

THE CORPORATION OF THE MUNICIPALITY OF SOUTH DUNDAS

BY-LAW NO. 2016-20

A BY-LAW to prohibit or regulate public nuisances within the Municipalities of the United Counties of Stormont, Dundas and Glengarry.

WHEREAS the *Municipal Act, 2001, S.O. 2001, c.25, S.129* provides that a municipality may pass By-laws prohibiting and regulating noise within the municipality;

AND WHEREAS the people have a right to and should be ensured an environment free from unusual, unnecessary or excessive sound or noise which may degrade the quality of life or cause nuisance;

AND WHEREAS Sections 120, 121, 127, 128, and 129 provide for a municipality to pass By-laws to regulate fireworks, explosives, littering, nuisances, and noise;

AND WHEREAS Council has, in good faith, determined that certain activities should be regulated and/or prohibited within the Municipality;

NOW THEREFORE the Council of the Corporation of the Municipality of South Dundas, in partnership with the member municipalities within the United Counties of Stormont, Dundas and Glengarry, enacts as follows:

DEFINITIONS

Short Title

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

Interpretation

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

"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 in any form or for any purpose, and includes any work in connection therewith;

"Disorderly conduct" refers to petty misdemeanors, breaches of the peace, loitering, unruly behavior, yelling obscenities, or any other action deemed to be against public order and decency;

"Graffiti" shall mean markings of any kind placed on property that does not belong to the person or artist making such marks;

"Motorized vehicle" includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; does not include motor vehicles running only upon rails, or a motorized snow machine, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the *Highway Traffic Act*;

"Municipality" means the land within the geographic limit of the enacting municipality of this By-law;

"Noise" means sound that is of such a volume or nature that it is likely to disturb the inhabitants of the municipality;

"Nuisance" means a noise or an activity listed in Schedule 1 or Schedule 2 of this By-law;

"Officer" means an officer of the municipality responsible for enforcement of By-laws or a police officer or a peace officer appointed under the Police Services Act;

"Person" means an individual, firm, corporation, partnership, association or organization, including a charitable organization;

"Point of reception" means any point on the premises of a person where noise or vibration originating from other than those premises is plainly audible, which means the sound in question can be easily detected, without undue effort, by a disinterested person with no hearing disability;

"Public" means a place outdoors to which the public is ordinarily invited or permitted access and, for greater certainty, shall include sidewalks, streets, any portion of a road allowance, parking lots, swimming pools, conservation area, parks, and playgrounds; school grounds; land premises or buildings owned, managed or maintained by the Municipality;

"Villages and Hamlets" means those areas falling within the boundaries identified by the SD&G Official Plan for Rural and Urban Settlement Areas.

GENERAL PROVISIONS

General Prohibitions

No person shall cause or permit to exist any unusual noise, or noise likely to disturb the inhabitants of the Municipality.

Prohibition by Activity

No person shall emit or cause or permit the emission of noise or a nuisance, resulting from any activity listed in Schedule 1 – General Prohibitions.

Prohibitions by Time

No person shall emit or cause or permit the emission of noise or a nuisance, resulting from any activity listed in Schedule 2 – Prohibitions by Time and which has a sound clearly audible at a point of reception anywhere within the municipality.

Exemption

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 emergency measures undertaken.

Exemption of Activities

This By-law shall not apply to a person who emits or causes or permits the emission of noise or vibration in connection with any of the activities listed on Schedule 3 – Exemption of Activities.

Exemption of Normal Farm Practices

This By-law shall not apply to a person who emits or causes or permits the emission of noise or vibration in connection with normal farming practices within the meaning of the Farming and Food Protection Act, 1998, S.O. 1998, c.1 as amended.

Exemption by Permit

This By-law shall not apply to a person who has in their possession, at the time of producing the noise or nuisance, a Temporary Exemption Permit issued under Schedule 4 and which explicitly exempts the activity producing the noise or nuisance within a specified time period.

ADMINISTRATION

Grant of Exemption by 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 law with respect to any nuisance for which he might be prosecuted and 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 be in the form established in Schedule 4.

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

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 the By-law and it is hereby declared that the remainder of the By-law shall be valid and shall remain in force.

Enforcement Authority

This By-law shall be enforced by an officer of the municipality responsible for enforcement of By-laws or a police officer or a peace officer appointed under the Police Services Act.

Officer Right of Entry

An officer shall have the right of entry on any property for the purpose of carrying out an inspection to determine whether this By-law is being complied with and for the enforcement of this By-law, provided that any such entry shall be in accordance with ss. 435-439 of the *Municipal Act, 2001*.

Order to Discontinue Activity

An officer may order a person to cease creating a nuisance and/or that all persons not residing on the premises shall leave the premises where the nuisance was occurring.

An order under this section may be given verbally or may be served personally to the person to whom it is directed.

No person shall fail to leave the premises after having been directed to leave the premises pursuant to an order to discontinue an activity under this By-law.

Obstruction of Officer

No person shall obstruct, hinder or interfere with an Officer of this By-law in the performance of their duties.

