



**The Municipal Corporation of the
Town of Fort Erie
BY-LAW NO. 30-09**

**BEING A BY-LAW TO PROHIBIT AND REGULATE
PUBLIC NUISANCES AND NOISES LIKELY TO DISTURB
THE INHABITANTS OF THE TOWN OF FORT ERIE AND
TO REPEAL BY-LAW NUMBERS. 159-88, 73-95 AND 43-07**

WHEREAS Section 128 of the of the *Municipal Act, 2001*, S.O 2001, c.25 provides that a local municipality may prohibit and regulate with respect to public nuisances including matters that in the opinion of council are or could become or cause a public nuisance, and

WHEREAS Section 129 of the *Municipal Act, 2001*, S.O 2001, c.25 provides that a local municipality may prohibit and regulate noise matters, and

WHEREAS The Council of the Corporation of the Municipality of the Town of Fort Erie deems it appropriate to enact a By-law to prohibit and regulate public nuisances and prohibit and regulate noise matters within the Town of Fort Erie:

NOW THEREFORE the Municipal Council of the Town of Fort Erie hereby enacts as follows:

1.0 DEFINITIONS

1.1 The following terms are defined for the purpose of this By-law:

“agricultural operation” means general farming and with out limiting the generality of the foregoing shall include the raising and harvesting of field, bush, tree or vine crops, truck gardening, nurseries, greenhouses, dairying, animal husbandry, raising of poultry, vermiculture, aquaculture, equestrian centres, riding stables, the wholesaling of products used in agriculture but not including farm machinery, a farm produce outlet, the sale and processing of produce grown on the farm from which sale is made

“construction” means lawful erection, erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, laying of pipe and conduit (whether below or above ground level), street and highway building, application of concrete, equipment installation and alteration, and structural installation of construction components and materials, in any form or for any purpose.

“garage sale” means a sale conducted on a residential property by an owner of such residential property, of household goods belonging to the owner, and includes a yard sale and the like.

“normal farm practice” means as defined under the *Farm Practices Protection Act*, R.S.O 1990, c.F.6.

“**officer**” means a Municipal Law Enforcement Officer or a Police Officer with the Niagara Regional Police.

“**owner**” means a registered owner, but also includes an occupant, lessee, tenant or any other person in charge of or in control of premises.

“**person**” means an Owner who may be a natural person, firm, corporation, partnership or association.

2.0 GENERAL PROHIBITION

2.1 No person shall make, cause or permit an unreasonable noise or noise that is likely to disturb an inhabitant of the Town of Fort Erie.

2.2 No owner shall emit, cause or permit the emission from the owner’s property of unreasonable noise or noise that is likely to disturb the inhabitants of the Town of Fort Erie

2.3 Without limiting the generality of sections 2.1 and 2.2 the following are deemed to be unreasonable noise or noise likely to disturb the inhabitants of the Town of Fort Erie:

- (a) the ringing of bells, blowing of horns or sounding of sirens on any motor vehicle except when the ringing, blowing or sounding is required by law or by the requirements of safety;
- (b) the sound or noise created by a radio, television or any other electronic device or musical or sound producing instrument of whatsoever kind when same is played or operated in an unreasonable a manner or with such a volume as to annoy or disturb an inhabitant of the Town of Fort Erie;
- (c) the yelling, shouting, swearing or carrying on a conversation in a loud tone at such times and places as is likely to disturb an inhabitant of the Town;
- (d) the grating, grinding or rattling noise or sound caused by a condition of disrepair or maladjustment of any motor vehicle, motorcycle, or other vehicle whatsoever or part or accessory thereof;
- (e) the racing or accelerating of a motor attached to any motor vehicle while the vehicle is not in motion;
- (f) the persistent barking, howling, whining, or other similar persistent noise made by any domestic pet, or any other animal kept, or used for any purpose other than agriculture;
- (g) any sound made by construction between the hours of nine o’clock in the evening (9:00pm) and seven o’clock in the morning (7:00am).

