

The Corporation of the Township of Springwater

By-Law 2012-015

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 Section 128(1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, herein referred to as “the Act” 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 128(2) of the Act provides that the opinion of Council under this section, if arrived at in good faith, is not subject to review by any court; and

Whereas Section 129 of the Act, 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 from all properties; and

Whereas Council has public considered the matter of noise on numerous occasions and more recently at a Public Meeting on June 16, 2010 and openly eight additional occasions during Council meetings on September 10, 2010, January 10, 2011, April 4, 2011, May 9, 2011, October 3, 2011, September 19, 2011, February 6, 2012 and lastly on February 21, 2012; and

Whereas the Township maintained contact with over 92 registered stakeholders on the subject of noise, and has received verbal submissions from various stakeholders at meetings open to the public and countless written submissions posted on Council agendas and the Township Public Consultation webpage; and

Whereas the Mayor, Deputy Mayor and staff met with key stakeholders individually to seek specific input, and those stakeholders were the Grenfel Ratepayers Association, Barrie Gun Club, Barrie District Hunters and Anglers Conservation Club and Snow Valley Ski Resort; and

Whereas Regulation SOR/98-212 Shooting Clubs and Shooting Ranges, Subsection 3(2)(e) under the Firearms Act, SC 1995, c. 39, provides in part that a person who wishes to establish and operate a shooting range shall submit copies of, and evidence of compliance with, any operating licenses required by federal, provincial or municipal laws; and

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:

Animal Control Officer: includes a person or persons appointed or engaged by the Township for the purpose of animal control and includes the corporation's municipal law enforcement officer(s).

Construction Activity: includes the erection, alteration, repair, dismantling, demolition, structural maintenance, painting, 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, excavators, 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 the council for The Corporation of the Township of Springwater.

dBAI: means the A-weighted sound pressure level of an impulsive sound measured with a sound level metre set to "impulse" response.

Expansion, Alteration of Conversion: means any development which would change the location, intensity, size or function of the existing use.

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 any successors thereto and includes the Civic Holiday in August.

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

Licensed Gun Club: means a Club licensed and regulated by the Province of Ontario and or municipality, and includes shooting clubs and shooting ranges.

Motor Vehicle: includes and 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, a self-propelled implement of husbandry or a road-building machine.

Noise: means any unwanted sound that is of such volume or nature that it is likely to disturb the inhabitants that is clearly audible at a point of reception.

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

Off-Road Vehicle: means a vehicle propelled or driven otherwise than by muscular power or wind and designed to travel,

- a) On not more than three wheels, or
- b) On more than three wheels and being of a prescribed class of vehicle as provided for the Off Road Vehicles Act R.S.O. 1990, Chapter 0.4 as amended and any successors thereto.

Person: means any human being, association, firm, partner, private club, incorporated company, corporation, agent or trustee and the heirs, executors, or other legal representatives of a person to whom the context can apply according to law.

Point of Reception: means any point on a premise where noise originating from a source other than those premises is received.

Powered Property Service Tool: includes, but not limited to, lawnmowers, hedge trimmers, whipper-snippers, leaf blowers, chain saw, power washers, power assisted sweepers, vacuums, rotary tillers, and bush hogs.

Public Service: refers to any emergency service such as police, fire or medical services, and also pertains to municipal operations, and utilities (public or privately owned).

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. Prohibitions

2.1. General Prohibitions

No person shall at 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.

2.2. Prohibitions by Time

No person shall at 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 or specified day, for such an act.

3. Exemption – Activities

3.1. General Exemptions

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.

3.2. Indoor Ranges

This By-law does not apply to indoor ranges.

4. Exemption – Enforcement Services

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

5. Granting of an Exemption by Council

5.1. Application for Exemption

Notwithstanding anything contained in this By-law, any person may make application to Council of the Township to be granted an exemption permitted from any of the provisions of this By-law. Council may, after hearing the Application, may grant an exemption or refuse to grant the exemption applied for or may grant such exemption as it deems appropriate.

