

**THE CORPORATION OF THE TOWNSHIP OF
OTONABEE-SOUTH MONAGHAN
2024-58**

Being a By-Law to Prohibit and Otherwise Control Noises within the Township of
Otonabee-South Monaghan

WHEREAS Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25 provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

AND WHEREAS Section 11 of the Municipal Act, 2001, S.O. 2001, c.25 provides that a municipality may pass by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; and the protection of persons and property;

AND WHEREAS under Section 128 of the Municipal Act, 2001, S.O. 2001, c.25, in the opinion of Council, the matters addressed in this by-law are, or could become or cause public nuisances, and notwithstanding the generality of the foregoing, Council is of the opinion that public nuisances and nuisance parties as defined herein are public nuisances within the meaning of section 128;

AND WHEREAS Section 129 of the Municipal Act, 2001, S.O. 2001, c.25 authorizes municipalities to pass a by-law to prohibit and regulate noise;

AND WHEREAS Section 425 of the Municipal Act, 2001, S.O. 2001, c.25 provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under that Act is guilty of an offence;

AND WHEREAS section 444 of the Municipal Act, 2001, S.O. 2001, c.25 provides that a municipality make an order requiring a person who contravenes a 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;

NOW THEREFORE the Council of the Corporation of the Township of Otonabee-South Monaghan hereby enacts as follows:

1. Short Title

The short title of this By-Law is the Noise By-Law.

2. Definitions

For the purpose of this By-Law:

- 2.1 **Amplified Sound** means sound made by any electronic device or a group of connected electronic devices incorporating one or more loudspeakers or other electromechanical transducers, and intended for the production, reproduction or amplification of sound;
- 2.2 **Clerk** means the Municipal Clerk for the Township, or his/her designate;
- 2.3 **Construction** includes but is not limited to the erection, alteration, repair, dismantling, demolition, structure maintenance of buildings, land clearing, earth moving, grading, excavation, blasting and detonation of explosives other than fireworks, the laying of pipe and conduit whether above or below ground level, highway building, concreting, equipment installation, removal or alteration and the structural installation of Construction components and materials in any form or for any purpose, and includes any associated or related work;
- 2.4 **Construction Equipment** means any equipment or device designed or 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, trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or any other material handling equipment;
- 2.5 **Council** means the Council of the Corporation of the Township of Otonabee-South Monaghan;
- 2.6 **Emergency** means a situation or an impending condition, which is or may be dangerous, caused by the forces of nature, an accident, an intentional

act or otherwise, which arises suddenly and requires prompt action to remedy the situation;

- 2.7 **Emergency Vehicle** includes an ambulance, air ambulance, fire department vehicle, any vehicle being used by a police officer in the performance of his duties including a helicopter or airplane and shall also include utility vehicles and any vehicle used to respond to an Emergency;
- 2.8 **Highway** shall have the same meaning as it has under the Highway Traffic Act, R.S.O. 1990;
- 2.9 **Motor Vehicle** shall have the same meaning as it has under the Highway Traffic Act, R.S.O. 1990, and shall include a motorized snow vehicle and off-road vehicle;
- 2.10 **Municipal Service Vehicle** means a vehicle operated by or on behalf of a government or government agency while such vehicle is being used for the provision of a government service;
- 2.11 **Municipal Law Enforcement Officer** means a Municipal Law Enforcement Officer appointed by the Corporation of the Township of Otonabee-South Monaghan to enforce By-Laws;
- 2.12 **Municipality** means all land within the geographic limits of the Township of Otonabee-South Monaghan;
- 2.13 **Noise** means an unusual or excessive sound likely to disturb the inhabitants of the Township of Otonabee-South Monaghan;
- 2.14 **Officer** means a Police Officer as defined in the Police Services Act, R.S.O. 1990, and shall include a Municipal Law Enforcement Officer and special constable;
- 2.15 **Persistent Noise** means any noise that is continuously heard for a period of ten minutes or more or intermittently over a period of one hour or more;

