

THE CORPORATION OF THE VILLAGE OF SOUTH RIVER

By-Law No. 28-2022

Being a By-law to Control Noise

WHEREAS it is expedient to exercise the power conferred upon the Council by the Environmental Protection Act, R.S.O. 1990, chap. E.19, as amended, and other statutory authority; and

WHEREAS Section 129(a) of the Municipal Act 2001, S.O. c. 25 as amended authorizes the municipality to prohibit, regulate and otherwise control noise;

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

AND WHEREAS it is the policy of the Council to reduce and control such noise or vibration;

NOW THEREFORE THE COUNCIL OF THE VILLAGE OF SOUTH RIVER ENACTS AS FOLLOWS:

1.0 **DEFINITIONS**

In this by-law:

1.1 **“appliance”** means a household device whether fixed or portable;

1.2 **“applicant”** means a person or persons seeking an exemption of either a temporary or permanent nature from the provisions and requirements of this Bylaw;

1.3 **“audible pedestrian signals”** means a device that communicates information about pedestrian timing in non-visual formats such as audible tones, verbal messages and/or vibrating surfaces;

1.4 **“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;

1.5 **“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, pneumatic 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;

1.6 **“construction site”** means the area or portion of land used for or under construction or any other area used for any purpose related to the construction or for any related purpose;

1.7 **“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 only within a building;

1.8 **“Council”** means the Council of the Corporation of the Village of South River;

1.9 **“domestic animal”** means an animal (other than a human), which is kept by a person for any means. This shall include, but not be limited to, dogs, cats, rabbits, chickens, or roosters.

1.10 **“emergency vehicles and equipment”** means any emergency services vehicle including fire trucks, ambulances, police vehicles, utility emergency vehicles, loud speakers or emergency siren, and any other method of acquiring the public’s attention during an emergency situation or a mock disaster practice scenario owned by or operating on behalf of the Village of South River, the Province or Ontario, the Government of Canada or such agencies including but not limited to Canadian National Railway, Union Gas and Hydro One;

1.11 “**excessive noise**” means noise under human control and of such a nature as to interfere with the peace, comfort and convenience of any person. The person making the complaint must not be in or at the same place where the noise is being emitted.

1.12 “**generator**” means a device which consumes fuel to produce electrical power.

1.13 “**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;

1.14 “**motorized conveyance**” means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;

1.15 “**Municipal Law Enforcement Officer**” means a person appointed by the Village of South River for the enforcement of this and other bylaws.

1.16 “**noise**” means unwanted sound and vibrations;

1.17 “**owner**” means the registered owner of the land from which noise originates, and also includes a trustee acting on behalf of the registered owner, the estate of a registered owner and a person with a leasehold interest in the land;

1.18 “**person**” means any individual, corporation, partnership, company, association or party and the heirs, executors, administrators of other legal representative of such person to whom the context can apply according to law; shall include any group of persons comprising a society or other organization and shall include the plural wherein the context requires. Wherever the word “he” or “him” is used, it shall mean and include the feminine or neuter gender wherever the context so requires.

1.19 “**point of reception**” means any place on a property where sound or vibration is heard, the source of which does not originate *from the same property or dwelling unit*.

1.20 “**public park**” means any open space or recreational area, owned or controlled by the Village of South River or any board, commission or other authority established under any statute of the Province of Ontario and may include one or more athletic fields, field houses, community centers, bleachers, swimming pools, bandstands, skating rinks, tennis courts, bowling greens, boat liveries, bathing stations, curling rinks, refreshment rooms, fair grounds, arenas or similar uses;

1.21 “**service vehicle**” means a vehicle operated by or on behalf of the Village of South River or private contractor.

2.0 **PROHIBITIONS**

2.1 No person or owner shall emit, cause or permit the emission of noise, which is clearly audible to a person at a point of reception, resulting from an act listed in **Schedule ‘A’ – Prohibitions** within the prohibited time shown for such an act.

2.2 No person or owner shall emit, cause or permit the emission of excessive noise, which, disrupts the normal living or working environment of a person at a point of reception, resulting from an act listed in **Schedule ‘A’ – Prohibitions**, regardless of the prohibited time as listed.

2.3 No person or owner shall emit, cause, or permit the emission of any form of noise which, at the discretion of an officer, is deemed to create a nuisance to the community.

3.0 **GENERAL EXEMPTIONS**

3.1 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:

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

unless such sound or vibration is clearly of a longer duration, or nature more disturbing than is reasonably necessary to accomplish such emergency purpose.

3.2 The operation of service vehicles.

- 3.3 Audible pedestrian signals.
- 3.4 The normal daily activities of children.
- 3.5 Section 2.2 of this by-law shall be deemed not to apply to the following:
- (a) Construction or demolition being conducted under a permit by the Village of South River;
 - (b) Industrial or commercial operations carried out in accordance with an approved site plan.

