

# Municipality of Lakeshore

## By-law 16-2024

### Being a By-law to Regulate Nuisance Noise in the Municipality of Lakeshore

Whereas sections 8, 9 and 11 of the *Municipal Act, 2001* authorize the Municipality of Lakeshore to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5 and 8 of subsection 11(2) authorize by-laws respecting: the economic, social and environmental well-being of the municipality; and the protection of Persons and property.

And whereas subsection 8(3) of the *Municipal Act, 2001* provides that a by-law under section 11 of that Act respecting a matter may regulate or prohibit and, as part of the power to regulate or prohibit respecting the matter, may require a Person to do things respecting the matter, or may provide for a system of licences respecting the matter;

And whereas section 129 of the *Municipal Act, 2001* provides that a municipality may prohibit and regulate with respect to noise and vibration and may prohibit such matters unless a permit is obtained from the municipality and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

And whereas section 425 of the *Municipal Act, 2001* authorizes the Municipality of Lakeshore to pass by-laws providing that a Person who contravenes a by-law of the Municipality of Lakeshore passed under that Act is guilty of an offence;

And whereas subsection 391(1) of the *Municipal Act, 2001* further authorizes the Municipality of Lakeshore, amongst other things, to impose fees or charges on Persons for services or activities provided or done by or on behalf of it;

Now therefore the Council of the Municipality of Lakeshore enacts as follows:

#### **Terminology**

1. In this by-law:

“By-law Compliance Officer” means a person appointed by the Municipality as a By-law Compliance Officer pursuant to the *Provincial Offences Act*;

"Business Day" means Monday to Friday, except for a Holiday;

“Clerk” means the clerk of the Municipality appointed pursuant to the *Municipal Act, 2001*;

“Critical Infrastructure Construction” means the construction of infrastructure critical to the region, such as bridges, commuter roads, hospitals or long-term care facilities.

“Council” means the municipal council of the Municipality of Lakeshore;

"Fee" means a fee paid to the Municipality as required by this by-law and/or prescribed in the User Fee By-law;

“Hearing Committee” means a committee appointed by Council to which Council has delegated the authority to handle appeals pursuant to this by-law;

“Holiday” means a statutory or civic holiday;

“Residential Zone” has the same meaning as in the Zoning By-law;

“Municipality” means the Municipality of Lakeshore, or the geographic area of the Municipality of Lakeshore, depending on the context;

“Permit” means a Permit issued pursuant to Division 2 of this by-law and includes a renewal Permit;

"Permit Issuer" means the Person appointed as the Clerk and includes their authorized designate or designates with respect to any authority delegated by the Permit Issuer to such designate;

"Permittee" means the Person issued a Permit pursuant to Division 2 of this by-law;

“Persistent” means of a continuous duration of not less than 15 minutes within a period of 60 minutes;

"Person" includes an individual, a corporation, a partnership, and an unincorporated association, as the context requires;

“Point of Reception” means any point on the Premises of a Person where sound or vibration originating from other than those Premises is received;

“Police” means the police force contracted to provide local policing for the Municipality pursuant to the *Police Services Act* or the *Community Safety and Policing Act, 2019*;

"Premises" means a building or part of a building and any land appurtenant to the building or part of the building and includes a vacant lot;

“User Fee By-law” means the Municipality’s By-law to Establish User Fees for Certain Services Provided by the Municipality; and,

“Zoning By-law” means the Municipality’s Comprehensive Zoning By-law 2-2012.

