

**THE CORPORATION OF THE TOWNSHIP OF SPRINGWATER**

**BY-LAW 2010 - \_\_\_\_\_**

**Being a By-law to provide for the regulation and prohibition of noises likely to disturb the public and/or the prevention of public nuisances**

**WHEREAS** the *Municipal Act, 2001, S.O. 2001, c. 25*, Section 128(1), as amended, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances; and

**WHEREAS** Section 129 of the *Municipal Act, 2001, S.O. 2001, c. 25* as amended provides that a local municipality may prohibit or regulate noise within the municipality; and

**WHEREAS** the Council of the Township of Springwater deems it necessary and desirable to regulate or prohibit public nuisances or noise likely to disturb the health, safety, normal use and enjoyment of the inhabitants of the Township;

**NOW THEREFORE** the Council of the Corporation of the Township of Springwater enacts as follows:

**1. DEFINITIONS**

1.1 The following definitions shall be used for the purpose of this by-law:

“Construction Activity” includes the 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 Equipment” includes 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, trenches, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment.

“Council” means Council for the Corporation of the Township of Springwater.

“Highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

“Holiday” means any day within the definition of ‘holiday’ in the *Retail Business Holidays Act, R.S.O. 1990, c. R.30*, as amended and includes the Civic Holiday in August.

“Inhabitants” means one or more persons who reside in, own or occupy property in the Township.

“Motor Vehicle” includes an automobile, a motorcycle, a motor-assisted bicycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include a street car or other motor vehicle running only upon rails, a power-assisted bicycle, a motorized snow vehicle, tractor engine, farm tractor, a self-propelled implement of husbandry or a road-building machine.

“Noise” means any sound that is of such volume or nature that it is likely to disturb the inhabitants of the Township.

“Officer” means a police officer, municipal law enforcement officer or other person appointed by by-law to enforce the provisions of this By-law.

“Point of Reception” means any point on the premises of a person where noise originating from other than those premises is received.

“Public Safety” refers to any emergency service such as police, fire or medical services, and also pertains to municipal road construction and maintenance operations, and utilities (public or privately owned) including but not limited to snow removal and dewatering practices.

“Self-propelled implement of husbandry” means a self-propelled vehicle manufactured, designed, redesigned, converted or reconstructed for a specific use in farming.

“Township” means the Corporation of the Township of Springwater or the land within the geographic limit of the Corporation of the Township of Springwater as the contexts requires.

## **2. GENERAL PROHIBITIONS**

- 2.1 No person shall emit or cause or permit the emission of noise resulting from an act listed in Schedule 1 of this By-law, that is clearly audible at a point of reception anywhere within the Township, at any time.

## **3. PROHIBITIONS BY TIME**

- 3.1 Notwithstanding Section 2.1., no person shall emit or cause or permit the emission of noise resulting from an Act listed in Schedule 2 of this By-law, that is clearly audible at a point of reception anywhere within the Township within the prohibited time for such an Act.

#### **4. EXEMPTION – PUBLIC SAFETY**

4.1 Notwithstanding any other provision of this by-law, it shall be lawful to emit or cause or permit the emission of noise in connection with emergency measures undertaken for Public Safety including:

- (a) for the immediate health, safety or welfare of the inhabitants of the township; or,
- (b) for the preservation or restoration of property;

unless such noise is clearly of a longer duration or by nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

4.2 This by-law does not apply to an Officer or an Animal Control Officer while engaged in the performance of his duties.

#### **5. EXEMPTION – ACTIVITIES**

5.1 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 activities listed on Schedule 3 of this By-law.

#### **6. EXEMPTION – NORMAL FARM PRACTICES**

6.1 This by-law shall not apply to a person who emits or causes or permits the emission of noise in connection with normal farming practices within the meaning of the *Farming and Food Production Protection Act, 1998, S.O. 1998, c.1* as amended, and the *Livestock, Poultry and Honey Bee Protection Act, R.S.O. 1990, c. L.24, as amended..*

#### **7. GRANTING OF AN EXEMPTION BY COUNCIL**

7.1 Application to Township

Notwithstanding anything contained in this by-law, any person may make application to Council of the Township to be granted an exemption permit from any of the provisions of this by-law with respect to any source of noise. The township may refuse to grant an exemption or may grant the exemption applied for or may grant an exemption of lesser effect. An exemption permit shall specify a time period, not in excess of six (6) months, during which it is effective and may contain such terms and conditions as the Township deems appropriate.

7.2 Details of Application for Exemption Permit

Every person applying for an exemption permit shall at least ten (10) business days prior to the Council meeting at which the request for exemption is to be considered, submit to the Clerk of the Township a completed application form as

provided by the Township together with the fee as listed on Schedule 4 of this By-law

### 7.3 Decision

In deciding whether to grant an exemption permit, 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.

### 7.4 Breach

No person shall breach any of the terms or conditions of an exemption permit issued by the Township. Where a breach is caused or permitted by the applicant such breach shall render the exemption null and void.

## 8. SEVERABILITY

8.1 If a court of competent jurisdiction declares any section or part of this By-law invalid, it is the intention of Council that the remainder of the By-law shall continue in force.

## 9. POWER OF ENTRY

9.1 An Officer may enter upon land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the provisions of this By-law are being complied with.

