

NOISE BYLAW

TOWNSHIP OF ADELAIDE METCALFE

BY-LAW NUMBER 5 of 2022

BEING A BY-LAW TO CONTROL NOISE IN THE CORPORATION OF TOWNSHIP OF ADELAIDE METCALFE

WHEREAS the *Municipal Act*, 2001, S.O. 2001, Chapter 25, Section 129 (1) provides that By-laws may be passed by the Councils of local municipalities for prohibiting or regulating noise and vibration within the municipality;

AND WHEREAS it is deemed expedient and necessary to provide an environment free from unusual, unnecessary or excessive noises or vibrations which may disturb the inhabitants of the Township of Adelaide Metcalfe; and,

THEREFORE the Council of the Corporation of the Township of Adelaide Metcalfe enacts as follows:

SECTION 1 SHORT TITLE

1. SHORT TITLE

This By-law may be cited as the "Noise By-law."

SECTION 2 DEFINITIONS

2. DEFINITIONS

In this By-law:

- 2.1 "**Agricultural Operation**" means an agricultural, horticultural or silvicultural operation that is carried in the expectation of gain or monetary reward;
- 2.2 "**Business Areas**" means those areas within the municipality zoned under the Zoning By-law as follows:
 - i. Corridor Commercial, Rural Commercial, Village Commercial, Hamlet Commercial (CC; RC; VC; HC; C3) Zones;
 - ii. Industrial, Rural Industrial, Extractive Resource (M; RM, E) Zones;
 - iii. Institutional (I) Zone;

iv. Parks and Recreation (PR) Zone;

- 2.3 **"Construction"** includes 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;
- 2.4 **"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 drivers, pneumatics 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;
- 2.5 **"Council"** means the Council of the Corporation of Township of Adelaide Metcalfe;
- 2.6 **"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 device or vehicle if operated within the premises of a person;
- 2.7 **"Highway"** includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicles
- 2.8 **"Motor Vehicles"** 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 other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the *Highway Traffic Act*;
- 2.9 **"Motorized Conveyances"** means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- 2.10 **"Municipality"** means the Corporation of Township of Adelaide Metcalfe;

- 2.11 **"Municipal Waste Collection"** means the collection, transportation and disposal of refuse as undertaken by the Municipality of its sub-contractors.
- 2.12 **"Noise"** means unwanted sound;
- 2.13 **"Officer"** means:
- i) any Police Officer; or
 - ii) a By-law Enforcement Officer, Building Inspector or Chief Building Official as appointed by the Council of the Municipality;
- 2.14 **"Person"** includes an individual, business, corporation, partnership, association or other legal entity;
- 2.15 **"Point of Reception"** means any point where sound or vibration originating from a location other than that point is received;
- 2.16 **"Residential Areas"** means those areas within the municipality zoned under the Zoning By-law as follows:
- i) Rural Residential; Hamlet Residential; Village Residential; Urban Residential (RR; HR; VR; UR) Zones;
- 2.17 **"Rural Areas"** means those areas within the municipality zoned under the Zoning By-law as follows:
- i) General Agricultural, Agriculture Only, Limited Agricultural (A, AO; LA) Zones;
 - ii) Surplus Dwelling (SD) Zone;
 - iii) Open Space Community Area as shown on Schedule "A3" Kerwood Land use Plan;
 - iv) "Settlement Areas" means those areas of the municipality located within the areas identified in the Adelaide Metcalfe Official Plan;
- 2.18 **"Vehicle"** includes a motor vehicle, trailer, traction engine, farm tractor, roadbuilding 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, or the cars of electric or steam railways running only upon rails.
- 2.19 **"Zoning By-law"** means the Township of Adelaide Metcalfe Comprehensive Zoning By-law currently in effect.

