



BY-LAW NO. 2023-25

DATE: June 21, 2023

MOVED BY: Councillor Hamer

SECONDED BY: Councillor Blower

THAT By-law No. 2023-25

Being a By-Law to prohibit and regulate noise within
The Municipality of McDougall and to repeal By-Law
No. 97-01 and all its amending By-Laws in their
entirety.

be introduced and read a **FIRST** and **SECOND** time.

Carried 
Signature

Defeated _____
Signature

MOVED BY: Councillor ~~Blower~~ Ryman

SECONDED BY: Councillor Hamer

THAT By-law No. 2023-25 be read a **THIRD** time, **PASSED**, **SIGNED** and

SEALED this 19th day of July, 2023.

Carried 
Signature

Defeated _____
Signature

<u>DIVISION LIST</u>	<u>FOR</u>	<u>AGAINST</u>
First and Second Reading		
Councillor Blower	_____	_____
Councillor Constable	_____	_____
Councillor Hamer	_____	_____
Councillor Ryman	_____	_____
Mayor Robinson	_____	_____
Third Reading		
Councillor Blower	_____	_____
Councillor Constable	_____	_____
Councillor Hamer	_____	_____
Councillor Ryman	_____	_____
Mayor Robinson	_____	_____

THE CORPORATION OF THE MUNICIPALITY OF MCDOUGALL
BY-LAW NO. 2023-25

**Being a By-Law to prohibit and regulate noise within the
Municipality of McDougall and to repeal By Law No 97-01
and all of its amending By-Laws in their entirety**

WHEREAS Sections 8, 9 and 10 of the Municipal Act, 2001 5.0. 2001 authorize the Municipality of McDougall to pass by-laws that regulate or prohibit necessary or desirable municipal purposes, and authorize by- laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; the protection of persons and property; and animals;

AND WHEREAS Section 129 of the Municipal Act, 2001, 5.0. 2001 provides authority for municipalities to prohibit and regulate noises and vibrations;

AND WHEREAS Section 425 of the Municipal Act, 2001, 5.0. 2001 authorizes municipalities to pass by-laws providing that a person who contravenes a by-law of The Municipality of McDougall passed under that Act is guilty of an offence;

AND WHEREAS Section 436 of the Municipal Act, 2001 5.0. 2001 provides that the municipality has the power to pass by-laws that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law, direction, order, or condition of license;

AND WHEREAS Section 444 of the Municipal Act, 2001, 5.0. 2001 provides that the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity, and any person who contravenes such an order is guilty of an offence;

AND WHEREAS Section 23.1 of the Municipal Act, 2001 5.0. 2001 authorizes a municipality to delegate its powers and duties to a person;

AND WHEREAS the Municipality recognized that excessive or inadequately controlled sound or vibration may impair public health, safety and welfare and may become a nuisance;

**NOW THEREFORE, THE CORPORATION OF THE MUNICIPALITY OF MCDOUGALL
HEREBY ENACTS THE AS FOLLOWS:**

1. Short title

1.1. This By-Law may be known as the "Noise By-Law"

2. Definitions

2.1. "Authorized Emergency Vehicle" includes any ambulance or hearse, any vehicle of the fire department, any vehicle of the local, provincial or federal police, any vehicle (including a snow plough) operated by or for the Municipality or a public utility company while actively engaged in the construction, maintenance or repair of any highway, or any equipment or facilities thereon, or

THE CORPORATION OF THE MUNICIPALITY OF MCDOUGALL
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a snow plough or other maintenance vehicle operated by or for the Ministry of Transportation;