## **Application**

2. The provisions of this by-law apply to the entire geographic area of the Municipality.
3. The requirements of this by-law are in addition to requirements contained in any other applicable by-laws of the Municipality or applicable provincial or federal statutes or regulations.
4. If there is a conflict between a provision of this by-law and any other by-law of the Municipality or a provincial or federal statute or regulation, the most restrictive in relation to the regulation of noise and vibration prevails.
5. The provisions of this by-law do not apply to:
  - (a) the operation of any siren on an emergency service vehicle or ambulance while carrying out its lawful duties;
  - (b) the reasonable use of a warning device (horn) during the lawful operation of a motor vehicle;
  - (c) the operation of any railway or airport within the legislative authority of Parliament;
  - (d) the operation of equipment by or on behalf of the Municipality for Critical Infrastructure Construction, general maintenance projects and emergency projects;
  - (e) the collection or disposal of garbage, waste or recyclable materials on behalf of the Municipality;
  - (f) the reasonable use of equipment for snow removal;
  - (g) the ringing of bells, chimes or the use of an apparatus or mechanism for the amplification of the human voice for the purpose of a call to prayer or call to other religious ceremony on a property zoned and operating as a Place of Worship pursuant to the Zoning By-law, for a continuous period of 10 minutes or less;
  - (h) the ringing of fire bells or fire alarms or the making of any other noise for the purpose of giving notice of fire or any other danger or any unlawful act, other than a car alarm, for a continuous period of time of twenty minutes or less;
  - (i) the sounding of a car alarm for a continuous period of time of 5 minutes or less;
  - (j) the operation of power equipment used for the purpose of maintaining a golf course;

- (k) noise made in connection with the delivery of goods to retail business establishments, restaurants including cafes and bars, hotels and motels, and goods distribution facilities;
- (l) any event hosted, authorized or approved by the Municipality, provided that the event is carried on in accordance with all terms and conditions of the authorization or approval;
- (m) sports, exercise or recreational activities on Municipality property where such activities have been authorized or approved by the Municipality, provided that the activities are carried on in accordance with all terms and conditions of the authorization or approval;
- (n) activities that are part of a normal farm practice carried on by an agricultural operation in an Agricultural Zone;
- (o) activities that are part of a normal industrial activity carried on in an Industrial Zone pursuant to the Zoning By-law or permitted pursuant to an approved Site Plan; and
- (p) activities carried out in compliance with a permission granted under federal or provincial legislation, including but not limited to an environmental compliance approval.

### **Interpretation**

6. The following rules of interpretation shall be applied to interpretation of this by-law:
- (a) References to items in the plural include the singular, as applicable. "Their" may refer to both the singular and the plural and includes references to a Person or thing that is feminine, masculine or non-binary.
  - (b) The words "include", "including" and "includes" are not to be read as limiting the phrases or descriptions that precede them. Any examples provided are intended to be representative examples and not intended to be an exhaustive list.
  - (c) Headings are inserted for ease of reference only and are not to be used as interpretation aids.
  - (d) Specific references to laws or by-laws are meant to refer to the current laws applicable at the time that this by-law was enacted and shall be interpreted to include amendments, restatements and successor legislation.
  - (e) Any reference to periods of time, stated in numbers of days, shall be deemed applicable on the first Business Day after a Sunday or a Holiday if the expiration of the time period occurs on a Sunday or Holiday.

- (f) The obligations imposed by this by-law are in addition to obligations otherwise imposed by law or contract.
- (g) Where this by-law provides metric and imperial units of measure, the metric unit of measure shall prevail. For convenience only, approximate imperial measurements may be provided but are of no force or effect. The abbreviation "mm" stands for millimetres and "m" stands for metres.
- (h) Terms with capitals shall be read with the meaning in section 1 and other words shall be given their ordinary meaning.
- (i) If any court of competent jurisdiction finds any provision of this by-law is illegal or ultra vires of the jurisdiction of the Municipality, such provision shall be deemed to be severable and shall not invalidate any of the other provisions of this by-law.
- (j) Nothing in this by-law relieves any Person from complying with any provision of any federal or provincial legislation or any other by-law of the Municipality.
- (k) Where a provision of this by-law conflicts with the provisions of another by-law in force in the Municipality, or any of the provisions of any federal or provincial states or regulation, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

## **Part 1: Nuisance Noise**

7. No Person shall emit or cause or permit the emission of noise or vibration in such manner or with such volume as to disturb the peace, quiet, comfort or repose of any Person.
8. In addition to section 7:
  - (a) No Person shall emit or cause or permit the emission of noise or vibration resulting from any act listed in Table 1, set out in Schedule A to this by-law, that is clearly audible at a Point of Reception located in an area of the Municipality, except during the permitted times indicated for such an area.
  - (b) No Person shall emit or cause or permit the emission of noise or vibration in contravention of this by-law without a current, valid Permit.

