

CONSOLIDATED BY-LAW

THE MUNICIPALITY OF LAMBTON SHORES

BY-LAW 30 OF 2002

Being a by-law to provide for the prohibition of certain noises

WHEREAS: *The Municipal Act, R.S.O. 1990, Section 210, Subsection 138,* provides that a municipality may pass by-laws for prohibiting or regulating noises;

AND WHEREAS: It is deemed expedient and necessary to regulate or prohibit unusual noises, or noises likely to disturb the inhabitants of the Municipality of Lambton Shores;

THEREFORE: The Municipal Council of the Corporation of the Municipality of Lambton Shores enacts as follows:

SHORT TITLE: NOISE CONTROL BY-LAW

Part 1: NOISES – PROHIBITED

1. Likely to Disturb – Unusual – Prohibited

No person shall make or cause, or permit to be made or caused, any noise or sound which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any inhabitant or person.

1.2 Likely to Disturb – Unusual – Set Out

For the purpose of Section 1 of this by-law, the noises or sounds deemed to constitute unusual noises or noises likely to disturb the inhabitants shall include, but are not limited to, those set out in sections 1.3 to 1.13 inclusive of this by-law.

1.3 Horn – Siren – Bell – Duration – Unreasonable

The sounding of a bell, horn, siren, or signal device for an unnecessary or unreasonable period of time is prohibited.

1.4 Residential Properties

(a) Plainly audible noise, including the sound or noise from or created by any radio, phonography, public address system, sound equipment, loud speaker, or similar device or devices, or any musical or sound producing instrument of any kind, when such device or instrument is played or operated in such a manner or with such volume as to likely annoy or disturb the peace, quiet, comfort of repose of any individual in any type of residence between the hours of 11:00 p.m. and 8:00 a.m. is prohibited.

- (b) Noises created by any of the means noted in 1.4 (a) that is audible more than 25 feet from the property line is prohibited during the hours of 8:00 a.m. and 11:00 p.m.

1.5 Commercial Business & Licensed Establishments

- (a) No Commercial Business or Licensed Establishment shall cause or permit noise that is plainly audible from a public street at a distance of 15 metres (50 feet) from the building or structure between 8:00 a.m. and 11:00 p.m.
- (b) No Commercial Business or Licensed Establishment shall cause or permit noise that is plainly audible from a public street at a distance of 8 metres (25 feet) from the building or structure between the hours of 11:00 p.m. and 8:00 a.m.

1.6 Dogs

No person who has the care, custody or control of a dog within the Municipality of Lambton Shores shall permit such dog to indulge in prolonged yelping, howling, barking or other sounds during any time of the day or night.

1.7 Animal – Bird – Disturbing Peace – Quiet

Any sound made by any domestic pet, animal or bird, which is likely to disturb the peace, quiet, comfort or repose of any individual in any type of residence, is prohibited.

1.8 Vehicle – Rattling – In Disrepair – Maladjusted

The grating, grinding or rattling noises or sound caused by condition of disrepair or maladjustment of any motor vehicle, motorcycle, or other vehicle whatsoever or part or accessory thereof is prohibited.

1.9 Exhaust – Discharge – Without Muffler

The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorcycle, except through a muffler or other device that effectively prevents loud or explosive noises, is prohibited.

1.10 Construction – Excavation – 8 p.m. – 7 a.m.

Any noise arising between the hour of 8:00 o'clock p.m. of any day and 7:00 o'clock a.m. of the next following day from any excavation or construction work whatsoever, including the erection, demolition, alteration or repair of any building is prohibited, except in case of urgent necessity and then under a special permit from the Building Inspector.

1.11 Power Equipment – Use – 8:00 p.m. to 7:00 a.m.

The sound caused by the use or operation of a lawnmower, chainsaw, leaf-blower, or any other such noise-generating tool or device that is clearly audible in a Residential Area as defined in the Zoning By-law between 8:00 p.m. of any day and 7:00 a.m. of the next following day.

1.12 Loud Speaker – Horn – Other – Advertising

The noise or sound created by the use or operation of any drum, horn, bell, radio or mechanical loudspeaker, or other instrument or device or sound-producing, or sound transmitting instrument or apparatus for the purpose of advertising or for attracting attention to any performance, show or sale or display of goods, wares or merchandise or which projects noise or sound into any street or other public place is prohibited, unless the Municipality has granted specific approval for same.

