

BYLAW NO. 2011-8
The Noise Bylaw, 2011

The Council of The Town of Hafford enacts:

Short Title

1. This Bylaw may be cited as The Noise Bylaw, 2011.

Purpose

2. This Bylaw is enacted to protect, preserve and promote the safety, health, welfare, peace and quiet of the citizens of The Town of Hafford through the reduction, control, and prevention of loud and excessive noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity.

Definitions

3. In this Bylaw,
 - a) “Municipality” means The Town of Hafford, or the area contained within the boundaries of the Town of Hafford as the context requires;
 - b) “holiday” means any statutory holiday as defined in *The Interpretation Act*, and amendments thereto, or any holiday proclaimed as such by the Council of the Town of Hafford;
 - c) “engine brake” means a device commonly used in a truck, power unit or semi-trailer unit to slow or brake the vehicle by means of closing the exhaust valves on the engine of the vehicle, or any similar device;
 - d) “industrial district” means an industrial district as established by *The Development Plan or the Zoning Bylaw*;
 - e) “motor vehicle” means a motor vehicle within the meaning of *The Traffic Safety Act*;
 - f) “outdoor public event” means an outdoor concert, sporting event, festival, attraction or similar event, whether held on private or public property, to which the public-at-large is invited or admitted, with or without charge;
 - g) “permitted premises” means permitted premises within the meaning of *The Alcohol and Gaming Regulation, Act, 1997*;
 - h) “power unit” means a power unit within the meaning of *The Traffic Safety Act*;
 - i) “residential district” means a residential district as established by *The Development Plan or the Zoning Bylaw*;
 - j) “semi-trailer” means a semi-trailer within the meaning of *The Traffic Safety Act*;
 - k) “truck” means a truck within the meaning of *The Traffic Safety Act*;
 - l) “Zoning Bylaw” means *The Town of Hafford Zoning Bylaw No.2010-9* and including any amendments to these bylaws as may be enacted from time to time.
 - m) “noise” means any sound which in the opinion of a Municipal Development Officer, having regard for all circumstances, including the time of day and the nature of the activity generating the sound, is likely to unreasonably annoy or disturb persons or to injure, endanger or detract from the comfort, repose, health, peace, or safety of Persons within the Municipality.

n) “Municipal Development Officer” means the Municipal Administrator or an individual appointed by the Municipal Administrator to enforce the Municipality’s bylaws.

Scope

- a) This Bylaw applies to the control of all sound originating within the jurisdictional limits of the Municipality.

General Prohibition

- 4. (1) No person shall make, continue, or cause to be made or continued, or suffer or permit to be made or continued any noise which is unreasonably loud or excessive.
- (2) For the purpose of this Bylaw, a noise will be considered to be unreasonably loud or excessive if it unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity in the vicinity.
- (3) Factors for determining whether a sound is unreasonably loud or excessive include, but are not limited to, the following:
 - a) the proximity of the sound to sleeping facilities, whether residential or commercial;
 - b) the land use, nature and zoning of the area from which the sound emanates and the area where it is received or perceived;
 - c) the time of day or night the sound occurs;
 - d) the duration of the sound;
 - e) the volume of the sound;
 - f) the nature of the sound;
 - g) whether the sound is recurrent, intermittent or constant; and the nature of the event or activity from which the sound emanates.
- (4) No person who owns, keeps, houses, harbours or allows to stay in his premises a dog shall allow such dog to bark excessively or how excessively;
- (5) a) No person being the owner or occupant of any premises shall operate, or permit to be operated, or suffer to be operated, or allow to be operated, play or allow to be played, any radio, “boombox”, “ghetto blaster”, stereo, musical instrument, or any other apparatus, appliance, device or machine used for the production or amplification of sound, either in or on private premises in a residential district in such a manner that the same can be easily heard by an individual or member of the public who is not on the same premises from which such noise or sound emanates.
- b) For the purpose of this bylaw “premises” shall mean the area contained within the boundaries of any lot and includes any building situate within such boundaries. Provided, however, that where any building contains more than one dwelling unit, each dwelling unit, or common area of such building and the land surrounding the building within the boundaries of the lot shall be deemed to be separate premises.
- c) For the purpose of this bylaw “occupant” shall mean the owner, occupant or licensee of the premises or any person found on the premises at or around the time when the noise or sound issues from the premises.

- (6) The Municipal Development Officer or appointed Peace Officer may direct any Person who has caused or made a Noise, or any Person who owns property from which Noise has originated, to abate or eliminate the noise. Such a direction may be either verbal or written.

Noises Prohibited

5. The following acts are deemed to be violations of this Bylaw *per se* and are prohibited. This enumeration does not constitute an exclusive list. No person shall do the following:

- a) *Idling Trucks*: In residential districts, the idling of any truck or power unit or the operation of any motor, “reefer” or similar device on a semi-trailer for more than twenty (20) minutes.
- b) *Engine Brakes*: The use of an engine brake on any motor vehicle driven within the Municipality, except in cases of emergency.
- c) *Air Horns*: The use of an air horn on any motor vehicle within the Municipality, except in cases of emergency.
- d) *Outdoor Public Events*: The use or operation of a loudspeaker, amplifier, public address system radio, “boombox”, “ghetto blaster”, stereo, musical instrument or similar device that produces, reproduces or amplifies sound at an outdoor public event, other than during the following hours:
 - (i) on a Monday, Tuesday, Wednesday or Thursday, between the hours of 11:00 a.m. and 9:00 p.m.;
 - (ii) on a Friday or Saturday, between the hours of 11:00 a.m. and 10:00 p.m.; and
 - (iii) on a Sunday or statutory holiday, between the hours of 1:00 p.m. and 6:00 p.m.