3.0 EXEMPTIONS

3.1 The prohibitions in sections 2.1 and 2.2 shall not apply to the following:

- (a) the use, in a reasonable manner, of any apparatus or mechanism for the amplification of the human voice or music in a public place during special events within the Town of Fort Erie, if the operator of such an amplifying device has received the prior written permission of the Town for the purpose;
- (b) any military or other band or any parade operating with written permission having first been obtained from the municipality;
- (c) any police, fire, public or emergency service vehicle or ambulance whilst carrying out its lawful duties;
- (d) any warning device sound arising from the lawful operation of a vehicle or motor vehicle;
- (e) any sound arising from the operation of any railway which operates under The Railway Act of Canada or from any plant or work in connection with any such railway;
- (f) the operation of machines and equipment by or on behalf of the Town of Fort Erie including but not limited to snow removal equipment, road cleaning equipment, grass cutting or field maintenance equipment, tree and shrub pruning and mulching equipment and machines for the painting of cross walks and highways;
- (g) the collection or disposal of garbage, waste or recyclable material by or on behalf of the Town or the Regional Municipality of Niagara;
- (h) the discharge of consumer fireworks, display fireworks or pyrotechnic special effects fireworks if such discharge complies with the Town's Fireworks By-law;
- (i) the sound of bells or carillon in connection with any church, chapel, meeting house or religious service;
- (j) activities from industrial uses located in lands zoned for industrial use if sound is in accordance with the terms and conditions of a valid Certificate of Approval provisional Certificate of Approval or other approval issued under the Environmental Protection Act, R.S.O. 1990, c. E.19 where such approval addresses sound as a source of contamination;
- (k) activities as part of a Normal Farm Practice and carried on as part of an Agricultural Operation;
- (l) the use in a reasonable manner of vehicles and equipment when utilized for the clearing and the removal of snow and yard maintenance on private property;

4.0 PUBLIC NUISANCE - GENERAL PROHIBITION

4.1 No person or owner shall cause or permit a public nuisance.

4.2 Without limiting the generality of Section 4.1, a public nuisance shall include:

- (a) the attracting and or feeding of animals domesticated or otherwise in such a way that it causes damage or otherwise creates a nuisance or disturbance to another person or another persons property;
- (b) exterior lighting that is directed or deflected towards adjacent lots so as to create a nuisance or disturb the comfort and enjoyment of the inhabitants or is placed in such a position or manner to confuse persons driving vehicles on the public highway;
- (c) temporary events such as garage sales and yard sales in an area where the zoning permits residential land use, except where:
 - (i) the event takes place only between the hours of eight o'clock (8:00 a.m.) and six o'clock (6:00 p.m.); and
 - (ii) the number of one (1) day events on a property does not exceed four (4) in each calendar year.

Exemption

4.3 Notwithstanding the other provisions in this By-law, the restrictions listed in Section 4.2 (a) shall not apply to:

- (a) properties zoned for agriculture or open space uses that are involved in dairying, animal husbandry, the raising of poultry, vermiculture, aquaculture, equestrian centres, riding stables and zoological theme parks.

5.0 ENFORCEMENT

5.1 An officer shall enforce the provisions of this By-Law and is authorised to enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not this By-Law is being contravened.

5.2 Every person who contravenes any provision of this By-law, including any Schedule thereto, is guilty of an offence and upon conviction liable to the penalties as prescribed by the *Provincial Offences Act*, R.S.O. 1990 c.P33.

6.0 ADMINISTRATION AND INTERPRETATION

6.1 The short title of this by-law is the "Noise and Nuisance By-Law"

6.2 If there is a conflict between a provision of this By-law and a provision of any other Town by-law, the provision in this By-law shall apply.

- 6.3 It is hereby declared that notwithstanding that any part of this By-law, or parts thereof, may be found by any Court of law to be invalid or beyond the power of the Council to enact such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this By-law are separate and independent there from and enacted as such.
- 6.4 Pursuant to the provisions of Sections 23.1 to 23.5 of the *Municipal Act, 2001* the Clerk of the Town of Fort Erie is hereby authorized to effect any minor modifications or corrections of an administrative, numerical, grammatical, semantical or descriptive nature or kind to this By-law and schedules as may be necessary after the passage of this By-law.
- 6.5 By-law Nos. 159-88, 73-95 and 43-07 are hereby repealed
- 6.6 This By-law shall come into force and effect on the date of passage,

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 23RD DAY OF FEBRUARY, 2009.



MAYOR



CLERK

I, Carolyn J. Kett, the Clerk, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 30-09 of the said Town. Given under my hand and the seal of the said Corporation this day of , 200 .
