

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

BY-LAW NO. 2013-50

BEING A BY-LAW TO PROHIBIT AND REGULATE NOISE IN THE TOWNSHIP OF WEST LINCOLN

WHEREAS Section 9 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, (the "Act") provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

AND WHEREAS Section 10 of the Act authorizes Council to pass a by-law respecting the health, safety and well being of persons, the economic, social and environmental well being of the municipality;

AND WHEREAS Section 129 of the Act authorizes municipalities to pass by-laws to prohibit and regulate noise;

AND WHEREAS it is in the public interest to prohibit and regulate noise in the Township;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN enacts as follows:

1. Interpretation

In this by-law:

- (a) "APPLICANT" means any person or persons seeking an exemption from Council, of either a temporary or permanent nature, from the provisions and requirements of this by-law.
- (b) "CONSTRUCTION" includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land cleaning, 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.
- (c) "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.
- (d) "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 the premises of a person.
- (e) "COUNCIL" means the Council of the Corporation of the Township of West Lincoln.
- (f) "EXEMPTION" means written permission of a temporary or permanent nature, issued by Council which provides absolution from certain provisions of this by-law.
- (g) "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 motor vehicles.
- (h) "INHABITANTS" means one or more persons who reside in or who are guests in the Township;
- (i) "MOTOR VEHICLE" includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power and includes all Off Road Vehicles; but does not include the cars of electric or steam railways, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road-building machines within the meaning of The Highway Traffic Act.
- (j) "MOTOR VEHICLE RACING" means the operation of a motor vehicle over a set course, whether in competition with other vehicles, for racing, training, lapping, testing or

instructional purposes, recreational purposes or for any other purpose, and includes the warm up in preparation for such operation of a motor vehicle;

- (k) "MUNICIPALITY" means the land within the geographic limit of the Township of West Lincoln.
- (l) "OFFICER" means a police officer, and any person appointed by Council for the purpose of enforcing by-laws of the Township.
- (m) "OFF ROAD VEHICLE" means any vehicle propelled or driven otherwise than by muscular power or wind and designed to travel:
 - i. On not more than three wheels;
 - ii. On more than three wheels and being of a prescribed class of vehicles under the Off-Road Vehicles Act, R.S.O. 1990, c.O.4 as amended, and the regulations thereto;
- (n) "PERSISTENT" means constantly repeated over a period of one half (1/2) hour.
- (o) "POINT OF RECEPTION" means any point on the premises of a person where sound or vibration originating from other than those premises is received.
- (p) "SOUND" means an oscillation in pressure, stress, particular displacement or particular velocity, in a medium with external forces or the superposition of such propagated oscillations which may cause an auditory sensation.
- (q) "SOURCE" means an activity, matter, thing, or tangible personal property or real property, from which sound or vibration is emitted.
- (r) "VIBRATION" means a temporal and special oscillation of displacement, velocity or acceleration in a solid medium.

2. Zones

In this by-law:

- (a) URBAN AREA - "Urban Area" means all of those lands in the municipality that are contained within the limits of the Smithville Urban Area Boundary and which are designated on Schedule "B" attached to and forming part of this by-law.
- (b) RURAL AREA - "Rural Area" means all of those areas in the municipality that are not contained within the limits of the Smithville Urban Area Boundary and which are also designated on Schedule "B" attached to and forming part of this by-law.

3. General Prohibition

No person shall make, cause or permit the emission of sound or vibration at any time, which is likely to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the Inhabitants of the Township.

4. Limitations by Time and Place

No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule "A" to 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 as per Schedule "A".

5. Grant of Exemption by Council

(1) Application to Council

- (a) 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.
- (b) 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, not in excess of six months, during which it is effective

and may contain such terms and conditions as Council sees fit.

(2) Form of Application to Council

Every application for an exemption shall be submitted to the Clerk in writing, and shall contain:

- (a) the name and address of the applicant;
- (b) a description of the source of the sound or vibration in respect of which the exemption is sought;
- (c) a statement of the particular provision or provisions of this by-law from which the exemption is sought;
- (d) a period of time, of a duration not in excess six months, for which the exemption is sought;
- (e) the reasons why, in the applicant's opinion, the exemption should be granted;
- (f) a statement of the actions, steps or other measures, if any, planned or presently been taken by the applicant, intended to bring about compliance with this by-law.

(3) Additional Information

Council may require the applicant to provide such further and other information and take such other steps as may be necessary to consider an application.

(4) Decision

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.