- 2.2. "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; "construction" excludes activities associated with the operation at waste and snow disposal sites
- 2.3. "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;
- 2.4. "Conveyance" means the operation of any Motor Vehicle, Off Road Vehicle and any other vehicle used to transport a person or goods from place to place and includes any operation on the same property;
- 2.5. "Council" means the Council of The Corporation of the Municipality of McDougall;
- 2.6. "Dwelling Unit" means a room or rooms in which a kitchen, living quarters and sanitary conveniences are provided for the exclusive use of the residents and with a private entrance from outside the building or from a common hallway or stairway inside;
- 2.7. "Municipality" means The Corporation of the Municipality of McDougall;
- 2.8. "Noise" means sound or vibration that is of such volume, level or nature that is likely to disturb the inhabitants of the Municipality;
- 2.9. "Officer" means a Municipal Law Enforcement Officer, a Police Officer or any other person designated by Council as responsible for the administration of this By-law from time to time.
- 2.10. "Person" or any expression referring to a person, means an individual, sole proprietorship, partnership, limited partnership, trust, corporate body, organization, charity and/or an individual in his or her capacity as a trustee, executor, administrator or other legal representative;
- 2.11. "Pit" means a place where unconsolidated gravel, stone, sand, earth, clay, fill, mineral or other material is being or has been removed by means of an open excavation to supply material for construction, industrial or manufacturing purposes;
- 2.12. "Point of Reception" means any point on a Premises where sound or vibration originating from other than that Premises is received;
- 2.13. "Premises" includes the area of a building and/or parcel of property or in a multiple unit building occupied by more than one (1) business, each business

THE CORPORATION OF THE MUNICIPALITY OF MCDOUGALL
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area shall be considered a separate premises and each Dwelling Unit shall also be considered a separate premises;

- 2.14. "Quarry" means a place where consolidated rock has been or is being removed by means of an open excavation to supply material for construction, industrial or manufacturing purposes;

3. General Prohibitions

- 3.1. If not otherwise provided for in this by-law, no Person shall emit or cause or permit the emission of Noise likely to disturb another as per Schedule A
- 3.2. No Person shall emit or cause or permit the emission of Noise resulting from the following which Noise is clearly audible at a Point of Reception:
- 3.2.1. 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;
- 3.2.2. The noise from or created by any radio, amplifier, loud speaker, public address system, or equipment, device or instrument that emits sound when the same is used or operated from any Motor Vehicle, trailer or vehicle;
- 3.2.3. The persistent barking, calling, whining or other similar persistent sound made by any domestic pet or any other animal kept or used for any purpose other than agriculture.

4. Prohibitions by time and place

- 4.1. No Person shall emit or cause or permit the emission of Noise resulting from the following which Noise is clearly audible at a Point of Reception as per Schedule A
- 4.1.1. The operation of any auditory signaling 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;
- 4.1.2. The operation of Construction Equipment;
- 4.1.3. The operation of any powered or non-powered tool for purposes other than snow removal.
- 4.2. No Person shall emit or cause or permit the emission of Noise resulting from the detonation of fireworks or explosive devices which Noise is clearly audible at a Point of Reception except between dusk and 11:00 p.m. with the exception of Victoria Day, Canada ^{day} and The Civic Holiday including one day prior and one day following.
- 4.3. No Person shall emit or cause or permit the emission of Noise resulting from the operation of any motorized Conveyance or machinery or explosive devices used in the operation of a Pit or Quarry as per Schedule A
- 4.4. No Person shall emit or cause or permit emission of Noise resulting from yelling, shouting, hooting, whistling, singing, banging of drums or production of Noise by any other unamplified musical instrument, which Noise is clearly audible at a Point of Reception as per Schedule A

THE CORPORATION OF THE MUNICIPALITY OF MCDOUGALL
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5. Exemptions

5.1. Notwithstanding any other provision of this by-law, this by-law shall not apply to a Person who emits or causes or permits the emission of Noise in connection with any of the following activities:

5.1.1. Operation of Authorized Emergency Vehicles;

5.1.2. Undertaking emergency measures for the immediate health, safety or welfare of any Person or the preservation of property or emergency restoration of property;

5.1.3. Operation of machines or equipment by or on behalf of the Municipality for emergency purposes;

5.1.4. Operation of bells, tones or whistles utilized as traffic control devices including those at traffic signal locations and railway crossings;

5.2. Operation of snow removal equipment while in the operation of snow removal;

5.3. A normal farm practice carried on as part of an agricultural operation under the Farming and Food Productions Protection Act, 1998, S.O. 1998, c-1 or any successor legislation thereto.

5.4. Operation of grass cutting equipment for general maintenance

5.5. Council may, by resolution upon receipt of a written application, grant an exemption from the provisions of Part 2 or Part 3 in connection with an event or activity, to any Person, with respect to any source of Sound for which a Person might otherwise be prosecuted, for such period of time and subject to such terms and conditions as Council deems advisable, and Council may refuse to grant any exemption or may grant an exemption of lesser effect than applied for and any exemption granted shall specify the time period during which it is effective.