1.13 Loud Speaker - Other – In Vehicle – Use – Restricted

The noise or sound created by the use or operation of any radio or mechanical loudspeaker or amplifier or other instrument or device or sound-producing, sound-reproducing, or sound transmitting instrument or apparatus in or upon any vehicle is prohibited, unless the Municipality has granted specific approval for same.

1.14 Firearms – Discharge – Exception – Peace Officers

The noise or sound caused by the discharge of any gun or other firearm, air gun and spring-gun or any class or type thereof is prohibited in the urban areas of the Municipality. This prohibition shall not apply to peace officers in the performance of their duties.

1.15 Shouting – Verbal Sounds

The noise or sound caused by loud shouting, or excessive sounds generated by a human voice, which is likely to disturb the peace, quiet, comfort or repose of any individual in any type of residence is prohibited.

1.16 Highways – Prohibitions – Exceptions

The prohibitions imposed by the following sections do not apply to noises occurring on any street to which the Highway Traffic Act applies:

- (a) Section 1.7 (relating to vehicle noises arising from vehicles not in a proper state of repair);
- (b) Section 1.8 (relating to vehicle discharge noises other than through a noise muffling device); and
- (c) Section 1.11 (relating to devices for broadcasting amplified sound from vehicles).

2. Violator - Definition

Any person being an occupant, person of authority, landlord, owner or being in possession of a room, building, boat, trailer, cabin or enclosed space, yard or lands appurtenant to a cabin, residence, building, boat, trailer or motel from which a noise prohibited in Section 1 above is emitted, shall be deemed a violator of the said Section 1 whether or not he or she personally made or created the said noise, unless he or she proves affirmatively that the maker of the said noises was a trespasser on the said premises.

Part 3 - EXEMPTIONS

3.1 Public Celebration – Election – Gathering – Authorized

None of the provisions of this by-law shall apply to the use in a reasonable manner of any apparatus or mechanism for the amplification of the human voice or of music in a public park or any other commodious space in connection with any public election meeting, public celebration or other lawful gathering, provided written permission of the Municipality has first been obtained or an exemption has been granted, in accordance with Section 3.7 of this by-law.

3.2 Parade – Band – Authorized

None of the provisions of this by-law shall apply to any military or other band or to a parade operating under written permission from the Municipality.

3.3 Emergency Vehicle – Police – Fire – On Duty

None of the provisions of this by-law shall apply to any vehicle of the police or fire department or any ambulance or any public service or emergency vehicle while answering a call.

3.4 Highways – Prohibitions - Exceptions

The prohibitions imposed by the following sections do not apply to noises from vehicles travelling on any street to which the Highway Traffic Act applies:

- (a) Section 1.8 (relating to vehicle noises arising from vehicles not in a proper state of repair);
- (b) Section 1.9 (relating to vehicle discharge noises other than through a noise muffling device); and
- (c) Section 1.13 (relating to devices for broadcasting amplified sound from vehicles).

3.5 Public Safety and Public Service

Notwithstanding any other provision of this by-law, it shall be lawful to emit or cause to permit the emission of sound or vibration in connection with emergency measures undertaken for:

- (a) The immediate health, safety or welfare of the inhabitants; or
- (b) The preservation or restoration of property; or
- (c) The sounds of any bell, horn, siren or other signaling device associated with any emergency or law enforcement vehicle; or
- (d) Any noise arising from road improvements undertaken by or on behalf of the Municipality of Lambton Shores, the County of Lambton, or the Ministry of Transportation of Ontario; or
- (e) The operation of snow plowing or snow removal equipment or for the cleaning of streets or sidewalks or maintenance of parks and beaches; or
- (f) The operation of garbage and recycling collection vehicles.

3.6 Agricultural

In compliance with the "Farming and Food Production Protection Act", the provisions of this by-law do not apply to normal farm practices.

3.7 Request for Exemption:

Property owners within Lambton Shores may apply for two exemptions per calendar year for special events, providing the sound will not create an undue disturbance for adjacent or neighbouring properties. Exemptions would be available until 12:00 a.m.