### **Permits for Critical Infrastructure Construction Projects**

9. The Permit Issuer may grant a Permit for an exemption to the prohibited hours in Table 1 of Schedule A for Critical Infrastructure Construction projects. The duration of the exemption requested shall not exceed 30 days.
10. The Permit Issuer may issue a Permit subject to terms and conditions they deem reasonably necessary in the public interest.
11. An application for a Permit for Critical Infrastructure Construction projects shall be made in writing to the Permit Issuer at least 60 days prior to the commencement of the use of the construction equipment for which the exemption is sought and shall include the payment of any Fees required pursuant to the User Fee By-law.
12. The Permit Issuer shall circulate notice of a Permit to properties within 120 metres of the project location, as well as known affected parties such as community organizations or business improvement areas. The notice shall set out the date and duration of the exemption.

### **Permits for Special Events**

13. The Permit Issuer may grant a Permit for an exemption for special events subject to the following conditions:
  - (a) if the event has live or recorded music or involves the use of a sound amplifying system or sound reproduction device;
  - (b) the event shall not exceed 3 days in length;
  - (c) the event shall not continue beyond:
    - i. 11:59 PM on Friday and Saturday and on Sunday only if the following Monday is a Holiday; or

ii. 10:00 PM on Sunday through Thursday.

14. The Permit Issuer may issue a Permit that is subject to additional terms and conditions they deem reasonably necessary in the public interest.
15. An application for a Permit for special events shall be made in writing to the Permit Issuer at least 60 days prior to the commencement of the event for which the exemption is sought and shall include the payment of any Fees required pursuant to the User Fee By-law.
16. Despite section 15, the payment of a Fee shall not be required in respect of an event held by or on behalf of a registered not-for-profit organization or a registered charity, where the event is solely for cultural or religious goals, social welfare, civic improvement, recreation, amateur sport, education, or any other similar community enhancement initiative for any purpose except profit, and where the event is open to the public and no admission is charged.
17. The Permit Issuer shall not issue more than 3 Permits per calendar year at the same location.
18. The Permit Issuer shall circulate notice of an application for a Permit to properties within 120 metres of the event location. The notice shall set out the following:
  - (a) The purpose for the Permit including the date and duration; and
  - (b) That the recipient of the notice may object to the granting of a Permit by submitting a written objection to the Permit Issuer within 14 days of the date the notice was mailed.
19. The Permit Issuer shall take into consideration any objections received pursuant to section 18(b) when making the decision to issue a Permit, however the decision of the Permit Issuer is final, subject to any appeal by the applicant.

### **Refusal to Issue Permit**

20. The Permit Issuer shall refuse to issue a Permit where the Permit Issuer is not satisfied that:
  - (a) the application is complete and applicable Fees have been paid;
  - (b) the application complies with the provisions of this by-law; or
  - (c) after inspection by a By-law Compliance Officer, the applicant has failed to satisfy the standards of this by-law within a 2-year period.

## **Grant of Exemption by Council**

21. The Permit Issuer may, at their sole discretion, refer a request for a Permit to Council for a decision.
22. If the Permit Issuer refers a request to Council, the decision of Council is final and not subject to appeal.

## **Expiry of Permit**

23. A Permit shall expire upon the earliest of:
  - (a) the date set out in the Permit as the expiry date; or
  - (b) the conclusion of the project or event for which the Permit has been issued.

## **Revocation of Permit**

24. (1) The Permit Issuer shall have the right to revoke the Permit in the event that:
  - (a) the Permit was issued in error or as a result of false information provided in the application;
  - (b) the application Fee is not paid in full whether it be through error, as a result of a cheque being returned marked not sufficient funds, a credit card charge being refused, or for any other reason; or,
  - (c) the Permittee:
    - i. after inspection by a By-law Compliance Officer, fails to satisfy the requirements set out in the Permit; or
    - ii. is convicted of an offence under this by-law.

(2) In the event that a Person's Permit is revoked pursuant to subsection (1), that Person shall not make application for a Permit at any location within the Municipality earlier than 1 year following the date of revocation.

