

CORPORATION OF THE TOWN OF LAKESHORE

By-Law No. 106-2007

A BY-LAW TO CONTROL NOISE

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

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

AND WHEREAS the *Municipal Act, 2001* authorizes municipalities to prohibit and/or regulate noise;

NOW THEREFORE, the Council of the Corporation of The Town of Lakeshore enacts as follows:

Interpretation

1. In this by-law:

"Agricultural Area" means those areas of the municipality designated as agricultural in the Zoning By-law;

"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 structural installation of construction components and materials in any form or for any purpose, and includes any work in connection therewith;

"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;

"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;

"Council" means the council of the Corporation of The Town of Lakeshore;

"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;

"Motor Vehicle" includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; 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 machine within the meaning of the *Highway Traffic Act*;

"Motorized Conveyance" means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;

"Municipality" means the land within the geographic limits of the Corporation of the Town of Lakeshore;

"Noise" means unwanted sound;

"Point of Reception" means any point on the premises of a person where sound or vibration originating from other than those premises is received.

"Residential Area" means those areas of the municipality designated as residential in the Zoning By-law; and

"Zoning By-law" means any by-law in effect within the Municipality pursuant to section 34 of the Planning Act, R.S.O. 1990, c.P.13, as amended.

General Prohibitions

2. No person shall emit or cause or permit the emission of sound as a result of any act listed in this section if such sound is clearly audible at a Point of Reception:
 - (a) Racing of any Motorized Conveyance other than in a racing event regulated by law;
 - (b) The operation of a Motor Vehicle in such a way that the tires squeal;
 - (c) The operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in good working order and in constant operation;
 - (d) The operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to improperly secured load or equipment, or inadequate maintenance;
 - (e) The operation of an engine or motor in, or on, any Motor Vehicle or item of attached auxiliary equipment for a continuous period exceeding five minutes, while such Motor Vehicle is stationary in a Residential Area unless:
 - (i) the original equipment manufacturer specifically recommends a longer idling period for normal and efficient operation of the Motor Vehicle in which case such recommended period shall not be exceeded;
 - (ii) operation of such engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to, operation of ready-mixed concrete trucks, lift platforms and refuse compactors;
 - (iii) weather conditions justify the use of heating or refrigerating systems powered by the motor or engine for the safety and welfare of the operator, passengers or animals, or the preservation of perishable cargo, and the vehicle is stationary for purposes of delivery or loading;
 - (iv) prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or
 - (v) the idling is for the purpose of cleaning and flushing the radiator and associated circulation system for seasonal change of antifreeze, cleaning of the fuel system, carburettor or the like, when such work is performed other than for profit.
 - (f) The operation of a Motor Vehicle horn or other warning device except where required or authorized by law or in accordance with good safety practices;
 - (g) The operation of any item of Construction Equipment in a Residential Area or Agricultural Area without effective muffling devices in good working order and in constant operation; or
 - (h) Dynamic braking or engine braking or engine retarding of a Motor Vehicle.

Prohibitions by Time and Place

3. No person shall emit or cause or permit the emission of sound resulting from any act listed in Table 3-1 if clearly audible at a Point of Reception located in an area of the municipality within a prohibited time shown for such an area.

TABLE 3-1

PROHIBITIONS BY TIME AND PLACE

	Prohibited Period of Time	
	Residential Area	Agricultural Area
1. The detonation of fireworks or explosive devices not used in construction.	At all times except for the celebrations of Victoria Day, the birthday of the reigning Sovereign, Canada Day (July 1 st) and American Independence Day (July 4 th)	
2. The discharge of firearms.	At all times	
3. The operation of a combustion engine which, is, or 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 and that is not a conveyance.	At all times	10:00 p.m. to 8:00 a.m.
4. The sound 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 a 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 type of residence.	At all times	10:00 p.m. to 8:00 a.m.
5. 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, reproduction or amplification of any similar sounds by electronic means except where required or authorized by law or in accordance with good safety practices.	At all times	10:00 p.m. to 8:00 a.m.

