

THE CORPORATION OF HALDIMAND COUNTY

By-law No. 1435/14

Being a by-law to amend By-law 1098/10 being a by-law to prohibit and regulate noise

WHEREAS Section 10 of the *Municipal Act, 2001, S.O. 2001, c.25* (the Act) provides that a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

WHEREAS Section 10 of the *Municipal Act, 2001, S.O. 2001, c.25* provides that a single-tier municipality may pass by-laws respecting the social and environmental well-being of the municipality and the health, safety and well-being of persons;

WHEREAS Section 128 of the *Municipal Act, 2001, S.O. 2001, c.25* authorizes a local municipality to prohibit and regulate matters that, in the opinion of Council, are or could become or cause public nuisances;

WHEREAS Section 129 of the *Municipal Act, 2001, S.O. 2001, c.25* authorizes municipalities to prohibit and regulate noise, including requiring permits with conditions, with respect to noise;

WHEREAS Section 429 of the *Municipal Act, 2001, S.O. 2001, c.25* authorizes a municipality to establish a system of fines for offences under a by-law of the municipality;

WHEREAS the people of Haldimand County expect, and have a right to an environment free from unusual, unnecessary or excessive sound or which may degrade the quality and tranquility of their life or cause nuisance;

WHEREAS a recognized body of scientific and technological knowledge exists by which sound and vibration may be reasonably and accurately measured and substantially reduced;

AND WHEREAS the Council of the Corporation of Haldimand County deems it expedient to amend By-law 1098/10 to include the Ministry of Environment's Environmental Noise Guideline (NPC-300) which will help to protect the people of Ontario against the impacts of noise and provide certainty and consistency for regulated facilities that are sources of noise and to ensure that quantitative section of Haldimand County's Noise By-law will be enforceable and consistent with the current Ministry of the Environment guidelines.

NOW THEREFORE, the Council of The Corporation of Haldimand County enacts as follows:

1. **THAT** Section 2 of By-law 1098/10 be amended by the removal of the following:
 - (t) "Persistent" in reference to barking, howling, whining, squawking or other sound-making by an animal or bird means continuously or intermittently for an aggregate period of at least 10 minutes out of any 60 minute period.

2. **THAT** Section 6 of By-law 1098/10 be amended by the removal of the following:
 - (a) Supplementary to the definition of “Persistent” relative to sound-making by an animal or bird, if the sound level, as measured with A-weighted decibels, created by an animal or bird exceeds the ambient sound level at a Point of Reception in a Quiet Zone or Residential Area by more than 15 dBA for more than 10% of a measurement time period of not less than ten minutes, the sound-making shall be deemed to be persistent and excessive, and such sound is deemed to be noise, unless provoked by legitimate causes as defined in 6(b). For purposes of this section, the ambient sound level shall be defined as the ninetieth percentile sound level in A-weighted decibels over a time period of no less than twenty minutes, not including the sound of the animal or bird.
3. **THAT** Section 7 of By-law 1098/10 be amended by the removal of the following:
 7. No person shall emit or cause or permit the emission of sound from a stationary source such that the level of sound from that source at a Point of Reception located in a Quiet Zone or Residential Area, exceeds the applicable sound level limit prescribed in Publication NPC-205 – *Sound Level Limits for Stationary Sources in Class 1 and 2 Areas (Urban)* or NPC-232 – *Sound Level Limits for Stationary Sources in Class 3 Areas (Rural)* and such sound is deemed to be noise.
4. **THAT** Section 7 of By-law 1098/10 be amended by inserting the following:
 7. No person shall emit or cause or permit the emission of sound from a stationary source such that the level of sound from that source at a Point of Reception located in a Quiet Zone or Residential Area, exceeds the applicable sound level limit prescribed in the Ministry of the Environment Publication NPC-300 – *Environmental Noise Guideline, Stationary and Transportation Sources – Approval and Planning* and such sound is deemed to be noise.
5. **THAT** Section 11 of By-law 1098/10 be amended by the removal of the following:
 - (b) For activities identified in Section 10 on premises zoned and licensed, where necessary, for such use prior to January 1, 2010, the applicable sound limits at any Point of Reception shall be those determined in accordance with NPC-205 or NPC-232 as is appropriate to the Class of Area of the Point of Reception, plus 10 dBA.
 - (c) For activities identified in Section 10 on premises zoned and licensed, where necessary, for such use on or after January 1, 2010, the applicable sound limits at any Point of Reception shall be those determined in accordance with NPC-205 or NPC-232, as is appropriate to the Class of Area of the Point of Reception.

6. **THAT** Section 11 of By-law 1098/10 be amended by inserting the following:
- (b) For activities identified in Section 10 on premises zoned and licensed, where necessary, for such use prior to January 1, 2010, the applicable sound limits at any Point of Reception shall be those determined in accordance with NPC-300 as is appropriate to the Class of Area of the Point of Reception, plus 10 dBA.
 - (c) For activities identified in Section 10 on premises zoned and licensed, where necessary, for such use on or after January 1, 2010, the applicable sound limits at any Point of Reception shall be those determined in accordance with NPC-300, as is appropriate to the Class of Area of the Point of Reception.
7. **THAT** Section 29 of By-law 1098/10 be amended by the removal of the following:
29. Every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction thereof, forfeit and pay a fine of not less than \$100.00 and not more than \$2,000.00 for a first offence and not less than \$500.00 and not more than \$5,000.00 for a second or subsequent offence, exclusive of costs and every such fine is recoverable under The *Provincial Offences Act*.
8. **THAT** Section 29 of By-law 1098/10 be amended by inserting the following:
29. Each *person* who contravenes any provision of this by-law is guilty of an offence:
- a) Every person who contravenes any of the provisions of this by-law, and if the person is a corporation, every director or officer of the corporation who knowingly concurs in the contravention, is guilty of an offence and on conviction is liable,
 - (i) On a first conviction to a fine of not more than \$25,000; and
 - (ii) On a subsequent conviction to a fine of not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted.
 - b) Despite subsection (a), if the person is a corporation, the maximum penalty that may be imposed is,
 - (i) On a first conviction a fine of not more than \$50,000; and
 - (ii) On a subsequent conviction a fine of not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted.
9. **THAT** Schedule 1 of By-law 1098/10 identified as "Index of Publications" be repealed and Schedule 1 "Index of the Ministry of the Environment Publications" as attached hereto and to form part of this by-law be added to form By-law 1098/10.
10. **THAT** this by-law shall take precedence over any by-law with which it is inconsistent; and

11. **AND THAT** this by-law shall come into force and take full effect immediately upon passage.

READ a first and second time this 7th day of April, 2014.

READ a third time and finally passed this 7th day of April, 2014.

MAYOR

CLERK

**SCHEDULE 1
to By-law 1435/14**

INDEX OF THE MINISTRY OF THE ENVIRONMENT PUBLICATIONS

Publication NPC-101	Technical Definitions
Publication NPC-102	Instrumentation
Publication NPC-103	Procedures
Publication NPC-104	Sound Level Adjustments
Publication NPC-206	Sound Levels do to Road Traffic
Publication NPC-216	Residential Air Conditioners
Publication NPC-119	Blasting
Publication NPC-300	Environment Noise Guideline - Stationary and Transportation Sources- Approval and Planning