1.3 Radio – Loud Speaker – Other

Unless specific permission is granted by the Corporation, the sound or *Noise* from or created by any radio, phonograph, public address system, sound equipment, loud speaker, or similar device or devices, or any musical or sound producing instrument or whatever kind, when such device or instrument is played or operated in such a manner or with such volume:

a) as to likely annoy or disturb the peace, quiet, comfort of repose of any individual in any type of dwelling; and/or

b) in the case of a device or instrument located in any commercial building or structure, as to be plainly audible upon the public streets at a distance of 8 metres (26.24 feet) from the building or structure in which such device or instrument is located: is prohibited.

2.1.4 Construction – Excavation

Any *Noise* arising between the hour of 10:00 o'clock p.m. of any day and 7:00 o'clock a.m. of the next following day from any excavation or construction work whatsoever, including the erection, demolition, alteration or repair of any building, and/or use of *Construction Equipment*, is prohibited, except in case of urgent necessity and then under a special permit from the Chief Building Official or the Director of Public Works and Engineering for the *Corporation*.

2.1.5 Loud Speaker – Horn – Other – Restricted

Any *Noise* created by the use or operation of any drum, horn, bell, radio or mechanical loudspeaker, or other instrument or device or sound-producing, or sound transmitting instrument or apparatus for the purpose of advertising or for attracting attention to any performance, show or sale or display of goods, wares or merchandise or that projects any *Noise* into any street or other public place is prohibited, unless the Council of *Corporation* has passed a resolution in accordance with section 5.

2.1.6 Firearms – Discharge – Exception

Any *Noise* caused by the discharge of any gun or other firearm, air gun and spring-gun or any class or type thereof is prohibited in any of the areas described in City of Timmins by-law 1991-3778 and amendments thereto. This prohibition shall not apply to peace officers in the performance of their duties.

2.1.7 Shouting – Verbal Sounds

Any *Noise* caused by loud shouting, or excessive sounds generated by a human voice, which is likely to disturb the peace, quiet, comfort or repose of any individual in any type of dwelling is prohibited.

2.1.8 Animal – Disturbing Peace

Any *Noise* made by an animal or bird, which is likely to disturb the peace, quiet, or comfort of any person in any type of dwelling is prohibited.

2.1.9 Vehicle

The grating, grinding, or rattling *Noises* or sound caused by condition of disrepair or maladjustment of any motor vehicle, motorcycle, or other vehicle, or part or accessory thereof is prohibited.

2.1.10 Power Equipment – Use – Time Restrictions

Between the hours of 10:00 p.m. of any day and 7:00 a.m. of the next following day any *Noise* or sound created by the use or operation of a lawnmower, chainsaw or any other *Noise* generating tool or device is prohibited.

3. Repealed by by-law 2007-6420

4 Exemptions

4.1 Rural Exemption

Notwithstanding any other provision of this by-law, this by-law does not apply to a *Person* or agricultural use that emits, causes, or permits the emission of sound or vibration that is normal and incidental to the *Rural Agricultural Zone*.

4.2 Commercial Exemption

Notwithstanding any other provision of this by-law, this by-law does not apply to a commercial use that emits, or causes, or permits the emission of sound or vibration that is normal and incidental to the *Commercial Zone*.

4.3 Commercial Establishments – Licensed Premises

Premises licensed by the Alcohol and Gaming Commission of Ontario for the sale of alcoholic beverages shall be governed by the permitted hours of sale of alcohol as set out in the terms and conditions in the license issued by the said Commission. Notwithstanding, Section 2.1.3(b) shall apply.

4.4 Fairs

The operation of a combustion engine in conjunction to the reasonable use of any amusement ride at a Fair or Event licensed by the *Corporation*.

4.5 Industrial Exemption

Notwithstanding any other provision of the by-law, this by-law does not apply to a *Person* or industry use that emits, causes, or permits the emission of sound or vibration that is normal and incidental to the *Industrial Zone*.

4.6 Public Celebration – Election – Gathering

None of the provisions of this by-law shall apply to 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, public celebration or other lawful gathering, provided that *Council of the Corporation* has passed a resolution in accordance with section 5.

4.7 Authorized Emergency Vehicles

None of the provisions of this by-law shall apply to any vehicle of the Police or Fire Department, the Corporation or its agents, any ambulance or any public service or emergency vehicle while answering a call or carrying out their duties.

4.8 Snow Removal

None of the provisions of this by-law shall apply to any vehicle of the Corporation or their agents working on behalf of the *Corporation* to perform snow removal, snow ploughing or snow clearing on any Municipal Highways and properties or to private contractors performing snow removal, snow ploughing or snow clearing.

4.9 Traditional, Festive, or Religious Activities

Notwithstanding any other provision of this By-law, this By-law does not apply to a person who emits, causes, or permits the emission of sound in connection with any traditional, festive, religious, or charitable activities, including without limitation the following,

- (a) South Porcupine/Porcupine winter carnival
- (b) South Porcupine/Porcupine summer fest
- (c) The 24 hour road runner relay held at Gillies Lake
- (d) The Cancer Society walk for life
- (e) Any parade including the Santa Claus Parade and the Remembrance Day Parade
- (f) Any fair, exhibition, celebration or concert authorized by Council
- (g) Any Canada Day activity
- (h) Any Victoria Day activity

5. Grant Of Exemption By Council

5.1 Council may grant exemption

Council may by resolution, upon receipt of written application, grant an exemption to provisions of the by-law for a specified period of time, not to exceed 6 months, subject to such terms and conditions as considered reasonable and appropriate.

5.2 Form of Application

The application shall include:

- (i) the name and address of the applicant;
- (ii) a description of the source of the sound in respect of which an exemption is being sought;
- (iii) a statement of the section of the by-law for which an exemption is being sought;
- (iv) the period of time for which the exemption is being sought;
- (v) the reasons why an exemption is being sought;

5.3 Exemption Application to be Published

Such application shall be accompanied by proof of publication, within the preceding ten days, in a newspaper of general circulation within the applicable service area of the *Corporation*, of a notice of intention to apply for an exemption to this by-law, containing the information required by Clauses 5(2)(i) through (v) inclusive and stating the date upon which the application to *Council* is intended to be made.

5.4 Timmins Police Service

A copy of the application for exemption shall be provided to the Police Chief of the Timmins Police Service for comment with regards to any complaint history or corrective measures taken to date.

5.5 Procedure

In deciding whether to grant the exemption, *Council* will review the application and any written or verbal submissions and grant the applicant and any Person opposed to the application an opportunity to speak in accordance with *Council's* Procedural By-law.