SECTION 3 **PROHIBITIONS**

- 3.1 No Person shall emit or cause sound resulting from an act listed in Schedule "A" of this By-law if clearly audible at a point of reception located in an area of the Municipality within a prohibited time shown for such an area.
- 3.2 No Person shall permit the emission of sound resulting from an act listed in Schedule "A" of this By-law if clearly audible at a point of reception located in an area of the Municipality within a prohibited time shown for such an area.

SECTION 4 **GENERAL EXEMPTIONS**

4.1 Public Safety

Notwithstanding any other provision of this By-law, it shall be lawful to emit or cause or permit the emission of sound or vibration in connection with the emergency measures undertaken for the immediate health, safety or welfare of any person, or for the preservation or restoration of property, unless such sound or vibration is clearly of a longer duration or nature or more disturbing than is reasonably necessary for the accomplishment of such emergency purpose.

4.2 Agricultural Activity

Notwithstanding any provisions of this By-law, it shall be lawful to emit or cause or permit the emission of sound or vibration in connection with the operation of any equipment related to Normal Farm Practices carried out as part of an Agricultural Operation, as defined in *the Farming and Food Production Protection Act, 1998*, S.O. 1998, as amended, or any successor legislation, and located on a property zoned for agricultural purposes in accordance with the Municipality's Zoning By-Law.

4.3 Educational Institutions

Notwithstanding any other provision of this By-law, it shall be lawful to emit or cause or permit the emission of sound or vibrations in connection with the normal operation of educational institutions during regular business hours and/or during school authorized activities.

4.4 **Traditional or Religious Activity**

Notwithstanding any other provision of this By-law, this By-law does not apply to a person who emits or causes or permits the emission of sound or vibration in connection with any of the listed traditional, festive, religious or other activities:

- i) Ringing of church bells;
- ii) Hymn singing or caroling performance;
- iii) Parades approved by the Municipality of Adelaide Metcalfe, the County of Middlesex and/or the Ontario Provincial Police.

4.5 **Municipal Activity**

Notwithstanding any other of this By-law, it shall be lawful to emit or cause or permit the emission of sound or vibrations in connection with the operation of municipal service vehicles and related equipment.

4.6 ***Railway Safety Act***

Notwithstanding any other provision of this By-law, this By-law does not apply to any sound arising from the operation of any railway operated under the *Railway Safety Act*, 1935, c. 32 (4th Suppl.) as amended or replaced.

SECTION 5 **APPLICATION FOR EXEMPTION**

5.1 **Exemption – Application Process**

Notwithstanding anything contained in this By-law, any Person may make application in writing to the Clerk of the Municipality to request an exemption from any of the provisions of this By-law with respect to any source of sound or vibration for which they might be prosecuted.

5.2 **Exemption – Details of Application**

The application mentioned in Section 5.1 shall be made in writing, at least sixty (60) days prior to the proposed date of the event and shall include:

- I. The name and address of the applicant;
- II. The location of the premises where the proposed exemption is being sought;

- III. The description of the type of sound or vibration in respect of which the exemption is sought;
- IV. Statement of the particular provision or provisions of the By-law from which the exemption is sought;
- V. The reasons why the exemption should be granted; and
- VI. The application for exemption fees as set out in the Municipality's current Fees and Charges By-law.

5.3 **Exemption – Circulation for Public Comment**

Upon receipt of an application for exemption by the Municipality, the Clerk shall notify the owners of lands within the vicinity of the requested exemption, indicating the date and time on which the Clerk will consider the request for exemption. The notice will outline the details of the exemption request. The notice will request that comments or concerns about the request for exemption be in written form and addressed to the Clerk of the Municipality.

5.4 **Exemption – Appeal of Decision**

If an exemption is denied by the Clerk of the Municipality, the applicant may appeal the decision to the Municipality's Council within ten (10) business days of the written decision provided by municipal staff. The appeal must be made in writing and addressed to the Clerk of the Municipality. Council shall consider the appeal, which will be accompanied by a report from the Clerk at a regularly scheduled meeting of Council.

5.5 **Exemption – Breach**

Breach by the applicant of any of the terms or conditions of the exemption shall render the exemption null and void.