4.0 **GRANT OF EXEMPTION BY COUNCIL**

4.1 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 by-law with respect to any source of sound or vibration for which he might be prosecuted. Council, by resolution, may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect. Any exemption granted shall specify the time period, not in excess of six (6) months during which it is effective and may contain such terms and conditions as Council sees fit.

4.2 In deciding whether to grant the exemption, 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 sees fit.

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

5.0 **EXEMPTION OF TRADITIONAL, FESTIVE OR RELIGIOUS ACTIVITIES**

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

- (a) The use of an apparatus or mechanism for the amplification of the human voice or of music in a public park in connection with any public election meeting, public celebration or other lawful gathering, provided that written permission of Council to hold such meeting, celebration or gathering has been first obtained under any applicable by-law of the Village of South River.
- (b) Any band or parade, provided that written permission of Council to operate such band or hold such parade has been first obtained under any applicable by-law of the Corporation of the Village of South River.
- (c) The use of church bells or chimes normally associated with church activities.
- (d) All activities permitted by Council associated with an event authorized by Council.

6.0 **SEVERABILITY**

6.1 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.

7.0 **PENALTIES**

7.1 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.5.0 1990, c. P. 33.

7.2 Every person guilty of an offence under this by-law may, if permitted under the Provincial Offences Act, pay a set fine and the Chief Judge of the Ontario Court Provincial division, shall be requested to establish set fines in accordance with **Schedule "B"** attached to this by-law.

8.0 **REPEAL**

8.1 Any other by-law pertaining to the control of noise for the Village of South River is hereby repealed in favour of this by-law.

9.0 **ENFORCEMENT**

9.1 The enforcement of this bylaw shall be assigned to the Municipal Law Enforcement Officer of the Village of South River, or any other person appointed to such duties by a bylaw of the Village

9.2 No person shall obstruct, hinder, or otherwise impede the lawful activities of an officer acting under the provisions of this bylaw.

9.3 Nothing herein shall be deemed to limit the ability of the Ontario Provincial Police to enforce this by-law at any time.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 27th DAY OF JUNE, 2022.

Jim Coleman, Mayor

Don McArthur, Clerk Administrator

THE CORPORATION OF THE VILLAGE OF SOUTH RIVER
By-law No. 28-2022
SCHEDULE "A"

PROHIBITIONS

Prohibited Activity	Prohibited Period of Time
1. The operation of any electronic devices intended for the production , reproduction or amplification of sound.	23:00 one day to 07:00 the next day
2. The operation of any auditory signaling device including but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles.	23:00 one day to 07:00 the next day
3. All selling or advertising by shouting, outcry or amplified sound.	21:00 one day to 7:00 the next day
4. The operation of any construction equipment or in connection with construction.	21:00 one day to 7:00 the next day (12:00 on Sundays)
5. The operation of a toy, model or replica of a larger device, that has no function other than amusement.	23:00 one day to 07:00 the next day
6. The operation of any motorized conveyance other than on a highway or authorized snowmobile trail.	23:00 one day to 07:00 the next day
7. Persistent barking, whining or other similar persistent noise making by a domestic animal.	19:00 one day to 7:00 the next day
8. The operation of any powered or non-powered tool, equipment or appliance for domestic purposes other than snow removal.	23:00 one day to 07:00 the next day
9. The operation of solid waste bulk lift or refuse compacting equipment.	19:00 one day to 7:00 the next day
10. Yelling, shouting, hooting or hollering.	23:00 one day to 07:00 the next day
11. Loud playing of musical instruments.	23:00 one day to 07:00 the next day
12. The detonation of fireworks or explosive devices not used in construction.	23:00 one day to 07:00 the next day
13. The operation of a motorized conveyance in such a way as to rev the engine beyond what is required for normal operation and maintenance.	19:00 one day to 7:00 the next day
14. The operation of a motorized conveyance in such a way as to cause the tires to squeal beyond what is required for normal operation.	19:00 one day to 7:00 the next day
15. The use of a mechanical braking device on a motorized conveyance in such a way as to disturb the public peace without reasonable justification.	19:00 one day to 7:00 the next day
16. The operation of a generator to provide power to a residential dwelling other than during a power outage or other than during the construction phase prior to power being installed in the constructed building.	2:00 one day to 10:00 the next day

THE CORPORATION OF THE VILLAGE OF SOUTH RIVER
By-law No. 28-2022
SCHEDULE "B"

PART I PROVINCIAL OFFENCES ACT

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1.	Make or permit noise from prohibited activity during prohibited time	s. 2.1	\$150.00
2.	Make or permit excessive noise from prohibited activity	s. 2.2	\$250.00
3	Make or permit nuisance noise	s. 2.3	\$150.00
4	Obstruct officer	s. 9.2	\$250.00

NOTE: The general penalty section for the offences indicated above is Section 7.0 of By-law No. 28-2022, a certified copy of which has been filed.