25. (1) The Permit Issuer may conduct an investigation to determine if a Permittee has contravened the provisions of this by-law, where the By-law Compliance Officer receives:
  - (a) a written complaint, signed by a complainant;
  - (b) particulars of the name and address of the Permittee or adequate information to ascertain the Permittee which is the subject of the complaint; and
  - (c) particulars of the incident or incidents giving rise to the complaint.
- (2) Where a form for such complaints has been established by the Permit Issuer, the prescribed form shall be used.



(3) The Permit Issuer may decline to investigate a complaint received more than 72 hours after the incident.

(4) Where, after the investigation, the Permit Issuer is of the opinion that it is appropriate to do so, the Permit Issuer may revoke the Permit.

### **Replacement Permit**

26. The Permit Issuer shall provide a replacement Permit upon:

- (a) application in writing by the Person in the form established by the Permit Issuer that a replacement Permit is required; and,
- (b) payment of the applicable Fee.

### **Change in Information**

27. The Permittee shall advise the Permit Issuer in writing as soon as possible of a change in any information provided in the application for a Permit.

### **Appeal of Refusal to Issue Permit or Revocation of Permit**

28.(1) The decision of the Permit Issuer to impose conditions, refuse to issue a Permit or revoke a Permit may be appealed if the Person files an appeal with the Clerk within 10 Business Days of the effective date of the decision.

(2) An appeal shall be received only if filed in the form and with the information required by the Clerk and, if filed with the applicable Fee.

(3) In the event that the Clerk determines that the appeal is not filed as required in subsections (1) or (2), the Clerk shall decline the request for a hearing.

29. In the case of a revocation of a Permit, the Permittee must cease the activity immediately and comply with the provisions of this by-law, until such time as a hearing is held and a decision is rendered.

### **Appeal Hearing Date**

30. If an appeal is filed in compliance with subsections 28(1) and 28(2), the Clerk shall set a date, time and place for a hearing before the Hearing Committee and give notice of the date, time and place of the hearing to the applicant in accordance with section 42.

### **Appeal Hearing**

31.(1) On the date and time scheduled for the hearing, or such later date as may be set or consented to by the Hearing Committee, the Hearing Committee may hear and view any evidence provided by the Permit Issuer and appellant and may:

- (a) reverse the decision of the Permit Issuer;
  - (b) uphold the decision of the Permit Issuer; or,
  - (c) modify any or all of the conditions of the Permit Issuer.
- (2) The decision of the Hearing Committee is final.
- (3) The appellant bears the onus of providing evidence satisfactory to the Hearing Committee that the relief being sought should be granted.
- (4) Upon the Hearing Committee reaching a decision, the Clerk shall serve notice of the decision in writing to the appellant at the address for the applicant set out in the appeal form.

## **Part 2: Inspection and Enforcement**

### **Inspection Powers**

32. A By-law Compliance Officer may:

- (a) at any reasonable time, enter onto land for the purpose of carrying out an inspection for the purpose of determining compliance with this by-law;
- (b) during an inspection, require production for inspection of documents or things relevant to the inspection and inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts and photograph such documents or things;
- (c) during an inspection require information from any Person concerning a matter related to the inspection;
- (d) during an inspection be accompanied by a Person or Persons who has relevant or expert knowledge in relation to this by-law or matters regulated by this by-law;
- (e) conduct or direct a Person possessing the relevant or expert knowledge to conduct such examinations or take tests, samples or photographs as the By-law Compliance Officer believes necessary for the purposes of inspection;
- (f) conduct inspections prior to a determination as to whether to issue a Permit or to confirm compliance with a Permit or conditions of a Permit; and
- (g) require that a Permit holder or Person provide any such information as may be required for the enforcement of this by-law.

33. In addition to any other provision of this by-law, and subject to the provisions of the *Municipal Act, 2001*, , S.O. 2001, c. 25, as amended, a provincial judge or justice of the peace may issue an order authorizing a By-law Compliance Officer and any Person under the Officer's direction to enter onto or into any

Premises, including a room or place actually being used as a dwelling for the purpose of carrying out an inspection to determine compliance with this by-law or a Permit issued under this by-law.