(5) Breach

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

6. Exemption of Traditional, Festive, Religious or Recreational Activities

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 activities listed below:

- (a) Any celebration in commemoration of a religious or statutory holiday that has received Township approval;
- (b) Remembrance Day celebrations;
- (c) Any carnival or parade by a Service Club;
- (d) Any supervised recreational activity recognized as such by Council;
- (e) Ringing of bells in connection with calling to worship by a recognized religious organization;
- (f) The operation of an authorized emergency vehicle;
- (g) Operation of Township machines and equipment;
- (h) Operation of construction equipment and machinery by or on behalf of the Township carrying on or engaged in the performance of public works or emergency or safety purposes;
- (i) The operation of any machine or equipment that falls within the classification of a normal farm practice as defined under Provincial legislation;
- (j) Any emission of sound specifically permitted under municipal, provincial or federal legislation.

7. 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.

8. Enforcement and Administration

- (a) Council may appoint such officers as are necessary for the purposes of enforcing this by-law.
- (b) An officer may issue a Directive or Order requiring that a person comply with the provisions of this by-law.
- (c) No person shall hinder or obstruct any officer, or any person lawfully acting in aid of such officer, in the execution of their duties under this by-law.

9. Offences and Penalties

- (a) Every person who contravenes any of the provisions of this by-law is guilty of an offence and on conviction is liable to a penalty as prescribed under the Provincial Offences Act.
- (b) Every person who fails to comply with a Directive or Order issued under this by-law is guilty of an offence and on conviction is liable to a penalty as prescribed by the Provincial Offences Act.

10. By-law Repealed

By-law No. 97-78 as amended be and is hereby repealed.

11. Short Title

This by-law shall be known as the "Noise By-law" for the Township of West Lincoln.

12. Effect:

This by-law shall take come into force and full effect immediately upon passage.

**READ A FIRST, SECOND AND THIRD
TIME AND PASSED BY COUNCIL THIS
27TH DAY OF MAY 2013.**

MAYOR DOUGLAS JOYNER

CAROLYN LANGLEY, CLERK

NOISE BY-LAW

SCHEDULE "A"

Prohibitions by Time & Place

Category	Item Description	Urban Area	Rural Areas
1.	The discharge of firearms.	At all times	Not Restricted
2.	Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials, or refuse, whatsoever, unless necessary for the maintenance of essential services or the moving of private household effects.	21:00 one day to 07:00 next day (to 09:00 on Sundays)	Not Restricted
3.	The operation of bird scaring devices.	At all times	21:00 one day to 07:00 next day
4.	<ul style="list-style-type: none"> - All selling or advertising by shouting or outcry or amplified sound. - 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 a model or replica of any device, which model or replica has no function other than amusement and which is not a conveyance. - The operation of any equipment in connection with construction. - The operation of solid waste bulk lift or refuse compacting equipment. 	21:00 one day to 07:00 next day (to 09:00 on Sundays)	

5.	<p>The operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers, and intended for the production, reproduction or amplification of sound.</p> <ul style="list-style-type: none"> - The operation of any auditory signalling device, including but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles, or the production of any similar sounds by electronic means, except where required or authorized by law or in accordance with good safety practices. - 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. - Persistent barking, calling, or whining or other similar persistent noise making by any domestic pet or other animal kept or used for any purpose other than agriculture. - Yelling, shouting, hooting, whistling or singing. - The operation or use of any tool for domestic purposes other than snow removal. - The operation of electric motors, fans or other persistent noise or vibration producing equipment including but not limited to equipment for the movement of materials within ducts or pipe conveyors. 	23:00 one day to 07:00 next day (to 09:00 on Sundays)	
6.	Emitting or causing or permitting the emission of sound resulting from motor vehicle racing.	Urban Area At all times	Rural Area At all times
7.	Emitting or causing or permitting the emission of sound resulting from the revving of a motor vehicle engine.	Urban Area At all times	Rural Area At all times

PART I PROVINCIAL OFFENCES ACT

**SHORT FORM WORDING & SET FINES
BY-LAW NO. 2013-50**

**THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN
NOISE CONTROL BY-LAW**

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE	COLUMN 3 SET FINE
1.	Emit/cause/permit emission of sound likely to disturb the inhabitants of the Township.	Section 3	\$350.00
2.	Emit/cause/permit the emission of sound within a prohibited time and place.	Section 4	\$350.00
3.	Hinder or obstruct an Officer in the execution of duties under the by-law.	Section 8(c)	\$350.00
4.	Fail to comply with Directive or Order issued under the by-law	Section 9(b)	\$350.00

NOTE: The penalty provision for the offences listed above is in Section 9 of By-law No 2013-50 a certified copy of which has been filed.