5.2. 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 required fee and such further information and materials as may be required.

5.3. Decision

In deciding whether to grant an exemption permit, Council shall give the applicant or their representative and any person opposed to the application an opportunity to be heard and may consider such other matters as it deems appropriate.

The decision of Council is final for the year in which the decision is issued.

5.4. Breach of Permit Terms/Conditions

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 permit null and void.

6. Power of Entry

6.1. In accordance with section 436(1) of the Act, 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.

7. Enforcement and Penalty Provisions

7.1. The enforcement of this By-law shall be conducted by an Officer upon receipt of a complaint.

7.2. No person shall hinder or obstruct an Officer in the enforcement of this By-law.

7.3. Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O, 1990, c.p.33.

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. Coming into Force

9.1. That this By-law shall take force and effect upon final passage hereof.

9.2. That By-law 95-081 is hereby repealed.

Read a first, second and third time and finally passed this 5th day of March, 2012.

(Original Signed By)

Linda Collins, Mayor

(Original Signed By)

John Daly, Clerk

Schedule '1' to By-Law 2012-015

General Noise Prohibitions

This Schedule is to be read in conjunction with Section 2.1

- 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.
- C. The operation of a stereo or other electronic device designed to amplify sound.
- D. The detonation of high hazard fireworks at a Special Event not approved by the Township or explosive devices not used in construction.
- E. The discharge of a firearm at a licenced club or range while not having demonstrated compliance with Schedule 4.
- F. The operation of an air conditioner, poop pump or filter, heat pump that is not in property working order.
- G. Any noise from a Renewable Energy Source above levels provided for under the Environmental Protection Act, R.S.O, 1990, c.E. 19 and reported under the Renewable Energy Approval Process.

Schedule '2' to By-Law 2012-015 Prohibitions of Noise from Sources by Time

This Schedule is to be read in conjunction with Section 2.2

Section	Act	Prohibited Time
A.	Construction activity	<ul style="list-style-type: none"> • 9:00p.m. one day to 7:00a.m. the next day – Monday to Saturday • 6:00p.m. on Saturday to 12:00p.m. on Sunday • 6:00p.m. on Sunday to 7:00a.m. on Monday
B.	Operation of a powered property service tool, except/other than snow removal equipment in the outside environment	<ul style="list-style-type: none"> • 11:00p.m. one day to 7:00a.m. the next day – Monday to Saturday • 11:00p.m. on Saturday to 9:00a.m. on Sunday • 11:00p.m. on Sunday to 7:00a.m. on Monday
C.	Operation of a gravel pit, quarry or stone crushing operation	<ul style="list-style-type: none"> • 9:00p.m. one day to 7:00a.m. the next day – Monday to Saturday • 6:00p.m. on Saturday to 12:00p.m. on Sunday • 6:00p.m. on Sunday to 7:00a.m. on Monday
D.	The discharge of a firearm at a federally, provincially regulated or municipally licenced shooting range or shooting club	<p>May to October</p> <ul style="list-style-type: none"> • 9p.m. one day to 9a.m. the next day – Monday to Friday • 6p.m. Friday to 9a.m. Saturday • 6p.m. Saturday to 12p.m. Sunday • 6p.m. Sunday to 9a.m. Monday <p>November to April</p> <ul style="list-style-type: none"> • 9p.m. one day to 9a.m. the next day – Monday to Friday • 6p.m. Saturday to 9a.m. Sunday • 6p.m. Sunday to 9a.m. Monday
E.	The operation of any outdoor electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electromechanical	<ul style="list-style-type: none"> • 11:00p.m. one day to 7:00a.m. the next day – Monday to Saturday • 11:00p.m. on Saturday to 9:00a.m. on Sunday • 11:00p.m. on Sunday to 7:00a.m. on Monday <p>And any time where the business is closed</p>