6. Where a use of land or activity otherwise lawfully permitted at a location within the Municipality necessarily involves the creation of noise, as defined by this Bylaw, the Person owning, operating, or controlling the activity; or the Person owning or controlling the property upon or within which the activity is allowed to take place shall take all reasonable steps to ensure that the noise created by the said activity is minimized as much as practicable, in all circumstances.

7. Whether or not an activity referred to in Section 6 of this Bylaw “necessarily” involves the creation of noise, and whether or not the Person controlling the said activity has taken “all the reasonable steps” to minimize such noise are questions of fact to be determined by a Court hearing a prosecution pursuant to this Bylaw.

Exemptions

8. Sounds caused by the following are exempt from the prohibitions set out in this Bylaw:

- a) Work carried on by the Municipality or its agents, contractors, servants or employees, acting within the scope of their agency, contract, or employment, as the case may be;
- b) The performance of work by any person on land zoned Industrial District pursuant to The Zoning Bylaw if:
 - a. The Noise is generated pursuant to work done in the normal manner to that end; and
 - b. The work is authorized pursuant to The Zoning Bylaw as amended, and does not otherwise contravene any federal, provincial or municipal laws or regulations.

- d) Persons using domestic equipment including, without restricting the generality of the foregoing, lawnmowers, snow blowers, garden tillers and built-in vacuum cleaners which are vented to the outside, and persons owning or controlling property upon which such equipment is used if:
 - a. The noise is of a temporary or intermittent nature;
 - b. The equipment is properly maintained and operated in a normal manner for that type of equipment; and
 - c. The noise occurs between the hours of 7:00 a.m. and 10:00 p.m.
- e) Persons using air conditioning and cooling units in either domestic or commercial use if the units are properly maintained and are operated in a normal manner.
- f) The ringing of bells in churches, religious establishments and schools;
- g) The sounding of a general or a particular alarm or warning to announce a fire or other emergency or disaster;
- h) The sounding of police whistles or the sirens on any vehicle used by the police or fire department or on any ambulance or public service vehicle;
- i) Any use of sound amplification equipment used by the police, fire department or any ambulance service or public service;

Special Event Permits

- 9. (a) Despite the provisions of this Bylaw, any person may apply to Council for an exemption to any provision of this Bylaw with respect to any noise to allow such person to emit, cause or permit such noise for the period of time set out in such application, and Council may grant such exemption, grant an alternative exemption or refuse such exemption, and may set out conditions to be met as Council sees fit for any exemption granted.
- b) Where an exemption is granted by Council, breach of any of the terms or conditions of the exemption shall render the exemption null and void.
- c) Every person applying for an exemption shall, at least 10 business days prior to the Council meeting at which the request for exemption is to be addressed by Council, provide to the Development Officer, a complete and accurate application form in Schedule A, setting out the particulars respecting the exemption requested.

Offences and Penalties

- 10. Every person who contravenes any provision of this Bylaw is guilty of an offence and is liable on summary conviction to:
 - a) A minimum of Two Hundred and Fifty (\$250.00) for a first offence; and
 - b) A minimum of Five Hundred Dollars (\$500.00), for a second or subsequent offence.

Upon receipt of a notice of violation, full payment must be received by the Municipality within Fourteen (14) days from the date of the notice.

Severability

11. A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any provision of this Bylaw shall not affect the validity of the remaining parts of this Bylaw.

Schedule Form Part of Bylaw

12. Schedule "A" attached hereto shall form part of this Bylaw.

13. Bylaw No. 1986-10 shall be and is hereby repealed.

SEAL

Mayor

Administrator

Certified a true copy of
Bylaw 2011-8 adopted by
Council Resolution on the
13th day of September, 2011.

Administrator

Schedule A: NOISE BYLAW – SPECIAL EVENT PERMIT APPLICATION

The undersigned hereby requests the Council of the Town of Hafford to consider this application for an exemption from the provisions contained within the Town of Hafford Noise Bylaw _____.

The undersigned certifies the information contained herein, on which this application is based, to be true and the owner is aware of this exemption request.

1. Applicant / Property Owner

Applicant: _____

Address: _____ Postal Code: _____

Phone: _____ Fax: _____

2. Legal Land Description for Event

LSD(s) _____ Lot(s) _____ Block(s) _____

3. Type of Event: _____

4. Anticipated Event Attendance: _____

5. Description of noise anticipated and the source(s) of the noise:

6. Time of day noise anticipated: _____

7. Date (s) for which an exemption is being sought:

8. Signature of Applicant: _____ **Date:** _____

Applications must be received at least 10 business days prior to the Council Meeting at which the exemption request is to be addressed.