

**THE CORPORATION OF THE TOWNSHIP OF SOUTHGATE
BY-LAW NO. 2021-132**

**being a By-law to provide for the Regulation and Prohibition
of Unusual Noises or Noises likely to Disturb the Public and/or the
Prevention of Public Nuisances within the Township of
Southgate**

Whereas, Section 129 of the Municipal Act, S.O. 2001, c.25 as amended, Authorizes councils of local municipalities to pass by-laws to prohibit and regulate with respect to noise; and

Whereas, it is in the public interest to reduce the noise level in the Township of Southgate, so as to preserve, protect and promote public health, safety, welfare and peace and quiet of the inhabitants of the Township,

Now therefore be it resolved that the Council of the Corporation of the Township of Southgate enacts as follows:

Definitions

1. In this by-law;

- a) **"Agricultural Operation"** means an agricultural, aquacultural, horticultural or silvicultural operation that is operated as business;
- b) **"Agricultural Processing"** includes sawing, cleaning, treating, grading, storing, drying, packaging, etc. to the extent that these activities relate to agricultural commodities and products primarily from and are conducted as a part of agricultural operation;
- c) **"By-law Enforcement Officer"** means a person appointed by the Council of the Township of Southgate as a Municipal Law Enforcement Officer to enforce the provisions of this by-law;
- d) **"Car Alarm"** means any audible device installed in any form of vehicle for the purposes of deterring theft of, or from, the vehicle;
- e) **"Community Emergency"** means significant weather event or disturbance situation that has caused damage or change in normal living conditions in a community in which a government is empowered to react and perform actions that it would normally not be permitted to do so to protect and restore a community;
- f) **"Construction"** includes erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and highway building, application of concrete, 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;
- g) **"Construction Equipment"** means any equipment or device designed and intended for use in construction, or material handling, including but not limited to, hand tools, power tools, 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;
- h) **"Construction Vehicle"** means any licensed truck or tractor and trailer truck combination permitted to be driven on the highways that is used for hauling materials for construction purposes;
- i) **"Containerized Waste"** means waste materials deposited in a front-end loading container or waste bin for disposal and collection;
- j) **"dB(A)"** means the sound level in decibels obtained when using a sound level meter with the A-weighting which meets the International

Electrotechnical Commission Publication 651 or the American National Standards Institute S1.4-1983 or any successor thereto;

- k) **"Effective Muffler"** means a muffler in good working order and in constant operation to prevent excessive or unusual noise and excessive smoke, but it does not include a cut-out muffler, straight exhaust, gutted muffler, hollywood muffler, by-pass or similar devices;
- l) **"Equivalent Sound Level"**, sometimes denoted as Leq, means the value of the constant sound level which would result in exposure to the same total A-weighted energy as would the specified time-varying sound, if the constant sound level persisted over an equal time interval and is measured in dB(A);
- m) **"Highway"** means a common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway and, except as otherwise provided, includes a portion of the highway;
- n) **"Infill Housing"** means a development that occurs on a single lot, or a consolidated number of small lots or sites that are vacant or underdeveloped;
- o) **"Motor Assisted Bicycle"** means a bicycle,
 - i. that is fitted with pedals that are operable at all times to propel the bicycle
 - ii. that weighs not more than fifty-five (55) kilograms;
 - iii. that has no hand or foot operated clutch or gearbox driven by the motor and transferring power to the driven wheel;
 - iv. that has an attached motor driven by electricity or having a piston displacement of not more than fifty (50) cubic centimetres; and
 - v. that does not have sufficient power to enable the bicycle to attain a speed greater than fifty (50) kilometres per hour on level ground within a distance of two (2) kilometres from a standing start;
- p) **"Motorcycle"** means a self-propelled vehicle having a seat or saddle for the use of the driver and designed to travel on not more than three (3) wheels in contact with the ground, and includes a motor scooter and dirt bike, but does not include a motor assisted bicycle;
- q) **"Motor Vehicle"** includes an automobile, Motorcycle, Motor Assisted Bicycle unless otherwise indicated in the *Highway Traffic Act*, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a streetcar or other motor vehicles running only upon rails, or a motorized snow vehicle, ATV, snowmobile, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the *Highway Traffic Act*;
- r) **"Municipal Construction Project"** means a significant construction project undertaken by the Township or on behalf of the Township which involves or affects municipal highways, municipal property or other property, or municipal services, and from which noise will be created that requires an exemption from the provisions of this by-law;
- s) **"Municipal Waste Collection"** means the collection, transportation and disposal of refuse as undertaken by the Township of Southgate;
- t) **"Person"** includes an individual, a corporation, a partnership, an association, or other legal entity;
- u) **"Point of Reception"** means any point on the premises of a person where sound or vibration originating from other than those premises are received;
- v) **"Recreation Motor Vehicle"** means a Motor Vehicle, Motorcycle, Motor Assisted Bicycle and Vehicle as defined in his by-law and not limited to those defined or prohibited in the Highway Traffic Act;
- w) **"Refuse Compacting Equipment"** means a vehicle fitted in order to