In deciding whether to grant an exemption Council shall give the applicant an opportunity to be heard and may consider such other matters as it sees fit.

Where an application is not approved or approved upon lesser terms than what was applied The Municipality shall set out in writing the reasons and shall serve a copy to the Applicant.

Breach by an applicant of any of the terms or conditions of the exemptions that is caused or permitted by the applicant shall render the exemption null and void.

The written application is in Schedule B, and shall be in writing and include:

1. The name address telephone number and email of the applicant
2. The location, and source of the sound that an application is sought.
3. The article number that the exemption is sought.
4. The period of time that the exemption is sought.
5. The reason why the exemption should be granted.

6. Enforcement and Administration

6.1. This by-law may be enforced by a Municipal Law Enforcement Officer or a police officer.

6.2. If a Municipal Law Enforcement Officer or a police officer is satisfied that this by-law has been contravened, the Officer may make and issue an "Order to

THE CORPORATION OF THE MUNICIPALITY OF MCDOUGALL
BY-LAW NO. 2023-25

Discontinue Activity", requiring the Person who contravened the by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravention.

6.3. An "Order to Discontinue Activity" shall set out:

6.3.1. The municipal address of the property on which the contravention occurred;

6.3.2. The date of the contravention;

6.3.3. The reasonable particulars of the contravention of the by-law; and

6.3.4. The date and time by which there must be compliance with the Order.

6.4. An "Order to Discontinue Activity" may be served personally on the Person to whom it is directed or by registered mail to the last known address of that Person, in which case it shall be deemed to have been served on the seventh day after it is mailed or by the posting of the Order in a conspicuous location on the Property of which the contravention occurred. Service on a corporation can be affected by registered mail to the corporate mailing address and will be deemed to have been served on the seventh day after it is mailed by registered mail.

6.5. Every person shall comply with an order to discontinue activity.

6.6. Every Person other than a corporation who fails to comply with any provision of this by-law, or an Order or other direction made under this by-law is guilty of an offence and, upon conviction, is liable to a fine of:

6.6.1. Not more than \$10,000 for a first offence and

6.6.2. Not more than \$25,000 for a second or subsequent offence.

6.7. Every corporation that fails to comply with any provision of this by-law or an Order or other direction made under this by-law is guilty of an offence and, upon conviction, is liable to a fine of:

6.7.1. Not more than \$50,000 for a first offence and

6.7.2. Not more than \$100,000 for a second or subsequent offence.

6.8. Every director or officer of a corporation who knowingly concurs in the contravention of this by-law by the corporation is guilty of an offence and, upon conviction, is liable to a fine of:

6.8.1. Not more than \$50,000 for a first offence and

6.8.2. Not more than \$100,000 for a second or subsequent offence.

6.9. If this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an Order prohibiting the continuation or repetition of the offence by the Person convicted.

6.10. No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this by-law. Any Person who is alleged to have contravened any of the provisions of this by-law shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of his duties.

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6.11. Every person who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended, and is Schedule C of this by-Law.

7. **Powers of Entry**

7.1. An Officer may enter on a property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- 7.1.1. The provisions of this by-law;
- 7.1.2. A direction, Order or notice issued under this by-law.

7.2. An Officer may be accompanied by a person under the Officer's direction for the purposes as set out in the By-law.

8. **Severability**

Should any section, clause or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the by-law as a whole or any part thereof, other than the part which was declared to be invalid.

9. **Repeal**

By-law No. 97-01 and all of its amending by-laws are hereby repealed in its entirety and any by-laws or resolutions, or portions thereof, inconsistent with or contrary hereto are hereby repealed.

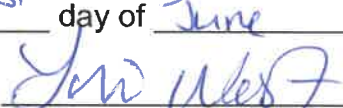
10. **Enactment**

This by-law shall come into full force and effect on the date it is passed.


Note: the general penalty provision for the offences listed above is section 6.11 of bylaw 2023-25, a certified copy of which has been filed.