	Prohibited Period of Time	
	Residential Area	Agricultural Area
6. The operation of any powered rail car including but not limited to refrigeration cars, locomotives or self-propelled passenger cars, while stationary on property not owned or controlled by a railway governed by the Canada Railway Act.	At all times	10:00 p.m. to 8:00 a.m.
7. The operation of any motorized conveyance other than on a highway or other place intended for its operation.	At all times	
8. 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.	9:00 p.m. to 8:00 a.m.	
9. 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
10. The operation of a commercial car wash with air drying equipment.	At all times	10:00 p.m. to 7:00 a.m.
11. Yelling, shouting, hooting, whistling or singing.	At all times	
12. The operation of a power assisted hang glider or parafoil.	At all times	
13. All selling or advertising by shouting or outcry or amplified sound.	11:00 p.m. to 7:00 a.m.	11:00 p.m. to 7:00 a.m.
14. 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.	8:00 p.m. to 8:00 a.m.	
15. The operation of any equipment in connection with construction.	8:00 p.m. to 7:00 a.m.	8:00 p.m. to 7:00 a.m.
16. The operation or use of any tool for domestic purposes other than snow removal.	10:00 p.m. to 8:00 a.m.	
17. The operation of solid waste bulk lift or refuse compacting equipment.	10:00 p.m. to 8:00 a.m.	
18. The operation of a commercial car wash of a type other than mentioned in item 10.	10:00 p.m. to 7:00 a.m.	

Exemption for Public Safety

4. 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 for the immediate health, safety or welfare of the inhabitants or any of them or 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 for the accomplishment of such emergency purpose.

Grant of Exemption by Council

5. (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 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 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.
- (b) 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.
- (c) Breach by the applicant of any of the terms or conditions of any exemption granted by Council shall render the exemption null and void.

Severability

6. 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.

Repeals

7. By-law number 69-99 is hereby repealed.

Penalty

8. Every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction therefor, forfeit and pay a minimum fine of \$150 and a maximum fine of \$5000 exclusive of costs.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 14 DAY OF AUGUST, 2007.



Tom Bain - Mayor



Mary Masse - Clerk

ONTARIO COURT OF JUSTICE

PROVINCIAL OFFENCES ACT

PART I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 106-2007, of the Town of Lakeshore, attached hereto are the set fines for those offences. This Order is to take effect November 26, 2007.

A handwritten signature in dark ink, appearing to read 'B. Thomas', is written over the text of the order.

Dated at London this 26th day of November, 2007.

Bruce G. Thomas
Regional Senior Justice
West Region

APPENDIX A
PART I Provincial Offences Act

Town of Lakeshore
By-law #106-2007: Noise

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1	Causing or permitting sound by dynamic or engine braking of a vehicle.	Subsect. 2(h)	\$75.00
2	Causing or permitting sound through the detonation of fireworks or explosive devices.	Sect. 3 Table 3-1 - #1	\$75.00
3	Causing or permitting sound through the discharge of a firearm.	Sect. 3 Table 3-1 - #2	\$75.00
4	Causing or permitting sound from any electronic device or musical instrument.	Sect. 3 Table 3-1 - #4	\$75.00
5	Causing or permitting sound from any auditory signalling device.	Sect. 3 Table 3-1 - #5	\$75.00
6	Causing or permitting sound from any motorized conveyance in an area where it is not intended to be operated.	Sect. 3 Table 3-1 - #7	\$75.00
7	Causing or permitting sound by permitting a domestic pet or animal to bark, call or whine.	Sect. 3 Table 3-1 - #9	\$75.00
8	Causing or permitting sound by yelling, shouting, whistling or singing.	Sect. 3 Table 3-1 - #11	\$75.00
9	Causing or permitting sound from the operation of any construction equipment.	Sect. 3 Table 3-1 - #15	\$75.00
10	Causing or permitting sound from the operation of any tool other than for snow removal	Sect. 3 Table 3-1 - #16	\$75.00

NOTE: Penalty provisions for the offences indicated above are Section 8 of By-law Number 106-2007, a certified copy of which has been filed, and s.61 of the *Provincial Offences Act*.