34. No Person shall refuse or neglect to produce for inspection any document or thing required by a By-law Compliance Officer pursuant to this by-law.

### **Obstruction and Omission**

35. (1) No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Person who is exercising a power or performing a duty under this by-law.

(2) No Person shall omit information or provide a false or intentionally misleading statement or representation in any application, agreement, investigation or inspection.

### **Offence and Penalty**

36. (1) Any Person who contravenes any provision of this by-law, a Permit, or any condition to a Permit, is guilty of an offence and upon conviction is subject to such penalty as is provided for under the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

(2) An offence under this By-law may constitute a continuing offence or a multiple offence as set out in the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

(3) Any director, employee or officer of a corporation who knowingly authorizes, permits or acquiesces in the contravention of this by-law, a Permit, or any condition to a Permit, is guilty of an offence and subject to prosecution pursuant to the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

(4) For the purposes of subsections (1) and (2), each day on which a Person, including a director or officer of a corporation, contravenes any of the provisions of this by-law shall be deemed to constitute a separate offence under this by-law.

(5) The levying and payment of any fine as provided for under *the Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, shall not relieve a Person from the necessity of compliance with the obligations under this by-law.

### **Prohibition Order**

37. (1) If this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction is entered and any court of competent jurisdiction thereafter may make an order:

(a) prohibiting the continuation or repetition of the offence by the Person convicted; and,

(b) requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

### **Collection of Fees**

38.(1) All Fees and charges payable under this by-law are due on demand and are a debt owing to the Municipality bearing interest at the rate established in the User Fee By-law from the date of demand until payment in full. The debt may be enforced by any means available to the Municipality, and without limiting the generality of the foregoing, the debt in the nature of fees may, if applicable, be added to the tax roll of any property for which all of the owners are responsible for payment of the debt, and thereafter collectable as property taxes. All remedies open to the Municipality are cumulative.

(2) All Fees and charges incurred under this by-law are payable whether or not there is a charge laid, and whether or not any charge laid leads to a conviction and whether or not a fine has been paid as a result of a charge being laid.

(3) Fines owing to the Municipality that are in default pursuant to section 69 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, shall be added by the Treasurer to the tax roll for any property in the Municipality for which the owner is responsible for paying the fine and the fine may be collected in the same manner as municipal taxes.

## **Part 3 - General**

### **Administration & Delegation**

39.(1) The administration of this by-law is assigned to the Permit Issuer who is delegated the authority to:

(a) make all decisions required of the Permit Issuer under this by-law;

(b) perform all administrative functions assigned under this by-law and those incidental to and necessary for the due administration and implementation of this by-law; and

(c) establish and revise from time to time, such forms, documents, and such standards, protocols and procedures as the Permit Issuer may determine are required to implement and administer this by-law.

(2) The Permit Issuer may delegate the performance of any one or more of their functions under this by-law to one or more Persons from time to time as the occasion requires and may impose conditions upon such delegation and may

revoke any such delegation. The Permit Issuer may continue to exercise any function delegated during the delegation.

(3) Unless specifically provided to the contrary in this by-law, the decisions of the Permit Issuer are final and not subject to appeal.

40.(1) This by-law shall be enforced by any By-law Compliance Officer and, where provided in this by-law, the Permit Issuer.

(2) Unless specifically provided to the contrary in this by-law or otherwise at law, the decisions of the Permit Issuer and By-law Compliance Officer are final and not subject to appeal.

### **General Requirements - Permit Application Requirements**

41.(1) Every Person applying for a Permit under this by-law shall provide to the Permit Issuer:

(a) an application in the form established by the Permit Issuer from time to time;

(b) information including, but not limited to, name, address, email address, and phone number;

(c) such information, including evidence in support of the application, as may be deemed necessary by the Permit Issuer to process the application for a Permit; and

(d) except as provided to the contrary in this by-law, payment of the applicable fee for applying for a Permit.

(2) A Person applying for a Permit under this by-law must be a minimum of 18 years of age.