compact and transport refuse;

- x) **"Solid Waste Bulk Lift Equipment"** means a vehicle designed to load, unload and transport containers for handling refuse;
- y) **"Sound Amplifying System"** means any system of loudspeakers, amplifiers, microphones or reproducers or any combination of such equipment, including electronic devices or electro-mechanical transducers, used in the reproduction or amplification of music, speech or other sounds;
- z) **"Sound Engineer"** means a person with appropriate test equipment and training in the measurement of sound levels in dB(A) known as decibels obtained when using a sound level meter with the A-weighting;
- aa) **"Sound Reproduction Device"** means a device intended primarily for the production or reproduction of sound, including, but not limited to, any musical instrument, radio receiver, television receiver, tape recorder, cellular device, phonograph or sound amplifying system;
- bb) **"Special Event"** includes a demonstration, parade, sports event, festival, carnival, donation station, street dance, residential block party, sidewalk sale, outdoor mass and other like events;
- cc) **"Vehicle"** includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine, motorcycle, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle, ATV or the cars of electric or steam railways running only upon rails.

2.0 Offences

- 2.1 No Owner shall cause or permit the creation, presence or existence of any noise or unusual sound that disturbs or are likely to disturb any inhabitant of the Township of Southgate as outlined in Schedule "A" attached.
- 2.2 Section 2.1 does not apply to the exceptions or circumstances as outlined in Schedule "B" attached.

3.0 Grant of Exemption by Council

- 3.1 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 and Council, may refuse to grant any exemption or may grant the exemption applied for or any exemption lesser effect any exemption granted shall specify the time period, not in excess of one month, during which it is effective and may contain such terms and conditions as Council sees fit.

- 3.2 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 deems appropriate

- 3.3 Breach

A breach by the applicant of any of the terms or conditions of any exemption grants by Council shall render the exemption null and void.

4.0 Right of Entry

- 4.1 An officer may at any reasonable time, enter onto the land to determine whether this By-law is being complied with.

- 4.2 Every owner shall permit the Officer to inspect any land for the purposes of determining compliance with this By-law.
- 4.3 Notwithstanding any provision of this By-law, an Officer shall not enter or remain in any room or place actually being used as a legal/conforming dwelling unless,
 - a) the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused, and if refused, may be made under the authority of a warrant issued under the Provincial Offences Act, R.S.O 1990, as amended.
 - b) a warrant issued under the Provincial Offences Act, R.S.O 1990, as amended is obtained.

5.0 Obstruction

- 5.1 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.
- 5.2 Any person who has been alleged to have contravened any of the provisions of the 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 or her duties.