- 2.16 **Person** includes an individual, a corporation, partnership, or sole proprietorship;
- 2.17 **Place** means any land, including any Residence, Structure, Highway, park, or any other property;
- 2.18 **Point of Reception** means any Place where sound or vibration is heard or received other than the Place from which it originated;
- 2.19 **Public Holiday(s)** shall have the same meaning as it has under the Employment Standards Act, S.O. 2000;
- 2.20 **Residence** means land and buildings used for human habitation;
- 2.21 **Residential Area** means all areas zoned Residential and all areas zoned as Rural under the Township of Otonabee-South Monaghan Zoning By-Law;
- 2.22 **Stereo** includes a CD player, cassette player, MP3 player, or other similar media device which is connected to non-amplified speakers;
- 2.23 **Structure** means anything constructed or erected, the use of which requires location on the ground, or attached to something having location on the ground. For the purposes of this By-law, this definition shall include Motor Vehicles and temporary structures such as tents;
- 2.24 **Township** means the Corporation of the Township of Otonabee-South Monaghan;
- 2.25 **Unreasonable Noise** means any noise that would disturb the peace, rest, enjoyment, comfort, or convenience of a reasonable person in the circumstances but does not include commonplace household or workplace sounds such as sound from furniture being moved, children playing, or people engaging in conversation.

3. Scope

- 3.1 The general prohibitions on activities described in Section 4 shall apply to all Places and Persons within the Township of Otonabee-South Monaghan.
- 3.2 The prohibitions on activities by time and place described in Schedule "A" shall apply to the Places within the Township during the days and between the hours specified in Schedule "A".
- 3.3 The general exemptions in Section 6 shall apply to all Places within the Township of Otonabee-South Monaghan.

4. General Prohibitions

- 4.1 No person shall emit, cause, or permit the emission of Noise which is clearly audible at a Point of Reception.
- 4.2 No person shall emit, cause, or permit the emission of Noise which is likely to disturb any Person in the Town. For the purpose of this By-law and without limiting the generality of the foregoing, the following Noises shall be deemed to be Noises likely to disturb any Person in the Town:
 - a) the operation of a Motor Vehicle in such a way that tires squeal;
 - b) the operation of a Motor Vehicle in a race;
 - c) the operation of a Motor Vehicle, other than on a highway, without an effective exhaust muffling device that is in good working order and in constant operation;
 - d) the operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in constant operation;
 - e) the operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like Noises;
 - f) the operation of an engine or motor in, or on, any vehicle or item of

attached auxiliary equipment for a continuous period of more than five minutes while such vehicle is stationary unless:

- i) The continuous operation of the engine or motor is essential to the basic function of the vehicle or equipment;
 - ii) 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 the perishable cargo, and the vehicle is stationary for purposes of delivery or loading;
- g) the use of a horn, whistle, alarm, bell, gong or the like, except for an auditory safety or warning device or chimes used in association with a religious establishment;
 - h) the operation of an air conditioner, pool pump or filter, heat pump or the like that is not in proper working order;
 - i) the Noise or sound caused by a burglar alarm or similar security device which is permitted to continue for more than ten (10) minutes where there is not an emergency, breach of the peace or similar incident;
 - j) selling, hawking or other advertising by amplified sound;
 - k) make, cause or permit, at any time, unreasonable noise, or persistent noise likely to disturb the peace and enjoyment of any Person.

5. Prohibition by Time

- 5.1 No person shall emit, cause or permit the emission of Noise from any activity listed in Schedule "A" if clearly audible at a Point of Reception, within the prohibited time shown for such Point of Reception.

6. Exemptions

This By-Law does not apply to sound emitted or caused or permitted in connection with:

- 6.1 Measures undertaken in an emergency for the immediate health, safety, or welfare of Persons and animals;
- 6.2 Measures undertaken in an emergency for the preservation or restoration of property;
- 6.3 The operation of emergency vehicles;
- 6.4 The operation of bells utilized as traffic control devices including bells and other devices at traffic signal locations and bells at railway crossings;
- 6.5 The activities of snow plowing and/or removal;
- 6.6 Measures undertaken where the Municipality, its servants, employees, contractors or agents are carrying out Township operations or operating, maintaining or installing municipally owned infrastructure, facilities or the like;
- 6.7 Emergency Construction of any municipal, regional, provincial, or federal public works;
- 6.8 Non-emergency Construction, reconstruction, or repair of any regional, provincial or federal public works including the Construction, reconstruction or repair of a public Highway provided the Town is given advanced written notice of the hours to be worked if outside the permitted Construction hours and notice is provided to residents affected by any noise related to the Construction;
- 6.9 Road or bicycle races, parades, circuses, festivals, cultural and recreational events, entertainment activities in public parks, or neighborhood social activities approved by the Municipality;
- 6.10 Sport or recreational activities or events in public or private parks, playgrounds, schoolyards, or recreational centres approved by the Municipality;

- 6.11 The use of implements of husbandry in the operation of agricultural or Farm activity related to food crop seeding, chemical spraying, harvesting, or livestock operations carried on by a farmer.