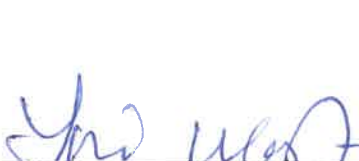
READ a **FIRST** and **SECOND** time this 21st day of June, 2023.


MAYOR


CLERK

READ a **THIRD** time, **PASSED**, **SIGNED** and **SEALED**, this 19th day of July, 2023.


MAYOR


CLERK

Schedule A
Prohibitions of Times

Day	Prohibition of time Morning	Prohibition of time Evening
Monday	12:00 am – 7:00 am,	11:00 pm – 12 am.
Tuesday	12:00 am – 7:00 am,	11:00 pm – 12 am.
Wednesday	12:00 am – 7:00 am,	11:00 pm – 12 am.
Thursday	12:00 am – 7:00 am,	11:00 pm – 12 am.
Friday	12:00 am – 7:00 am,	11:00 pm – 12 am.
Saturday	12:00 am – 7:00 am,	11:00 pm – 12 am.
Sunday	12:00 am – 9:00 am,	11:00 pm – 12 am.

THE CORPORATION OF THE MUNICIPALITY OF MCDOUGALL
BY-LAW NO. 2023-25

Schedule B

Exemption from Council Application

Name of Applicant: _____

Address: _____

Phone # _____

Location of Noise event: _____

Source of Noise; _____

Article # the Noise will contravene _____

Date(s) and times: From _____ to _____

Reason for Exemption

Signature of Applicant

Date

Exemption Granted	Yes	No
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Mayor

Clerk

THE CORPORATION OF THE MUNICIPALITY OF MCDOUGALL
BY-LAW NO. 2023-25

Schedule C

PART I Provincial Offences Act By-law No. 2023-25: Noise By-law

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1.	Cause or permit noise that is clearly audible within prohibited times	3.1	\$400.00
2.	Cause or permit noise resulting from the amplification by an electronic device	3.2.1	\$400.00
3.	Cause or permit noise from a radio, amplifier, loud speaker, public address system, or equipment, device or instrument from a motor vehicle, trailer or vehicle that is clearly audible 8 metres {25 feet) from the vehicle	3.2.2	\$400.00
4.	Cause or permit continuous barking, calling, whining by any animal used for any purpose other than agriculture	3.2.3	\$400.00
5.	Cause or permit noise from auditory signaling device except where required or authorized by law within prohibited times	4.1.1	\$400.00
6.	Cause or permit noise from operation of construction equipment within prohibited times	4.1.2	\$400.00
7.	Cause or permit noise from operation of any powered or non-powered tool for purposes other than snow removal within prohibited times	4.1.3	\$400.00
8.	Cause or Permit noise from fireworks within prohibited times	4.2	\$400.00
9.	Cause or permit noise from operation of any motorized conveyance or machinery or explosive devices used in the operation of a pit or quarry within prohibited times	4.3	\$400.00
10.	Cause or permit noise from yelling, shouting, hooting, whistling, singing banging of drums or production of noise by any other unamplified musical instrument within prohibited times	4.4	\$400.00
11.	Fail to comply with an order to discontinue activity	6.5	\$500.00
12.	Hinder or obstruct or attempt to hinder or obstruct an officer	6.10	\$500.00

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
3rd FLOOR, SUITE 303
SUDBURY, ONTARIO P3E 6A5



CABINET DU JUGE PRINCIPALE RÉGIONALE
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU NORD-EST

159, RUE CEDAR
3^e ÉTAGE, BUREAU 303
SUDBURY (ONTARIO) P3E 6A5

TELEPHONE/TÉLÉPHONE (705) 564-7624
FAX/TÉLÉCOPIEUR (705) 564-7620

August 25, 2023

Patrick Shoebottom, Fire Chief
Municipality of McDougall
District of Parry Sound
5 Barager Blvd.
McDougall, Ontario, P2A 2W9

Dear Mr. Shoebottom;

Re: Set Fine Application – Provincial Offences Act – Part I
Municipality of McDougall, Parry Sound District

Enclosed herewith is an original Order and original schedule of set fines for By-law No. 2023-25, the By-laws indicated in the schedule. Please ensure that a copy of the said documents is forwarded to the Provincial Offences Office, which has jurisdiction for the Municipality of McDougall.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

I have forwarded the copy of the Order and the schedules of these set fines to the Ontario Court of Justice in Parry Sound, together with a certified copy of the By-Law.

