

THE CORPORATION OF THE TOWN OF WHITCHURCH-STOUFFVILLE

BY-LAW NUMBER 2019-092-RE

BEING A BY-LAW to prohibit or regulate unusual noises or noises likely to disturb the inhabitants of the Town of Whitchurch-Stouffville and repeal By-law 2015-172-RE.

WHEREAS section 129 of the Municipal Act, 2001 provides that, without limiting sections 9 and 10 of the Act, a municipality may: (a) prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors; and (b) prohibit the matters described in clause (a) unless a permit is obtained from the municipality for those matters and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

WHEREAS section 128 of the Municipal Act, 2001 provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances; and

WHEREAS in the opinion of Council for the Town of Whitchurch-Stouffville, certain kinds of noise are or could become a public nuisance; and

WHEREAS subsection 391(1) of the Municipal Act, 2001 provides that a municipality may impose fees and charges on persons; and

WHEREAS the Town has passed By-law 2024-039-RE, being a By-law to establish an administrative monetary penalty system for violations of designated by-laws within the Town of Whitchurch-Stouffville, in accordance with Section 102.1 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "*Municipal Act*"), O. Reg. 333/07, as amended, and Section 434.1 of the *Municipal Act*; and

WHEREAS the Town wishes to amend By-law 2019-092-RE, being a By-law to regulate unusual noises or noises likely to disturb the inhabitants of the Town of Whitchurch-Stouffville to designate certain provisions for the purposes of the *Municipal Act* as provisions to which administrative monetary penalties shall apply.

- a) for services or activities provided or done by or on behalf of it;
- b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and,
- c) for the use of its property including property under its control;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF WHITCHURCH-STOUFFVILLE ENACTS AS FOLLOWS:

1. DEFINITIONS

For the purposes of this By-law the following terms shall have the corresponding meaning:

"AMPS" and **"Administrative Monetary Penalty System By-law"** means By-law 2024-039-RE of the Town, as amended from time to time, or any successor thereof.

"Construction" includes erection, alteration, repairing, 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” means any equipment or device designed and intended for use in construction, or material handling, including but not limited to, air compressors, pile drives, pneumatic or by hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, generators, pavers, off highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment.

“Conveyance” includes a vehicle and any other device employed to transport a person or persons or goods from place to place but does not include any such vehicle or device if operated only within the boundaries of a singular premises of a Person.

“Council” means the Council of The Corporation of the Town of Whitchurch-Stouffville.

“Farm” means an agricultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward.

“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 line thereof; but does not include trails used or intended to be used for motorcycles, skidoos and all-terrain vehicles.

“Holiday” means:

- i. New Year’s Day
- ii. Family Day
- iii. Good Friday
- iv. Easter Sunday
- v. Victoria Day
- vi. Canada Day
- vii. Labour Day
- viii. Thanksgiving Day
- ix. Christmas Day

and any other public holiday set out in the Retail Business Holidays Act, R.S.O., 1990, c. R.30.

“Motor Vehicle” means an automobile, a motorcycle, a motor-assisted bicycle unless otherwise indicated in this Act, 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 traction engine, a farm tractor, a self-propelled implement of husbandry or a road-building machine within the meaning of the *Highway Traffic Act*.

“Municipal Law Enforcement Officer” means any person appointed by By-law to enforce the Town’s By-laws;

“Municipality” means the land within the geographic limit of the Town of Whitchurch-Stouffville.

“Noise” means any sound or vibration that is of such a volume or nature that it is likely to disturb any person in the Town.

“Normal Farm Practices” means a practice that:

- i. is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances, or
- ii. makes use of innovative technology in a manner consistent with proper advanced farm management practices.

“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.

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

“Source” means an activity, matter, thing, or tangible personal property or real property, from which sound or vibration is emitted;

“Premises” means land and includes the buildings and/or structures thereon.

“Temporary Noise Permit” means an exemption granted under this Bylaw.

“Town” means The Corporation of the Town of Whitchurch-Stouffville.

2. GENERAL PROHIBITIONS

- 2.1. No Person shall make, cause or permit the emission of Noise, which Noise is audible at Point of Reception.
- 2.2. For the purposes 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:
 - i. the operation of a Motor Vehicle in such a way that tires squeal;
 - ii. the operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in constant operation;
 - iii. the operation of any Construction Equipment in the Stouffville Secondary Plan Area (as outlined in Schedule “A” to this By-law) residential area without effective muffling devices in constant operation and in good working order;
 - iv. the operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like Noises;
 - v. 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:
 - a) the continuous operation of the engine or motor is essential to the basic function of the vehicle or equipment;
 - b) 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;

- vi. 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;
- vii. the operation of an air conditioner, pool pump or filter, heat pump or the like that is not in proper working order;
- viii. 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.