## 10. RESTRICTIONS/CONDITIONS

10.1 Notwithstanding any provision of this By-law, an Officer shall not enter or remain in any room or place actually being used as a 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 only be made under the authority of an order issued under Section 438 of the *Municipal Act*, a warrant issued under Section 439 of the *Municipal Act*, or a warrant under Section 386.6 of the *Municipal Act*.
- (b) an order issued by a provincial judge or justice of the peace under Section 438 of the *Municipal Act*, is obtained;
- (c) a warrant issued by a provincial judge or justice of the peace under section 439 of the *Municipal Act*, is obtained;
- (d) a warrant issued by a provincial judge or justice of the peace under section 386.3 of the *Municipal Act*, is obtained;

## 11. ENFORCEMENT AND PENALTY PROVISIONS

11.1 The enforcement of this By-law shall be conducted by an Officer.

- 11.2 No person shall hinder or obstruct an Officer in the enforcement of this By-law.
- 11.3 Any person who is alleged to have contravened any section of this By-law shall identify themselves to an Officer upon request, failure to do so shall be deemed to have hindered or obstructed an Officer in the execution of his duties.
- 11.4 Every person who contravenes any provision of this by-law is guilty of an offence.
- 11.5 Every director or officer of a corporation who knowingly concurs in the contravention of any provision of this by-law by the corporation is guilty of an offence.
- 11.6 A person who is convicted of an offence is liable:
- a) on a first offence, to a fine of not less than \$250 and to a fine of not more than \$50,000, and
  - b) on a second and each subsequent offence, to a fine of not less than \$500 and a fine of not more than \$100,000.

## **12. COMING INTO FORCE**

- 12.1 That this by-law shall take force and effect upon final passage hereof.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS \_\_\_th DAY OF [MONTH], 2010.**

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Tony Guergis, Mayor

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John Daly, Clerk

## SCHEDULE '1' TO BY-LAW 2010 - \_\_\_\_

### GENERAL PROHIBITIONS

- A. Persistent barking, howling, calling or whining or other similar persistent noise making by any domestic pet or any other animal kept or used for a purpose other than agriculture;
- B. The operation of any construction equipment without an effective exhaust or intake muffling device where applicable and in good working order in accordance with the manufacturer's specifications;
- C. 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 noise can easily be heard outside of the motor vehicle;
- D. The detonation of fireworks or explosive devices not used in construction and not approved by the Township;
- E. The discharge of firearms;
- F. Ring bells, blow horns, shout, hoot, whistle, sing;
- G. 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;
- H. The operation of an air conditioner, pool pump or filter, heat pump or the like that is not in proper working order;
- I. Racing of a motorized vehicle other than in a lawful racing event;
- J. The operation of a motor vehicle in such a way that the tires squeal;
- K. The operation of a motor vehicle or a motor vehicle with a trailer resulting in banging, clanking, squealing or other noises due to improperly secured load or equipment, or inadequate maintenance.

**SCHEDULE '2' TO BY-LAW 2010 - \_\_\_\_**  
**PROHIBITIONS BY TIME**

	<b>Act</b>	<b>Prohibited Time</b>
A.	Construction activity	9:00 pm one day to 7:00 am the next day – Monday to Saturday  6:00 pm on Saturday to 12:00 pm on Sunday  6:00 pm on Sunday to 7:00 a.m. on Monday  Holiday
B.	Operation of a powered property service tool other than snow removal equipment in the outside environment	11:00 pm one day to 7:00 am the next day – Monday to Saturday  11:00 pm on Saturday to 9:00 am on Sunday  11:00 pm on Sunday to 7:00 a.m. on Monday  Holiday
C.	Carrying on the removal, manufacturing or processing of any material including any blasting operations	9:00 pm one day to 7:00 am the next day – Monday to Saturday  6:00 pm on Saturday to 12:00 pm on Sunday  6:00 pm on Sunday to 7:00 a.m. on Monday  Holiday
D.	Operation of a gravel pit, quarry or stone crushing operation	9:00 pm one day to 7:00 am the next day – Monday to Saturday  6:00 pm on Saturday to 12:00 pm on Sunday  6:00 pm on Sunday to 7:00 a.m. on Monday  Holiday

## SCHEDULE '3' TO BY-LAW 2010 - \_\_\_\_

### ACTIVITIES TO WHICH BY-LAW DOES NOT APPLY

The following constitutes those activities that Council consider to be exempt from the provisions of this By-law:

- A. Road and Bicycle races authorized by the Township;
- B. Regimental salutes;
- C. Parades authorized by the Township;
- D. Fireworks displays authorized by the Township;
- E. Midways and circuses authorized by the Township;
- F. Sporting, recreational and entertainment events in public parks, buildings or grounds authorized by the Township;
- G. Musical and other performances in public parks, public buildings or public grounds authorized by the Township;
- H. Special neighbourhood social activities on streets or other public land authorized by the Township;
- I. Transformers and diesel operated pumps owned by the municipality and necessary preventive maintenance work undertaken by the Township;
- J. Necessary municipal operations, including but not limited to snow clearing, street cleaning and garbage collection, undertaken by on or behalf of the Township;
- K. Snow removal that is essential for the normal operation of a business;
- L. Church clocks striking the hour and chimes ringing and the playing of any church carillon;
- M. Generators for the purpose of power outages;
- N. The discharge of a firearm in accordance with the Township's Discharge of a Firearm By-law.
- O. Events approved by the Special Events By-law.

SCHEDULE '4' TO BY-LAW 2010 - \_\_\_\_

SCHEDULE OF FEES

ACTIVITY	FEE
1. Application for Noise Exemption Permit	\$25.00

Working Document