6.0 Penalty

- 6.1 Every person who contravenes any of the provisions of this by-law and every director or officer of the corporation, who knowingly concurs in the contravention by the corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O 2001, c.25 as amended.
- 6.2 Every person who contravenes the provisions of the by-law and every director or officer of a corporation, who knowingly concurs in the contraventions by the corporation, is guilty of an offence and liable on conviction to a penalty where the minimum fine shall not be less than \$500 and a maximum fine shall not exceed \$100,000 exclusive of the costs under the provisions of the Municipal Act, 2001, S.O 2001, c. 25, as amended.
- 6.3 For the purpose of continuous offences, every person who contravenes any provision of this by-law and every director or officer of a corporation who knowingly concurs in the contravention of a by-law of the corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 6.4 Despite section 6.3 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, the total of all daily fines for the offence is not limited to \$100,000.
- 6.5 For the purpose of multiple offences, every person who contravenes any provision of this by-law and every director or officer of a corporation who knowingly concurs in the contravention of a by-law of the corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 6.6 Despite section 6.5 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the total of all daily fines for the offence is not limited to \$100,000.
- 6.7 Every person who fails to comply with a notice made under this By-law is guilty of an offence.
- 6.8 It shall be an offence for the person to hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or

performing a duty under the Municipal Act, 2001, as amended, or under a by-law passed under the Municipal Act, 2001, as amended.

- 6.9 Any person who has been alleged to have contravened the provisions of a by-law passed under the Municipal Act, 2001, as amended 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 the Officer's duties.
- 6.10 Every person who contravenes any section of this by-law under a Part 1 ticket, upon conviction shall be liable to a fine as provided for the Provincial Offences Act, R.S.O 1990, Chapter P.33, as amended.
- 6.11 Upon conviction any penalty imposed under this By-law may be collected under the authority of the Provincial Offences Act, R.S.O 1990, Chapter P.33, as amended.

7.0 Validity and Severability

- 7.1 Should any section, subsection, clause, paragraph or provision of this By-law be declared by County of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof, other than the part so declared to be invalid.

8.0 Repealed

- 8.1 By-law 2019-072 is hereby repealed.

9.0 Effective Date

- 9.1 This By-law shall come into force and take effect immediately upon the final passing thereof.

Read a first, second and third time, finally passed this 1st day of September, 2021.

Original Signed By

John Woodbury – Mayor

Original Signed By

Lindsey Green – Clerk

By-law 2021-132

Schedule A: Noise Regulation

Without limiting the generality of Section 2.1, the following are deemed to be noises that will disturb or are likely to disturb an inhabitant of the Township of Southgate and are prohibited:

- a. The noise or sound made or created by any radio, phonograph, public address system, sound equipment, loud speaker, musical instrument or other sound-producing equipment between the hours of 11:00 p.m one day and 7:00 a.m. the next, when the equipment is played or operated in such a manner that the sound or noise made or created thereby disturbs the peace, comfort or repose of any person.
- b. The operation of a stereo or other electronic device designed to amplify sound in, or on, a motor vehicle in such a way that the sound can easily be heard outside of the motor vehicle.
- c. Racing of any motorized conveyance other than in a racing event regulated by law.
- d. The operation of a motor vehicle in such a way that the tires squeal.
- e. 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.
- f. The operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to inadequate maintenance and/or improperly secured load or equipment.
- g. 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.
- h. The idling of an engine or motor in, or on, any motor vehicle or item of attached auxiliary equipment for a continuous period exceeding five minutes not conforming to the following:
 - 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 purposes 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 antifreeze, cleaning of the fuel system, carburetor or the like, when such work is performed other than for profit.
- i. Persistent barking, calling, or whining or other similar persistent noise made by any domestic pet, or any other animal kept or used for any purpose other than acceptable agriculture practices.

- j. The noise caused by the erection, demolition, alteration or repair of a building or by construction or earth-moving equipment working upon a site within 500 feet of an occupied dwelling house on any day between the hours of 11:00 p.m. and 7:00 a.m. the next day, excepting Sundays, when no such noise shall be created before the hour of 10:00 a.m. and no such noise shall be made after 6:00 p.m.
- k. Fireworks outside of the permitted dates and times being Canada Day and Victoria Day in accordance with the Township of Southgate Fireworks By-law currently in effect.
- l. The noise made by air conditioning equipment which is likely to disturb the peace, comfort, or repose of any person in a dwelling unit.
- m. The noise made by yelling, shouting, hooting or other boisterous activity after 11:00 p.m. and before 7:00 a.m.
- n. Any unwanted or meaningless sound that in the opinion of the Officer is likely to disturb the inhabitants of the Township of Southgate.

