

THE CORPORATION OF THE  
T O W N   O F   P E L H A M  
BY-LAW #681 (1981)

Being a by-law to control noise in the Town  
of Pelham.

A by-law of the Corporation of the Town of Pelham;

WHEREAS it is expedient to exercise the power conferred upon the Council by The Environmental Protection Act, 1971, as amended, and other statutory authority;

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

AND WHEREAS the people have a right to and should be ensured an environment free from unusual, unnecessary, or excessive sound or vibration which may degrade the quality and tranquillity of their life or cause nuisance;

AND WHEREAS it is the policy of the Council to reduce and control such sound or vibration;

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

(1) Interpretation:

In this by-law: -

(a) "AGRICULTURAL EQUIPMENT" means any equipment or device designed and intended for use in normal agricultural practices.

(b) "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.

(c) "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.

(d) "CONVEYANCE" includes a vehicle and any other device employed to transport a person or persons or goods from place to place but does not include any such device or vehicle if operated only within the premises of a person.

(e) "COUNCIL" means the Council of the Corporation of the Town of Pelham.

(f) "HIGHWAY" includes a common and public highway, street,

avenue, parkway, driveway, square, place, bridge, viaduct, or trestle designed and intended for, or used by, the general public for the passage of vehicles.

(g) "MINISTER" means Minister of the Environment.

(h) "MINISTRY" means Ministry of the Environment.

(i) "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 vehicles 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.

(j) "MOTORIZED CONVEYANCE" means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power.

(k) "MUNICIPALITY" means the land within the geographic limit of the Corporation of the Town of Pelham.

(l) "NOISE" means unwanted sound.

(m) "PERSISTENT" means constantly repeated for a period of one half ( $\frac{1}{2}$ ) hour.

(n) "POINT OF RECEPTION" means any point on the premises of a person where sound or vibration originating from other than those premises is received.

(2) Zones:

In this by-law: -

(a) RESIDENTIAL AREA - "Residential Area" means those areas of the municipality specified as follows: All those areas designated as "Residential Areas" on Schedule "A" to this by-law.

(b) AGRICULTURAL AREA - "Agricultural Area" means those areas of the municipality specified as follows: All those areas in the Town of Pelham not designated as "Residential Areas".

(3) General Prohibitions:

No person shall emit or cause or permit the emission of sound resulting from an act listed herein, and which sound is clearly audible at a point of reception:

(1) Racing of any motorized conveyance other than in a racing event regulated by law.

(2) The operation of a motor vehicle in such a way that the tires squeal.

(3) The operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in good working order and in constant operation.

(4) The operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to improperly secured load or equipment, or inadequate maintenance.

(5) The operation of an engine or motor in, or on, any motor vehicle or item of attached auxiliary equipment for a continuous period exceeding five minutes, while such

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vehicle is stationary in a Residential Area or Agricultural Area, unless:

- (i) the original equipment manufacturer specifically recommends a longer idling period for normal and efficient operation of the motor vehicle in which case such recommended period shall not be exceeded; or,
  - (ii) operation of such engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to, operation of ready-mixed concrete trucks, lift platforms and refuse compactors; or,
  - (iii) weather conditions justify the use of heating or refrigerating systems powered by the motor or engine for the safety and welfare of the operator, passengers or animals, or the preservation of perishable cargo, and the vehicle is stationary for purpose of delivery or loading; or,
  - (iv) prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or,
  - (v) the idling is for the purpose of cleaning and flushing the radiator and associated circulation system for seasonal change of anti-freeze, cleaning of the fuel system, carburetor or the like, when such work is performed other than for profit.
- (6) The operation of a motor vehicle horn or other warning device except where required or authorized by law or in accordance with good safety practices.
- (7) The operation of any item of construction equipment in a Residential Area or Agricultural Area without effective muffling devices in good working order and in constant operation.

(4) Prohibitions by Time and Place:

No person shall emit or cause or permit the emission of sound resulting from any act listed in Table 4-1 if clearly audible at a point of reception located in an area of the municipality within a prohibited time shown for such an area.