Section	Act	Prohibited Time
	transducers, and intended for the production, reproduction or amplification of sound, at a commercial or recreational establishment	
F.	Ringing bells, blowing horns, shouting, hooting, whistling, singing	<ul style="list-style-type: none"> • 11:00p.m. one day to 7:00a.m. the next day – Monday to Saturday • 11:00p.m. on Saturday to 10:00a.m. on Sunday • 11:00p.m. on Sunday to 7:00a.m. on Monday
G.	Idling of a vehicle without an effective exhaust muffling device in good working order in a residential neighbourhood in excess of 5 minutes	<ul style="list-style-type: none"> • 11:00p.m. one day to 5:00a.m. the next day – Monday to Sunday
H.	Except as provided for in Schedule 3, the operation of an off road vehicle in a residential neighbourhood	<ul style="list-style-type: none"> • 9:00p.m. one day to 9:00a.m. the next day – Monday to Sunday
I.	Except as may be provided in the Fireworks By-law, the detonation of low hazard family fireworks	<ul style="list-style-type: none"> • 12:30a.m. to 4:30p.m. the next day – Monday to Sunday

Schedule '3' to By-Law 2012-015

Activities to Which the Noise By-Law Does Not Apply

This Schedule is to be read in conjunction with Section 3.1

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

- A. Road and bicycle races authorized by the Township.
- B. Regimental salutes authorized by the Township.
- 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 as may be authorized by the Township.
- G. Musical and other performances in public parks, public buildings or public grounds as may be authorized by the Township.
- H. Special neighbourhood social activities on streets or other public land authorized by the Township.
- I. Necessary municipal operations, including but not limited to snow clearing, street cleaning, garbage collection, and emergency services, undertaken by or on behalf of the Township.
- J. Snow removal, making or grooming that is essential for the normal operation of a business
- K. Church clocks striking the hour and chimes ringing and the playing of any church carillon
- L. Generators for the purpose of power outages.
- M. Events approved by the Special Events By-law.
- O. Normal farming practices within the meaning of the Farming and Food Production Protection Act, 1998, S.O. 1998, c.1 as amended, and the Protection of Livestock and Poultry from Dogs Act, R.S.O. 1990, c. L.24, as amended.

P. The operation of an off-road vehicle in or upon any municipally approved trail system or on any lands zoned for such activity.

Q. The operation of bells and other signaling devices utilized as traffic control devices at:

- Intersections with traffic signaling devices; and
- Railway crossings

Schedule '4' to By-Law 2012-015

Sound Level Limits for Stationary Specific Impulsive Sources in Class 1 & 2 Areas (Urban)

For impulsive sound, other than Quasi-Steady Impulsive Sound, from a stationary source which is the discharge of firearms on the premises of a licensed gun club or shooting range, the sound level limit at a point of reception expressed in terms of the Logarithmic Mean Impulse Sound Level (LLM) is:

- 70 dBAI if the gun club were operating before January 1, 1980; or
- 50 dBAI if the gun club began to operate after January 1, 1980; or
- The LLM prior to expansion, alteration or conversion.

Sound Level Limits for Stationary Specific Impulsive Sources in Class 3 Areas (Rural)

For impulsive sound, other than Quasi-Steady Impulsive Sound, from a stationary source which is the discharge of firearms on the premises of a licensed gun club or shooting range, the sound level limit at a point of reception within 30 m of a dwelling or a camping area, expressed in terms of the Logarithmic Mean Impulse Sound Level (LLM), is:

- 70 dBAI if the gun club were operating before January 1, 1980; or
- 50 dBAI if the gun club began to operate after January 1, 1980; or
- The LLM prior to expansion, alteration or conversion.

Schedule '5' to By-Law 2012-015
Schedule of Fees

Activity	Fee
Application for Noise Exemption Permit	\$25.00