Offence and Penalties

Any person who contravenes any of the provisions 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 or as set out in the Provincial Offences Act or any successor;

In addition to any penalty imposed and any other remedy, a court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order.

Prohibiting the continuation or repetition of the violation by the person convicted; and,

Require the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

Enactment

This By-law shall come into force and take effect upon passing.

READ and passed in open Council, signed and sealed this 1st day of March, 2016.

MAYOR

CLERK

Schedule 1 – General Prohibitions

1. No person shall conduct the following activities so as to constitute a public nuisance whether occurring on public or private property:
 - a. Disorderly conduct;
 - b. Public drunkenness or public intoxication;
 - c. The deposit of refuse on public or private property;
 - d. Damage to or destruction of public or private property including the production of graffiti;
 - e. Pedestrian traffic, vehicular traffic, or illegal parking that obstructs the free flow of traffic or could interfere with the ability to provide emergency services;
 - f. Public disturbances, including public brawls or public fights;
 - g. Racing of any motor vehicle other than in a lawful racing event approved by the Municipality;
 - h. The operation of a motor vehicle in such a way that creates unnecessary noise such as the sounding of the horn, revving of engine and the squealing of tires;
 - i. The operation of a motor vehicle or a motor vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to an improperly secured load or equipment, or inadequate maintenance;
 - j. The operation of an air conditioner, water pump, heat pump or any equipment that is not in proper working order; and/or
 - k. The detonation of fireworks or explosive devices in an unsafe manner or in a manner that would have an undesirable outcome at a point of reception.
2. No person shall urinate or defecate in a public place.
3. No person shall knock over or attempt to knock over a Canada Post mailbox, Canada Post relay box, newspaper box, blue box, bench, fence, and picnic table or garbage container. This section shall not apply to Municipal employees, or any other person under contract with the Municipality while exercising their authorized duties on behalf of the Municipality.
4. No person shall discharge firearms within villages or hamlets.
5. No person shall operate any auditory signaling device, 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.

Schedule 2 – Prohibitions by Time

Activity	Prohibited Period of Time
1. The sounds from or created by any radio, phonograph, tape player, television, public address system, sound equipment, loud speaker, or any musical or sound producing instrument of whatever kind when the same is played or operated in such manner or with such volume as to disturb the peace, quiet, comfort or repose of any individual in any office, dwelling house, apartment, hotel, hospital, or any other point of reception.	11:00 pm one day to 7:00 am the next day (9:00 am on Sundays)
2. Yelling, shouting, hooting, whistling or singing.	11:00 pm one day to 7:00 am the next day (9:00 am on Sundays)
3. Detonation of fireworks or explosive devices.	11:00 pm one day to 7:00 am the next day (9:00 am on Sundays)
4. Operation of any construction equipment or construction activities.	11:00 pm one day to 7:00 am the next day (9:00 am on Sundays)
5. Operation or use of powered equipment for domestic purposes (i.e. lawn mower, leaf blowers, chain saw, power tools or other similar devices) other than powered equipment related to snow removal.	11:00 pm one day to 7:00 am the next day (9:00 am on Sundays)
6. The operation of any motorized vehicle for personal use and enjoyment, including snowmobiles, all-terrain vehicles and off-road motorcycles on one's property.	11:00 pm one day to 7:00 am the next day (9:00 am on Sundays)
7. The operation of a combustion engine which is, is used in, or is intended for use in, a toy, or a model or replica of any device, which model or replica has no function other than amusement.	11:00 pm one day to 7:00 am the next day (9:00 am on Sundays)
8. Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials, or refuse, whatsoever, unless necessary for the operation of essential services or the moving of private household effects.	11:00 pm one day to 7:00 am the next day (9:00 am on Sundays)

Schedule 3 – Exemption of Activities

The following is a list of activities and sources of noise of which Council considers to be exempt from the provisions of this By-law:

1. Road and bicycle races authorized by the municipality;
2. Regimental salutes;
3. Parades authorized by the municipality;
4. Midways and circuses authorized by the municipality;
5. Sporting, recreational and entertainment events in public parks, buildings or grounds authorized by the municipality;
6. Musical and other performances in public parks, buildings or grounds authorized by the municipality;
7. Special neighbourhood social activities on streets or other public land authorized by the municipality;
8. Transformers and diesel operated pumps owned by the municipality and necessary preventive maintenance work undertaken by the municipality;
9. Necessary municipal operations, including but not limited to snow clearing, street cleaning and garbage collection, undertaken by or on behalf of the municipality;
10. Snow removal that is essential for the normal operation of a business;
11. The operation of emergency vehicles;
12. Educational and political events authorized by the municipality; and/or
13. Church and school bells ringing.

Schedule 4 – Application to Council

Application for Temporary Exemption Permit
To Nuisance By-law 2016-20

Applicant Name:	Last	First
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Applicant Address:	Street	Postal Code
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Applicant's Phone Number:

Group or Organization:

Event Title:

Date of Event:	Time of Event
(If event is being held over more than one day, specify times for each day)	

Description of Event – include the source of sound or vibration in respect of which the exemption is being sought:
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State the particular provision or provisions of the By-law from which the exemption is being sought

Authorization:

Date

Signature

Clerk