## **Service of Notices**

42. (1) A notice under this by-law shall be deemed to have been served on a Person if:

(a) delivered to the Person personally;

(b) by sending to the Person by regular mail;

(c) by sending to the Person by registered mail at the last known address of the Person, or by posting in a visible location on the Premises in a manner likely to bring it to the attention of the Person being served.

(2) Service of a notice under this by-law shall be effective:

(a) In the case of Personal service, on the date that Personal service is effected;

(b) In the case of regular or registered mail, 4 days following the date of mailing;

(c) In the case of posting, 2 days after the date of posting.

## **Transition**

43. Any enforcement proceeding commenced under By-law 106-2007 shall continue despite the repeal of that by-law.

## **Schedules**

44. A schedule attached to this by-law forms part of this by-law.

## **Short Title**

45. This by-law shall be referred to as the "Noise By-law".

## **Repeal**

46. (1) By-law 106-2007 and any amendments are repealed.

(2) Where a by-law is repealed by this by-law, the repeal does not:

(a) revive any by-law not in force or existing at the time of which the repeal takes effect;

(b) affect the previous operation of any by-law so repealed;

(c) affect any right, privilege, obligation or liability acquired, accrued, accruing, or incurred under the by-law so repealed; or

(d) affect any offence committed against any by-law so repealed or any penalty or forfeiture or punishment incurred in respect thereof; or affect any investigation, legal proceeding or remedy in respect of such privilege, obligation, liability, penalty, forfeiture or punishment.

**Enactment**

47. This by-law comes into force and effect on September 1, 2024.

Read and passed in open session on June 11, 2024.

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**Mayor  
Tracey Bailey**

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**Clerk  
Brianna Coughlin**

## Schedule A to By-law 16-2024

No Person shall emit or cause or permit the emission of noise resulting from any act listed in Table 1, clearly audible at a Point of Reception located in an area of the Municipality, except during the permitted times indicated for such an area.

The noise emitted shall be determined at the Point of Reception and the applicable zone in Table 1 shall apply.

<b>Type of Noise</b>	<b>Prohibited in Residential Zone</b>	<b>Prohibited in all other Zones</b>
Ringing of bells, chimes, the sounding of horns or Persistent shouting	Prohibited at all times	Prohibited at all times
Noise from a radio, television or other electronic device, or a musical or sound producing instrument, sound reproduction or amplification, operated in such manner or with such volume as to disturb the peace, quiet, comfort or repose of any Person	Prohibited at all times	Prohibited at all times
Sound reproduction or amplification for the purpose of advertising a good or service	Prohibited at all times	Prohibited at all times
Motor vehicle noise, such as the sounding of the horn, revving of engine, the squealing of tires or the discharge of exhaust except through a muffler or other device which effectively prevents loud or explosive noise	Prohibited at all times	Prohibited at all times



<b>Type of Noise</b>	<b>Prohibited in Residential Zone</b>	<b>Prohibited in all other Zones</b>
Animal noise, permitting Persistent barking, howling, whining or other like sounds made by an animal kept for any purpose other than a normal farm practice or a dog kennel approved and operating in accordance with the Animal Care and Control By-law	Prohibited at all times	Prohibited at all times
Power equipment, including chainsaws, power lawnmowers, leaf blowers, power tools or other similar devices	8:00 PM to 7:00 AM daily Sunday through Friday  8:00 PM to 9:00 AM daily Saturday	8:00 PM to 7:00 AM daily Sunday through Friday  8:00 PM to 9:00 AM daily Saturday
Construction, including the operation of any vehicle or equipment in connection with the construction of any building or structure, engine or machine	8:00 PM to 7:00 AM daily Sunday through Friday  8:00 PM to 9:00 AM daily Saturday	8:00 PM to 7:00 AM daily Sunday through Friday  8:00 PM to 9:00 AM daily Saturday
Fireworks  Note: a maximum of 15 continuous minutes	Prohibited at all times, except for 1:00 PM to 10:00 PM on Holidays or days of religious or cultural significance	Prohibited at all times, except for 1:00 PM to 10:00 PM on Holidays days of religious or cultural significance
Discharge of firearms	Prohibited at all times	Permitted in agricultural zones only and in accordance with the Discharge of Firearms By-law