SECTION 6 **ENFORCEMENT AND INSPECTION**

6.1 The provisions of this By-law shall be enforced by an Officer, or another individual appointed by the Municipality for the purpose of enforcing this By-law.

6.2 Every Officer may carry out inspections to determine whether the provisions of this By-law are being complied with in accordance with this By-law, and

the Officer shall have the right to enter lands pursuant to the provisions of the *Municipal Act*.

SECTION 7 **PENALTY**

- 7.1 Any 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 in the *Provincial Offences Act*, and as set out in Schedule "B", Set Fines attached hereto. All such fines shall be recovered under the *Provincial Offences Act*.
- 7.2 When a Person has been convicted of an offence under this By-law, any court of competent jurisdiction may, in addition to any penalty imposed on the Person convicted, issue an order (a) prohibiting the continuation or repetition of the offence by the Person convicted; and (b) requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
- 7.3 Prosecution under this Noise By-law shall not preclude any other legal actions required.

SECTION 8 **SEVERABILITY AND ENACTMENT**

8.1 Validity and Severability

If a court of competent jurisdiction should declare any section or part of 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 the By-law and it is hereby declared that the remainder of the By-law shall be valid and shall remain in force.

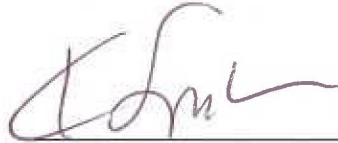
8.2 Effective Date

This By-law shall come into force and take effect on the day of the final reading thereof except for the Short-Form Wording pursuant to Schedule "B", Set Fines, which shall subsequently come into force and take effect on the day that the Ministry of Attorney General approves it.

Read a first, second and third time

IN OPEN COUNCIL

This 7th day of February, 2022.

A handwritten signature in black ink, appearing to read 'K. Smith', written over a horizontal line.

Kurtis Smith, Mayor

A handwritten signature in black ink, appearing to read 'M. Barnier', written over a horizontal line.

Michael Barnier, Clerk

**The Township of Adelaide Metcalfe By-Law Number 5 of 2022
Noise Control**

**Schedule "A"
Prohibitions by Time and Place**

Item	Residential Areas	Rural Areas	Business Areas
(1) Excessive noise likely to disturb the inhabitants of any property.	At all times	At all times	At all times
(2) The operation of a combustion engine which, <ul style="list-style-type: none"> i. is, or ii is used in, or iii is intended for use in a toy or model or replica and has no function other than amusement and which is not a conveyance. 	At all times	9:00 pm - 9:00 am	At all times
(3) The operation of any combustion engine or pneumatic device without an effective exhaust muffling device in good working order and in constant operation.	At all times	At all times	At all times
(4) The operation of a vehicle or vehicle with a trailer resulting in banging, clanking, squealing, squealing of tires, or other like sounds due to improperly secured load or equipment of inadequate maintenance.	At all times	At all times	At all times
(5) The operation or maintenance of an engine or motor in, or on, any motor vehicle or item or attached auxiliary equipment for a continuous period exceeding five minutes while such vehicle is stationary.	8:00 pm - 7:00 am	At all times	9:00 pm - 7:00 am
(6) The operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electromechanical transducers and intended for the production, reproduction, or amplification of sound.	11:00 pm - 7:00 am	11:00 pm -7:00 am	1:00 am - 11:00 am