Application to Council

- (a) Council may, by resolution, upon receipt of a written application, grant an exemption to the provision of Sections 1.4 and 1.5 of this by-law to any person, with respect to any source of sound or vibration for which that person might be prosecuted for such period of time and subject to such terms and conditions as Council deems advisable and Council may refuse to grant any exemption or may grant an exemption of lesser effect than applied for and any exemption granted shall specify the time period during which it is effective.

Details of Application for Exemption

- (b) An application mentioned in subsection (a) shall be made in writing and shall contain:
 - (i) The name and address of the applicant;

- (ii) A description of the source of sound or vibration in respect of which exemption is sought;
 - (iii) A statement of the particular provision or provisions of the by-law from which exemption is sought;
 - (iv) The period of time, of a duration not in excess of six months, for which the exemption is sought;
 - (v) The reasons why the exemption should be granted;
 - (vi) A statement of the steps, if any, planned or presently being taken to bring about compliance with the by-law, and;
 - (vii) Proof of publication within the preceding ten days, in a newspaper of general circulation within the Municipality, of a notice of intention to apply for an exemption to this by-law, containing the information required by clause (i) through (v), and further stating the date upon which it is intended that application will be made to Council.
- (c) A copy of the application for exemption shall be delivered to the Clerk who shall prepare a report to council, which report shall contain the Clerk's opinion on the merits of the application and recommendations as to terms and conditions, if any.

Decision

- (d) In deciding whether to grant the exemption, Council shall consider the application, the report of the Clerk and any written submission received by Council and shall give the applicant and any person in support of or opposed to the application an opportunity to be heard and may consider such other matters as it sees fit.

Breach

- (e) A breach by the applicant of any of the terms and conditions imposed by Council in granting an exemption shall immediately render the exemption null and void."

3.8 Radio – Private – Motor Vehicle – Conditions

None of the provisions of this by-law shall apply to any sound from any private radio in a motor vehicle, installed for the sole benefit or entertainment of the operator and occupants of such vehicle when same is not audible at a distance of 8 metres (25 feet) from such vehicle.

Part 4 - ENFORCEMENT

4.1 Offence

Every person who breaches a section of this By-law is guilty of an offence and subject to a penalty as provided under the "Provincial Offences Act"

4.2 Continuation – New Offence

Each new day of a continuing offence will be considered a new offence.

4.3 Continuation – Repetition – Prohibited – By Order

The 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 offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

Part 5 – SEVERABILITY

5.1 Validity – Severable

It is declared that notwithstanding that any section or sections of this by-law, or parts thereof, may be found by any court of law to be bad or illegal or beyond the power of the Council to enact, such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this by-law are separate and independent therefrom and enacted as such.

Part 6. Conflict with the Highway Traffic Act

6.1 CONFLICT

In the event of a conflict between the provisions of this By-law and the Highway Traffic Act, the Highway Traffic Act will prevail.

Part 7. HEADINGS NOT PART OF THE BY-LAW

7.1 Headings

The headings in the body of this by-law are used for convenience or reference only and do not form part of the by-law.

Part 8. FORCE AND EFFECT

8.1 In effect

This By-law shall come into force and effect on August 7, 2002.

Part 9. PREVIOUS BY-LAWS REPEALED

9.1 Repealed

All by-laws listed in Schedule “A-1” of this by-law are repealed as of the final passing of this by-law.

READ A FIRST AND SECOND TIME THIS 21st DAY OF MAY 2002

READ A THIRD TIME AND FINALLY PASSED THIS 21ST DAY OF MAY, 2002.

“MAYOR – J. C. Ivey

“CLERK - Carol McKenzie”

As amended by By-law 46/02
Passed August 6, 2002

As amended by By-law 89 of 2014
Passed the 18th day of September

As amended by By-law 10 of 2017
Passed the 14th day of February

Consolidated By-law as of February 14, 2017

SCHEDULE "A"

BY-LAW 30 OF 2002

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 in the Provincial Offences Act.

SCHEDULE "A-1"
BY-LAW 30 OF 2002

The following by-laws regulating noise are hereby repealed as of the final passing of By-law 30 of 2002:

Bosanquet	By-law 30/1996
Forest	By-law 1212 By-law 9-1998
Grand Bend	By-law 4020/84 By-law 4062/93 By-Law 4081/98
Theford	By-law 13-1994

Any other by-law regulating noise passed by the Municipality of Lambton Shores or its predecessors are also hereby repealed.