TABLE 4-1  
PROHIBITIONS BY TIME AND PLACE

	Prohibited Period of Time	
	Agricultural Area	Residential Area
1. The discharge of firearms.	Sundays	At all times

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	Prohibited Period of Time	
	Agricultural Area	Residential Area
2. The operation of a combustion engine, which, (i) is, or (ii) is used in, or (iii) is intended for use in, a toy, or a model or replica of any device, which model or replica has no function other than amusement and which is not a conveyance.	B	B
3. The operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers, and intended for the production, reproduction or amplification of sound.	A	A
4. The operation of any auditory signalling device, including but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles, or the production, reproduction or amplification of any similar sounds by electronic means, except where required or authorized by law or in accordance with good safety practices.	D & E	D & E
5. The operation of any powered rail car including but not limited to refrigeration cars, locomotives, or self-propelled passenger cars, while stationary on property not owned or controlled by a railway governed by the Canada Railway Act.	B	B
6. The operation of any motorized conveyance other than on a highway or other place intended for its operation.	B	B
7. The venting, release or pressure relief of air, steam or other gaseous material, product or compound from any autoclave, boiler, pressure vessel, pipe, valve, machine, device or system.	A	A
8. Persistent barking, calling or whining or other similar persistent noise making by any domestic pet or any other animal kept or used for any purpose other than agriculture.	A	A
9. The operation of a commercial car wash with air drying equipment.	D & E	D & E

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Prohibited Period of Time		
	Agricultural Area	Residential Area
10. Yelling, shouting, hooting, whistling or singing	A	A
11. The operation of any item of snow making equipment.	E	E
12. All selling or advertising by shouting or outcry or amplified sound.	D & E	D & E
13. Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials, or refuse, whatsoever, unless necessary for the maintenance of essential services or the moving of private household effects.	Not Restricted	D & E
14. The operation of any equipment in connection with construction.	D & E	D & E
15. The operation or use of any tool for domestic purposes other than snow removal.	A	A
16. The operation of solid waste bulk lift or refuse compacting equipment.	B	B
17. The operation of a commercial or car wash of a type other than mentioned in Item #9.	A	A
18. The operation of bird scaring devices.	A	At all times

PROHIBITED PERIODS OF TIME:

- A - 23 00 one day to 07 00 next day (09 00 Sundays)
- B - 19 00 one day to 07 00 next day (09 00 Sundays)
- C - 17 00 one day to 07 00 next day (09 00 Sundays)
- D - All day Sundays and Statutory Holidays
- E - 19 00 one day to 07 00 next day
- F - Sunset to Sunrise

(5) Exemption:

Public Safety: -

Notwithstanding any other provision of this by-law, it shall

be lawful to emit or cause or permit the emission of sound or vibration in connection with emergency measures undertaken:

- (a) for the immediate health, safety or welfare of the inhabitants or any of them; or,
- (b) for the preservation or restoration of property; unless such sound or vibration is clearly of a longer duration or nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

(6) Agricultural Operations:

Notwithstanding any other provisions of this by-law, it shall be lawful to emit or cause or permit the emission of sound or vibrations in connection with normal agricultural operations.

(7) Grant of Exemption by Council:

(1) Application to Council: -

Notwithstanding anything contained in this by-law, any person may make application to Council to be granted an exemption from any of the provisions of this by-law with respect to any source of sound or vibration, for which he might be prosecuted and Council, by resolution, may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect and any exemption granted shall specify the time period, not in excess of six 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 exemption, Council shall give the applicant and any person opposed to the application an opportunity to be heard and may consider such other matters as it sees fit.

(3) Breach: -

Breach by the applicant of any of the terms or conditions of any exemption granted by Council shall render the exemption null and void.

(8) Exemption of Traditional, Festive or Religious Activities:

Notwithstanding any other provisions of this by-law, this by-law does not apply to a person who emits or causes or permits the emission of sound or vibration in connection with any traditional, festive, or religious activities.

(9) 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.

(10) Penalty:

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 penalty of not more than \$1,000.00 for a first offence and not less than \$100.00 and not more than \$1,000.00 for a second or subsequent offence, exclusive of costs and every such fine is recoverable under The Provincial Offences Act.

READ A FIRST AND SECOND TIME THIS 4th. DAY OF MAY, 1981 A.D.

E.S. Bergenstein  
MAYOR

Murray Hackett  
CLERK

READ A THIRD TIME AND FINALLY PASSED THIS        DAY OF        , 1981 A.D.