7. Exemptions Granted by Council

- 7.1 Any person may make an application for an exemption from any of the provisions of this By-Law and Council or designate may refuse or grant an exemption. An exemption shall specify the time period during which it is effective, and may contain such terms and conditions a Council sees fit.
- 7.2 Applications for an exemption under Section 7.1 shall be filed with the Clerk or designate no less than 30 consecutive days prior to the proposed date of exemption, and submitted on an application in the form prescribed by the Clerk, and shall provide:
- a) The applicant's name, address, and telephone number;
 - b) The date, time, and location of the event or activity for which the exemption is sought and where applicable, the number of people expected to attend;
 - c) In the instance an applicant is not the owner of the property from which the Noise/vibration will be emanating, signed consent from the owner will be required;
 - d) A description of the source of the Noise and/or vibration in respect of which the exemption is being sought;
 - e) The period of time for which exemption is being sought;
 - f) The section of the By-Law from which exemption is being sought;
 - g) The purpose and reasons why the exemption should be granted;
 - h) A statement of the steps, if any, planned or presently being taken to minimize the Noise;

- i) Written confirmation that all property owners within a 500-metre radius of the point from which the Noise will be emitted have been notified along with a copy of the public notice;
- j) The name, address, and telephone number of at least one contact Person who will supervise the event or activity; and
- k) All applicable fees as set out in the "Fees & Charges By-Law", as amended from time to time.

7.3 Council may impose conditions on a Temporary Noise Permit, including but not limited to:

- a) The type and volume of sounds that may be made;
- b) The times during which sounds may be made;
- c) The date of expiry of the Temporary Noise Permit; and
- d) Any fees applicable.

7.4 The Clerk or designate shall review the application and prepare a report to Council, which shall contain staff's opinion on the merits of the application and recommendations as to the terms and conditions, if any.

7.5 Any exemption granted by Council is specific to the applicant, event, Noise, location, and time identified in the written agreement, and any attempt to alter the provisions thereof, or to assign the benefit thereof to another Person, is invalid and shall immediately render the exemption null and void.

7.6 The decision of Council to grant or not to grant an exemption shall be final.

7.7 A breach by the applicant of any of the terms or conditions imposed by Council in granting the exemption shall immediately render the exemption null and void, and it shall be deemed revoked.

7.8 Where a written exemption approval has been prepared, such agreement shall be immediately produced for inspection upon the request of an Officer.

8. Enforcement and Inspection

- 8.1 This By-Law shall be enforced by any designated Officer.
- 8.2 An officer may enter the premises for an inspection to determine whether this by-law and any orders issued under it are being complied with according to sections 435 and 436 of the Municipal Act, 2001.
- 8.3 For the purposes of an inspection under section 8.2, an officer may:
- a) require, for inspection, the production for inspection of documents or things relevant to the inspection;
 - b) inspect and remove documents or things relevant to the inspection to make copies or take extracts of them;
 - c) require information from any person concerning a matter related to the inspection; and
 - d) alone, or together with a person having special or expert knowledge, make examinations or take tests, samples, or photographs necessary for the purposes of the inspection.
- 8.4 Where an officer has reasonable grounds to believe that an offence under this by-law has been committed by a person, then the officer may require the name, address, and proof of identity of that person.
- 8.5 An officer may issue an order directing that the contravention cease.
- 8.6 An order given under section 8.5 shall identify
- a) the premises where the contravention occurred; and
 - b) the reasonable particulars of the contravention.
- 8.7 An order given under section 8.5 may be given orally or may be served personally on the person or persons to whom it is directed.

- 8.8 An order given in writing under this by-law may be served personally on the person to whom it is directed or by registered mail to the last known address of that person.
- 8.9 If there is evidence that the occupant of the premises is not the registered property owner, then the notice may be served on both the registered property owner and the occupant of the premises.
- 8.10 If the address of the registered property owner is unknown, the Town is unable to effect service on the registered property owner or occupant of the premises under section 8.9, or the delay necessary to give an order would result in circumstances that endanger the health or safety of any person or similarly serious consequences, a placard stating the terms of the order and placed on a conspicuous place upon land or near the property shall be deemed to be sufficient notice to the registered property owner or the occupant of the premises.
- 8.11 An order served by registered mail shall be deemed to have been received on the fifth day after it is mailed.
- 8.12 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this By-law.