By-law 2021-132

Schedule B: Noise Regulation

The following are exceptions to Section 2.1 of the by-law:

- a. The ringing of bells in connection with any church, chapel, meeting hour or religious service.
- b. The noises caused by emergency vehicles.
- c. All municipal equipment and equipment operated by agents of the municipality, including those used for snow clearing operations.
- d. All equipment operated by commercial contractors or residential operators for the purposes of snow clearing operations during Winter months.
- e. All agricultural equipment engaged in acceptable farming practices.
- f. All animals on acceptable Agricultural Operations or rural farm land, including working animals for the purposes of protection and herding, but excluding pets.
- g. The use of any apparatus for the amplification of voice or music in an open space or public park in connection with a public celebration or any other reasonable legal gathering authorized by permission from the Township.
- h. The use of Sound Reproduction Devices in a reasonable manner for parades or special events carried on under the authority of a permit pursuant or in accordance with the law.
- i. The discharge of Fireworks not in contravention of the Township of Southgate Fireworks By-law currently in effect.
- j. Any military band or other band or any parade for which the person responsible for or in charge of has obtained a noise exemption permission from the Township.
- k. The use of Sound Reproduction Devices in a reasonable manner for any social, recreational, community or athletic activity approved on a highway pursuant to the provisions of the Township's parking by-law, as amended, or any successor thereto; or
- l. The noise caused by farm equipment performing any acceptable farming operation.
- m. The noise caused by emergency repair or demolition to any structure as directed by the Township of Southgate Chief Building Official or an Engineer in consultation with the Township of Southgate Chief Building Official.

**Corporation of the Township of Southgate
By-law 2021-132 – Noise By-law**

**Part 1 Provincial Offences Act
Short Form Wording**

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1	Emit/Cause to emit noise likely to disturb from radio, phonograph, pa system, sound equipment, loudspeaker, musical instrument, or other sound-producing equipment.	Section 2.1 Schedule A (a)	\$150
2	Emit/Cause to emit noise likely to disturb from a stereo or other electronic device designed to amplify sound associated with a motor vehicle.	Section 2.1 Schedule A (b)	\$150
3	Emit/Cause to emit noise likely to disturb from racing motorized vehicles.	Section 2.1 Schedule A (c)	\$150
4	Emit/Cause to emit noise likely to disturb from the squealing of tires associated with a motor vehicle.	Section 2.1 Schedule A (d)	\$150
5	Emit/Cause to emit noise likely to disturb from a motor vehicle horn or other warning device.	Section 2.1 Schedule A (e)	\$150
6	Emit/Cause to emit unnecessary noise likely to disturb from a motor vehicle or vehicle with a trailer.	Section 2.1 Schedule A (f)	\$150
7	Emit/Cause to emit noise likely to disturb due to the operation of a combustion engine or pneumatic device.	Section 2.1 Schedule A (g)	\$150
8	Emit/Cause to emit noise likely to disturb from prolonged idling of an engine.	Section 2.1 Schedule A (h)	\$150
9	Emit/Cause to emit noise likely to disturb from persistent barking, calling, or whining made by any domestic pet.	Section 2.1 Schedule A (i)	\$150
10	Emit/Cause to emit noise likely to disturb from the erection, demolition, alteration or repair of a building or by equipment.	Section 2.1 Schedule A (j)	\$150
11	Emit/Cause to emit noise in relation with Fireworks outside of permitted dates in accordance with the Firework By-law.	Section 2.1 Schedule A (k)	\$150
12	Emit/Cause to emit noise likely to disturb from the use of air conditioning equipment.	Section 2.1 Schedule A (l)	\$150
13	Emit/Cause to emit noise likely to disturb by yelling, shouting, hooting or other boisterous activity.	Section 2.1 Schedule A (m)	\$150
14	Emit/Cause to emit noise likely to disturb the inhabitants of the Township of Southgate.	Section 2.1 Schedule A (n)	\$150
15	Hinder or obstruct, or attempt to hinder or obstruct, any Officer.	Section 5.1	\$300

Note: The penalty provision(s) for the offences indicated above is Section 6.1 of By-law 2021-132, a certified copy of which has been filed and s.61 of the Provincial Offences Act, R.S.O. 1990, c. P.3