3. REGULATIONS BY TIME

- 3.1. No Person shall make, cause or permit the emission of Noise resulting from an act listed herein, which Noise is audible at Point of Reception during a restricted time period.
- 3.2. Notwithstanding any other provision of this By-law, the following Noises shall be deemed to be Noises likely to disturb any Person in the Town if clearly audible at a Point of Reception within a time period as shown:

Description of Sound	Restricted Time Period
1. The operation of a radio, television, stereo or other electronic device including any amplification device, or any musical or other sound producing instrument.	11:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Sundays and Holidays)
2. The playing of any musical instrument or group of musical instruments.	11:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Sundays and Holidays)
3. Yelling, shouting, hooting, whistling, singing or the like.	11:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Sundays and Holidays)
4. All selling or advertising by shouting or outcry or amplified sound.	7:00 p.m. to 7:00 a.m. Monday to Friday 7:00 p.m. to 7:00 a.m. Saturday All day Sundays and Holidays
5. The operation of any powered rail car including but not limited to refrigeration cars, locomotives or self-propelled passenger cars, while stationary on property not owned or controlled by a railway governed by the Canada Railway Act.	9:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Sundays and Holidays)
6. The operation of a dirt bike, all-terrain cycle, snowmobile, go-cart, dune buggy or like Conveyance.	9:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Sundays and Holidays)
7. The operation of a commercial car wash with air drying equipment.	7:00 p.m. to 7:00 a.m. Monday to Friday 7:00 p.m. to 7:00 a.m. Saturday All day Sundays and Holidays
8. The operation of a commercial car wash of a type other than mentioned in Item 8.	11:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Saturdays and Sundays)
9. Loading, unloading, packing, unpacking, delivering or otherwise handling any container, product or material unless necessary for the maintenance of essential	7:00 p.m. to 7:00 a.m. Monday to Friday 7:00 p.m. to 7:00 a.m. Saturday All day Sundays and Holidays

Description of Sound	Restricted Time Period
services or for the moving of private household effects.	
10. The operation of any Construction Equipment.	7:00 p.m. to 7:00 a.m. Monday to Friday 7:00 p.m. to 7:00 a.m. Saturday All day Sundays and Holidays
11. The operation of any gas, battery or electric powered tool including a hammer, saw, nail gun, lawnmower, staple gun, hedge trimmer, drill, leaf blower or the like for domestic purposes.	9:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Sundays and Holidays)
12. The operation of a combustion engine for a toy or a replica of a larger device such as a remote controlled toy aeroplane.	9:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Sundays and Holidays)
13. The operation of waste collection machinery or refuse compacting equipment.	9:00 p.m. to 7:00 a.m. (to 9:00 a.m. on Sundays)
14. Construction or the operation of any Construction Equipment conducted by any individual other than the homeowner.	7:00 p.m. to 7:00 a.m. Monday to Friday 7:00 p.m. to 8:00 a.m. Saturday All day Sundays and Holidays

4. GENERAL EXEMPTIONS

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

- a) measures undertaken in an emergency for the immediate health, safety or welfare of Persons and animals;
- b) measures undertaken in an emergency for the preservation or restoration of property;
- c) the operation of emergency vehicles;
- d) the operation of bells utilized as traffic control devices including bells and other devices at traffic signal locations and bells at railway crossings;
- e) the activities of snow plowing and/or removal;
- f) measures undertaken where the Town, its servants, employees, contractors or agents are carrying out Town operations or operating, maintaining or installing municipally-owned infrastructure, facilities or the like;
- g) 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;
- h) road or bicycle races, parades, circuses, festivals, entertainment activities in public parks or neighborhood social activities approved by the Town;
- i) sport or recreational activities or events in public or private parks, playground, schoolyard, or recreational centre approved by the Town;

- j) 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;
- k) the lawful use and detonation of fireworks or similar explosive devices as per the Town's current Fireworks By-law, as amended, or any successor legislation thereto.