9. Penalty

- 9.1 Every person who contravenes any provision of this By-Law 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*.
- 9.2 A person is guilty of a separate offense on each day that an offence under sections 4.2 and 5.1 occurs or continues.
- 9.3 Despite the maximum fines set out in Schedule "B", the court that convicts a person of an offence may increase a fine imposed on the person by an amount equal to the financial benefit that was acquired by or that accrued to the person because of the commission of the offence.

- 9.4 If the owner or occupier of premises at which a nuisance party is held is present at the nuisance party, then the owner or occupier is presumed, in the absence of evidence to the contrary, to be hosting or organizing the nuisance party.
- 9.5 If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

10. Severability

- 10.1 If a court of competent jurisdiction should declare any section or part of a section of this By-Law to be invalid, the remainder of this By-Law shall continue in force unless the court makes an order to the contrary.

11. Repeal

- 11.1 By-Law Number 2020-36 is hereby repealed in its entirety.

12. Date Effective

- 12.1 This By-Law shall come into full force and take effect upon the day it is passed.

Read the First time and second time on this 12th day of August, 2024.

Read a Third time, signed and sealed with the corporate Seal on this 12th day of August, 2024.

Mayor- Joe Taylor

Clerk- Heather Scott

**The Township of Otonabee-South Monaghan
By-Law No. 2024-58**

**Schedule "A"
Noise Prohibition by Time**

ITEM	ACTIVITY	TIME
1	Operation of Construction Equipment in connection with Construction	Between 1900-0700 and all Sundays and Public Holiday(s)
2	Operation or use of any tool for domestic construction or other domestic purpose including lawn maintenance equipment	Between 2100-0700 and 2100-0900 on Sundays and Public Holiday(s)
3	Operate a device(s) intended for the production or re-production of amplified sound, not including a Stereo	Between 2100-0700 and 2100-0900 on Sundays and Public Holiday(s)
4	Operation of a solid waste bulk lift as a result of private garbage collection or refuse compacting equipment	Between 1900-0700 and all Sundays and Public Holiday(s)
5	Conduct any loading, unloading, delivering or otherwise, of any container, products or refuse, unless necessary for the maintenance of essential services or for the moving of household effects	Between 1900-0700 and on all Sundays and Public Holiday(s)
6	Operation of a commercial car wash with air-drying equipment	At all times
7	Detonation of fireworks	Between 2300-1700
8	The playing of any amplified musical instrument or amplified Stereo	Between 2300-0900

The Township of Otonabee-South Monaghan
PART 1 Provincial Offences Act
By-Law No. 2024-58: Noise By-Law

Schedule "B"

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Emit, cause, or permit the emission of Noise which is clearly audible at a Point of Reception	s. 4.1	\$150.00
2	Operation of a Motor Vehicle in such a way that tires squeal	s. 4.2(a)	\$150.00
3	Operation of a Motor Vehicle in a race	s. 4.2(b)	\$150.00
4	Operation of a Motor Vehicle without an effective exhaust muffling device	s. 4.2(c)	\$150.00
5	Operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device	s. 4.2(d)	\$150.00
6	Operation of a vehicle or vehicle with a trailer resulting in banging, clanking, or squealing	s. 4.2(e)	\$150.00
7	Operation of an engine or motor on any vehicle or item of attached auxiliary equipment for more than five minutes when stationary	s. 4.2(f)	\$150.00

8	Use of a horn, whistle, alarm, bell, gong or the like	s. 4.2(g)	\$150.00
9	Operation of an air conditioner, pool pump or filter, heat pump or the like that is not in proper working order	s. 4.2(h)	\$150.00
10	Noise caused by a burglar alarm or security device where there is not an emergency or breach of the peace	s. 4.2(i)	\$150.00
11	Selling, hawking, or other advertising by amplified sound	s. 4.2(j)	\$150.00
13	Make, cause, or permit, at any time, unreasonable noise or persistent noise likely to disturb the peace and enjoyment of a Person	s. 4.2(k)	\$150.00
14	Violation of Noise Prohibitions by Time	s. 5.1	\$150.00

Note: The general penalty provision for the offences listed above is Section 9 of this By-law 2024-58. A certified copy of which has been filed.