(7) The operation of any auditory signaling devices, including but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles, or the production, reproduction, or amplification of any similar sounds by electronic means except where required or authorized by law or in accordance with good safety practices.	7:00 pm -11:00 am	7:00 pm - 11:00 am	1:00 am - 11:00 am
(8) The operation of any motorized conveyance other than on a highway or other place intended for its operation.	At all times	N/A	At all times
(9) Racing of any motorized conveyance.	At all times	At all times	At all times
(10) The venting, release or pressure relief of air, steam or other gaseous material, product or compound from any autoclave, boiler pressure vessel, pipe, valve, machine, device or system.	At all times	9:00pm to 7:00 am	9:00 pm to 7:00 am
(11) Persistent barking, calling, or whining or other similar persistent noise making by any domestic pet or any other animal kept or used for any purpose other than agriculture.	At all times	At all times	At all times
(12) The operation of a commercial car wash with or without air drying equipment.	12:00 am - 6:00 am	N/A	N/A
(13) The operation of a power assisted hang glider or parasail.	At all times	N/A	At all times
(14) The operation of any item of snow making equipment.	At all times	N/A	N/A
(15) All selling or advertising by shouting or outcry or amplified sound.	At alltimes	N/A	7:00 pm - 7:00 am
(16) Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials, or refuse, whatsoever, unless necessary for the maintenance of essential services.	Midnight - 6:00 am	N/A	N/A
(17) The operation of any motor vehicle or equipment in connection with construction.	8:00 pm - 7:00 am	8:00 pm - 7:00 am	8:00 pm - 7:00 am
(18) The operation or use of any tool for domestic purposes other than snow removal.	11:00 pm - 7:00 am	N/A	N/A
(19) The operation of solid waste bulk lift or refuse compacting equipment.	7:00 pm - 7:00 am	N/A	N/A

(20) No person shall make repeated and unfounded false alarm complaints to the Municipality or an Officer such as reporting an act that is not prohibited pursuant to this Noise By-law.	N/A	N/A	N/A
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**The Township of Adelaide Metcalfe By-Law Number 5 of 2022
Noise Control Part I
Provincial Offences Act**

**Schedule "B"
Part 1 - Provincial Offences Act - Set Fines**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision or Defining Offence	COLUMN 3 Set Fine
1.	Noise excessive and likely to disturb when prohibited	Section 3 Sch. A(1)	\$200.00
2.	Noise operation of combustion engine when prohibited	Section 3 Sch. A(2)	\$200.00
3.	Noise from ineffective muffling device when prohibited	Section 3 Sch. A(3)	\$200.00
4.	Noise from vehicle requiring maintenance or insecure load when prohibited	Section 3 Sch. A(4)	\$200.00
5.	Noise from engine while stationary for greater than five minutes when prohibited	Section 3 Sch. A(5)	\$200.00
6.	Noise from electronic device with speaker producing sound when prohibited	Section 3 Sch. A(6)	\$200.00
7.	Noise from auditory signaling device when prohibited	Section 3 Sch. A(7)	\$200.00
8.	Noise from a motorized conveyance when prohibited	Section 3 Sch. A(8)	\$200.00
9.	Noise from racing of a motorized conveyance when prohibited	Section 3 Sch. A(9)	\$200.00
10.	Noise from release of gas pressure when prohibited	Section 3 Sch. A(10)	\$200.00
11.	Noise from persistent whining or barking of domestic pet when prohibited	Section 3 Sch. A(11)	\$200.00
12.	Noise from commercial car wash when prohibited	Section 3 Sch. A(12)	\$200.00
13.	Noise from power glider or parasail when prohibited	Section 3 Sch. A(13)	\$200.00
14.	Noise from snow making equipment when prohibited	Section 3 Sch. A(14)	\$200.00
15.	Noise from selling or advertising when prohibited	Section 3 Sch. A(15)	\$200.00
16.	Noise from handling containers or materials when prohibited	Section 3 Sch. A(16)	\$200.00
17.	Noise from construction when prohibited	Section 3 Sch. A(17)	\$200.00
18.	Noise from tool for domestic purposes when prohibited	Section 3 Sch. A(18)	\$200.00
19.	Noise from waste lift or compacting when prohibited	Section 3 Sch. A(19)	\$200.00
20.	Filing an unfounded false alarm complaint	Section 3 Sch. A(20)	\$200.00

NOTE: The penalty provision(s) for the offence(s) indicated above is Section 7.1 of By-law Number 5 of 2022 a certified copy of which By-law has been filed.