

THE CORPORATION OF THE TOWN OF KINGSVILLE

BY-LAW 28-2006

Being a By-law to amend By-law 69-2003, being a By-law to Regulate Noise in The Corporation of the Town of Kingsville

WHEREAS Section 129 of the *Municipal Act, S.O. 2001, c. 25* provides that the councils of local municipalities may pass a by-law for regulating noise;

AND WHEREAS By-law No. 69-2003, being a By-law to Regulate Noise within The Corporation of the Town of Kingsville, was adopted by the Town of Kingsville Council on December 15, 2003;

AND WHEREAS it may be necessary from time to time to amend By-law 69-2003;

AND WHEREAS Council for The Corporation of the Town of Kingsville deems it necessary to add Dynamic braking or engine braking or engine retarding of a motor vehicle as a prohibited noise within the 50 km. zones of The Corporation of the Town of Kingsville.

NOW THEREFORE THE COUNCIL FOR THE CORPORATION OF THE TOWN OF KINGSVILLE ENACTS AS FOLLOWS:

1. That Section 2, GENERAL PROHIBITIONS, Subsection 2 is hereby amended to add the following paragraph (e) immediately following subparagraph 2(2)(d):

2.(2)

(e) Dynamic braking or engine braking or engine retarding of a motor vehicle within the 50 km. zones of The Corporation of the Town of Kingsville and in any other area so posted.

2. That this Amending By-law shall come into force and effect from the date of passing by the Council of The Corporation of the Town of Kingsville.

READ A FIRST, SECOND AND THIRD TIME AND FINALL PASSED THIS 27th DAY OF MARCH, 2006.

MAYOR, Nelson Santos

CLERK, Linda Burling

THE CORPORATION OF THE TOWN OF KINGSVILLE

BY-LAW 69-2003

Being a By-law to regulate noise

WHEREAS Section 129 of the *Municipal Act*, S.O. 2001, c. 25 provides that the councils of local municipalities may pass a by-law for regulating noise.

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

1. INTERPRETATION

- (1) In this By-law,
 - (a) "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;
 - (b) "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, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;
 - (c) "Corporation" means The Corporation of the Town of Kingsville;
 - (d) "Council" means the Council for The Corporation of the Town of Kingsville;
 - (e) "Industrial Area" means those areas of the municipality designated as industrial in Kingsville By-law No. 6-1987, the former Township of Gosfield South By-law No 59-1998, and the former Township of Gosfield North By-law 1988-15 as may be amended from time to time or designated as Industrial pursuant to any other By-law enacted pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c.P.13;
 - (f) "Municipality". means the land within the geographic limit of The Corporation of the Town of Kingsville;
 - (g) "Noise Control Officer" means a Police Officer of the Ontario Provincial Police or any person designated by Council as responsible for the administration or enforcement of municipal by-laws from time to time;
 - (h) "Unnecessary Noise" means unusual or excessive sound that is of such loud volume or continuous duration that it disturbs the peace, quiet, comfort or repose of any person or creates a nuisance.
 - (i) "Residential Area" means an area defined as a residential area as defined in the former Township of Gosfield South By-law No 59-1998, and the former Township of Gosfield North By-law 1988-15 as may be amended from, time to time or designated as Residential pursuant to any other. By-law enacted pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c.P.13;

2. GENERAL PROHIBITIONS

- (1) No person shall create unnecessary noise;
- (2) Without limiting the generality of Section 2(1), no person within the Municipality shall commit any of the following acts, which shall be deemed to be creating unnecessary noise:
 - (a) Permit persistent barking, whining, or howling of a dog of which the person is the owner or which is under his/her care;
 - (b) Operating a chain saw, lawnmower, leaf -blower, snow blower, mulcher, or other similar motorized device between the hours of 10:00 p.m. and 7:00 a.m. any day.
 - (c) Carry on an industrial activity including, but not limited to manufacturing, fabricating, assembly and/or production and which creates unwanted sound in an area other than an Industrial Area.
 - (d) Permit the idling of an engine or motor in, or on, any motor vehicle including a truck or item of attached auxiliary equipment for a continuous period exceeding five minutes, while such vehicle is stationary in a Residential Area unless the owner or operator of such vehicle can demonstrate to the satisfaction of the Noise Control Officer that idling the engine for a longer duration is necessary having regard to all of the surrounding circumstances including, but not limited to, the weather and the manufacturer's specifications for normal and efficient operation of the said motor vehicle and/or attached auxiliary equipment.