Yours truly,

A handwritten signature in blue ink that reads "Karen Lische".

KAREN LISCHE
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

KLL/hrd
Encl.

c.c.: His Worship Gary McMahon, Regional Senior Justice of the Peace
Her Worship Ruby Beck, Local Administrative Justice of the Peace

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
3rd FLOOR, SUITE 303
SUDBURY, ONTARIO P3E 6A5



CABINET DU JUGE PRINCIPALE RÉGIONALE
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU NORD-EST

159, RUE CEDAR
3^e ÉTAGE, BUREAU 303
SUDBURY (ONTARIO) P3E 6A5

TELEPHONE/TÉLÉPHONE (705) 564-7624
FAX/TÉLÉCOPIEUR (705) 564-7620

August 28, 2023

Melissa Adams. Crown Counsel
Crown Law Office, Criminal
720 Bay Street, 10th floor
Toronto, ON M7A 2S9

Dear Ms. Adams:

Re: Set Fine Application – Provincial Offences Act – Part I
Municipality of McDougall, Parry Sound District

Please find enclosed a copy of Orders dated August 28, 2023, and a copy of a letter to Mr. Patrick Shoebottom, Fire Chief for the Parry Sound District.

Should you have any questions, please do not hesitate to contact me at (705) 564-7624.

Yours truly,

A handwritten signature in blue ink that reads "Karen Lische".

KAREN LISCHE
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

KLL/hrd
Encl.

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
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CABINET DU JUGE PRINCIPALE RÉGIONALE
COUR DE JUSTICE DE L'ONTARIO
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159, RUE CEDAR
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SUDBURY (ONTARIO) P3E 6A5

TELEPHONE/TÉLÉPHONE (705) 564-7624
FAX/TÉLÉCOPIEUR (705) 564-7620

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-Law No. 2023-25 of the Municipality of McDougall, Parry Sound District, attached hereto is the set fine for that offence. This Order is to take effect August 28th, 2023.

Dated at the City of Greater Sudbury, this 28th day of August, 2023.

A handwritten signature in blue ink that reads "Karen Lische".

KAREN LISCHE
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

THE CORPORATION OF THE MUNICIPALITY OF MCDOUGALL
BY-LAW NO. 2023-25

Schedule C

PART I Provincial Offences Act By-law No. 2023-25: Noise By-law

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1.	Cause or permit noise likely to disturb another within prohibited times	3.1	\$400.00
2.	Cause or permit noise resulting from the amplification by an electronic device	3.2.1	\$400.00
3.	Cause or permit noise from a radio, amplifier, loud speaker, public address system, or equipment, device or instrument from a motor vehicle, trailer or vehicle that is clearly audible at a point of reception	3.2.2	\$400.00
4.	Cause or permit continuous barking, calling, whining by any animal used for any purpose other than agriculture	3.2.3	\$400.00
5.	Cause or permit noise from auditory signaling device except where required or authorized by law within prohibited times	4.1.1	\$400.00

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THE CORPORATION OF THE MUNICIPALITY OF MCDOUGALL
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6.	Cause or permit noise from operation of construction equipment within prohibited times	4.1.2	\$400.00
7.	Cause or permit noise from operation of any powered or non-powered tool for purposes other than snow removal within prohibited times	4.1.3	\$400.00
8.	Cause or Permit noise from fireworks within prohibited times	4.2	\$400.00
9.	Cause or permit noise from operation of any motorized conveyance or machinery or explosive devices used in the operation of a pit or quarry within prohibited times	4.3	\$400.00
10.	Cause or permit noise from yelling, shouting, hooting, whistling, singing banging of drums or production of noise by any other unamplified musical instrument within prohibited times	4.4	\$400.00
11.	Fail to comply with an order to discontinue activity	6.5	\$500.00
12.	Hinder or obstruct or attempt to hinder or obstruct an officer	6.10	\$500.00

NOTE:

The penalty provision for the offences indicated above is section 6.11 of The Municipality of McDougall By-law no. 2023-25, a certified copy of which has been filed