5. EXEMPTIONS BY APPLICATION

a) Application to Manager of By-Law

Notwithstanding anything contained in this By-law, any Person may make application to the Manager of By-Law or designate for exemptions not in excess of 90 days in length, to be granted an exemption from any of the provisions of this By-law with respect to any Source of Noise for which they might be prosecuted and the Manager of By-Law or designate, may refuse to grant any exemption or may grant the exemption applied for, or any exemption of lesser effect, and any exemption granted shall specify the time period during which it is effective and may contain such terms and conditions as the Manager of By-Law or designate see fit.

b) Application to Council

Notwithstanding anything contained in this By-law, any Person may make application to Council for exemptions over 90 days in length, to be granted an exemption from any of the provisions of this By-law with respect to any Source of Noise for which they might be prosecuted and the Council, by resolution, may refuse to grant any exemption or may grant the exemption applied for, or any exemption of lesser effect, and any exemption granted shall specify the time period during which it is effective and may contain such terms and conditions as the Council see fit.

c) Application for Exemption

The application mentioned in 5 a) and b) shall be made in writing and shall contain:

- i. the name and address of the applicant;
- ii. the name and information of a contact person, if other than applicant;
- iii. the location of the event or activity for which the Temporary Noise Permit is sought;
- iv. a description of the Source of Noise in respect of which the exemption is sought;
- v. a statement of the particular provision or provisions from which the exemption is sought;
- vi. the times of day, and period of time and duration for which the exemption is sought;
- vii. the reasons why the exemption should be granted;
- viii. a statement of the steps, if any, planned or presently being taken to minimize the Noise;
- ix. 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; and
- x. a non-refundable Application fee for exemption as set out in the Town's current Fees and Charges By-law.

d) Decision

In deciding whether to grant the exemption, the Manager of By-Law or designate or Council shall:

- i. consider any negative effects the issuance of the Temporary Noise Permit may have on Persons residing on neighbouring properties or on the Town;
- ii. consider any benefits the issuance of the Temporary Noise Permit may have for Persons residing on neighbouring properties or for the Town;
- iii. consider any previous violations of this By-law or predecessor by land or Temporary Noise Permit conditions by the applicant; and
- iv. consider anything the Manager of By-Law or designate or Council reasonably considers relevant.

e) Conditions

The Manager of By-Law or designate, or Council may impose conditions on a Temporary Noise Permit, including but not limited to:

- i. the type and volume of sounds that may be made;
- ii. the times during which sounds may be made;
- iii. the date of expiry of the Temporary Noise Permit; and
- iv. any fees applicable.

6. BREACH

Breach by the applicant of any of the terms or conditions of the exemption and/or a Temporary Noise Permit granted by the Manager of By-Law or designate, or Council shall render the exemption null and void.

7. PENALTIES

- a. Any Person who contravenes any of the provisions of this By-law shall, upon issuance of a penalty notice in accordance with the Administrative Monetary Penalty System By-law, be liable to pay an administrative penalty and any administrative fees, in accordance with the Administrative Monetary Penalty System By-law, as amended from time to time, or any successor thereof.
- b. The *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended from time to time, or any successor thereof, does not apply to a contravention of a Designated Provision of this By-law.
- c. No Person shall provide false information or give a false statement to an Officer, employee and/or agent of the Municipality in the lawful exercise of a power or duty under this By-law.
- d. No Person shall hinder or obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an Officer, employee and/or agent of the Municipality in the lawful exercise of a power or duty under this By-law.
- e. Every Person shall comply with any Order or Notice issued under the authority of this By-law.
- f. If an order has been issued under this By-law, and the order has not been complied with, the contravention of the order shall be deemed to be a continuing offence for each day or part of a day that the order is not complied with.

8. SEVERABILITY

If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this By-law and it is hereby declared that the remainder of the By-law shall be valid and shall remain in force.

9. REPEAL OF BY-LAW

By-law number 2015-172-RE and all amendments thereto are hereby repealed.

10. TRANSITION PROVISION

Notwithstanding the repeal of By-law 2015-172-RE and all amendments thereto, that By-law shall continue to apply to any acts, omissions or occurrences, and to any offences that took place prior to the enactment of this By-law.

11. EFFECTIVE DATE

This By-law shall come into effect and force on the 27th day of August 2019.

READ a first and second time this 27th day of August, 2019.

READ a third time and passed this 27th day of August, 2019.

“Iain Lovatt”
Iain Lovatt, Mayor

“Gillian Angus-Trail”
Gillian Angus-Trail, Clerk

SCHEDULE "A"

Map of Stouffville Secondary Plan Area