3. EXEMPTIONS

Section 2(1) of this By-law does not apply to noise created by the following activities:

- (a) Construction or the operation of Construction Equipment between the hours of 11:00 a.m. and 4:00 p.m. on Sundays and between the hours of 7:00 a.m. and 9:00 p.m. every other day;
- (b) Emergency measures undertaken for the immediate health, safety or welfare of the inhabitants or any of them or for the preservation or restoration of property; unless such sound is clearly of a longer duration or nature more disturbing than is reasonably necessary for the accomplishment of such emergency purpose;
- (c) Any normal faun practice as determined pursuant to the Farming and Food Production Act, 1998;
- (d) For any sound that emanates from an Industrial Area that results from an essential part of the industrial process that is established on the property from which the sound originated.
- (e) The operation of all municipally owned and operated vehicles and subcontractors thereof, and includes fire, police, and ambulance service vehicles.
- (f) An activity which creates an unnecessary sound that is the result of the use of any lot, building or structure for any purpose that would otherwise be prohibited under the regulations of the Town's Zoning By-law, but is determined to be a legal non -conforming use in accordance with the definition contained within the Town's Zoning By-law.

4. EXEMPTION OF FACILITIES OR TRADITIONAL, FESTIVE, RELIGIOUS AND OTHER ACTIVITIES

This By-law does not apply to any facilities or activities of any level of government or any of the hereinafter listed facilities or traditional, festive or religious and other activities, namely;

- (a) Events sponsored by the Migration Festival Committee;
- (b) Ringing of church bells, religious events and religious processions;
- (c) The Kingsville Business Improvement Association sound system or any event sponsored by that organization including but not limited to the Victorian Day Festival;
- (d) Events sponsored by a service club or clubs to promote community interests and involvement including but not limited to the Community Carnival and Cottam Rotary Horse Show.
- (e) Statutory holidays do not fall under the categories of facilities, traditional, festive or religious and other activities.
- (f) Fantasy of Lights
Ruthven Apple Festival,
Victoria Day (May 24th of each year),
Dominion Holiday (July 1st of each year),
New Year's Eve (December 31st of each year)

5. GRANT OF NOISE PERMIT BY COUNCIL

(1) Application to Council

Notwithstanding anything contained in this By-law, any person may make application to Council for a noise permit which shall have the effect of granting exemption from any of the provisions of this By-law with respect to any source of sound through which the person might be prosecuted and Council, by resolution, may refuse to grant the permit applied for or any exemption of lesser effect, and any permit granted shall specify the time period, not in excess of six (6) months, during which it is effective and may contain such terms and conditions as Council sees fit;

(2) Decision

In deciding whether to grant the permit, Council shall give the applicant, and any person opposed to the application, an opportunity to be heard and may consider such other matters as Council sees fit.

(3) Breach

Breach by the applicant of any of the terms or conditions of any permit granted by Council shall render the permit null and void. Any noise permit may be revoked or suspended by Council for any reason Council deems appropriate.

6. 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.

7. PENALTY

Every person who contravenes any of the provisions of this By-law is guilty of an offence and, upon conviction is subject to a fine pursuant to the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended.

8. That **By-law Number 7-1988 of The Corporation of the Town of Kingsville**, being a By-law to regulate and prohibit unusual noises, and **the former Township of Gosfield South By-law 12-1985**, being a By-law to control noise, are hereby repealed.

READ A FIRST AND SECOND TIME THIS 15th DAY OF DECEMBER, 2003.

READ A THIRD TIME AND FINALLY PASSED THIS 15th DAY OF DECEMBER, 2003.

MAYOR, Nelson Santos

ACTING CLERK, Linda Burling