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MAYOR

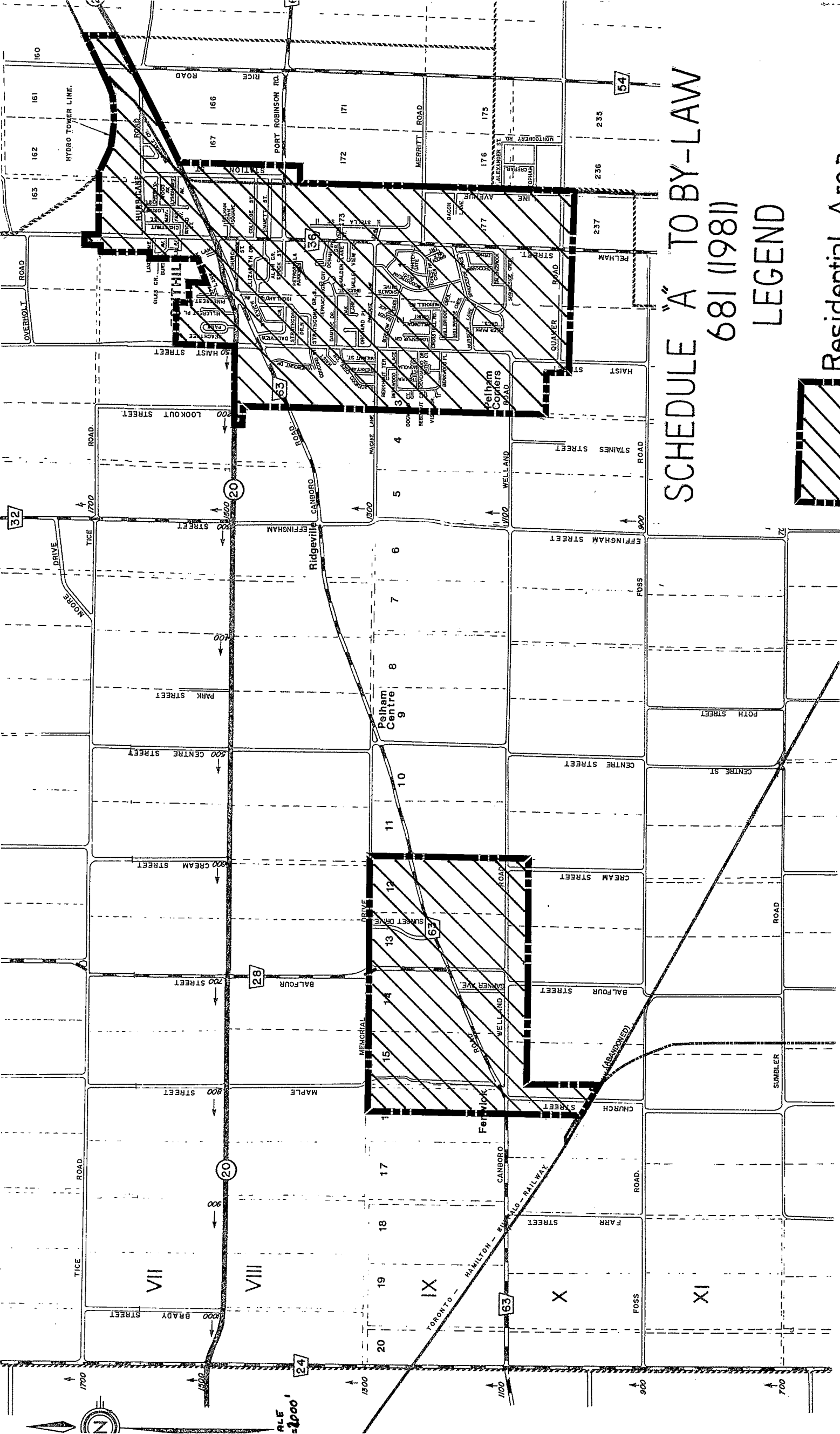
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CLERK

I hereby certify the foregoing to be a complete and true copy of By-law #681 (1981).

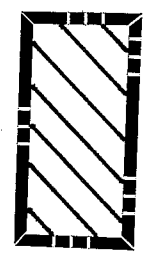
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CLERK

This by-law is approved pursuant to the provisions of The Environmental Protection Act, 1971, as amended, at Toronto, this        day of  
1981 A.D.

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MINISTER OF THE ENVIRONMENT



SCHEDULE "A" TO BY-LAW  
681 (1981)  
LEGEND



Residential Area