

THE CORPORATION OF THE TOWN OF SHELBURNE

BY-LAW No. 45-2004

A By-Law to Prohibit and Regulate Noise

Be it enacted and it is hereby enacted as a by-law of The Corporation of the Town of Shelburne

WHEREAS the Council of The Corporation of the Town is empowered pursuant to the provisions of the Municipal Act, 2001 S.O. 2001, s. 129 to regulate and prohibit noise;

WHEREAS it is expedient to exercise the power conferred upon the Council;

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

1. **Interpretation**

In this by-law the following definitions shall govern.

a. **Construction**

"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;

b. **Construction Equipment**

"Construction Equipment" means any equipment or device designed and intended for use of construction, of 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;

c. **Conveyance**

"Conveyance" includes a vehicle and any other device employed to transport a person or persons or livestock or goods from place to place but does not include any such device or vehicle if operated only within the premises of a person;

d. **Council**

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

e. **Highway**

"Highway" includes a common and public highway, unopened road allowance, 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;

f. **Industrial Zone and Commercial Zone**

"Industrial and Commercial Zone" means those areas of the municipality specified as follows:

- i. all areas within the municipality that are designated or zoned Industrial or Commercial in the Official Plan or the Zoning By-Law or used for industrial or commercial purposes on a non-conforming basis;

g. **Motor Vehicle**

"Motor Vehicle" includes an automobile, motorcycle, motorized snow vehicle, 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, traction engine, farm tractor, self-propelled implement of husbandry, or road-building machine within the meaning of The Highway Traffic Act;

h. **Municipality**

"Municipality" means the land within the geographic limit of The Corporation of the Town of Shelburne;

i. **Noise** "Noise" means

- i. sounds or vibrations likely to disturb the inhabitants by adversely affecting their comfort, repose, health, peace or safety;
- ii. sounds or vibration emitted contrary to the provisions of this by-law;

j. **Persistent**

"Persistent" means continuously for 10 minutes or intermittently, totaling 10 minutes over a period of one hour;

k. **Point of Reception**

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

l. **Quiet Zone**

"Quiet Zone" means those areas of the municipality specified as follows:

- i. the area of the municipality known as "Dufferin Oaks Home for the Aged";
- ii. that area of the municipality known as "Shelburne District Hospital"; and
- iii. that area of the municipality known as "Shelburne Residence"

m. **Residential Area**

"Residential Area" means those areas of the municipality specified as follows:

- i. all areas within the municipality that are designated Low, Medium or high Density Residential in the Official Plan or zoned Single Family or Multiple Family in the Zoning By-Law or used for residential purposes; and
- ii. all areas within the municipality that are designated or zoned Institutional or Open Space - Recreation in the Official Plan or in the Town's Comprehensive Zoning By-Law.

n. **Vibration**

"Vibration" means pulsing, throbbing or periodic motion transmitted to the ground.

2. **General Prohibitions**

No person shall emit or cause or permit the emission of sound resulting from an act listed herein, and which 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 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 vehicle is stationary in a Residential Area or a Quiet Zone, 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; or,
 - ii. the 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-mix concrete trucks, lift platforms and refuse compactors; or,
 - 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 the purposes of delivery or loading; or,
 - 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 system for seasonal change of antifreeze, cleaning of the fuel system, carburetor 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 Quiet Zone or Residential Area without effective muffling devices in good working order and in constant operation.

3. **Prohibition by Time and Place**

No person shall emit or cause or permit the emission of sound resulting from an act listed in Table 3 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
PROHIBITIONS BY TIME AND PLACE

Prohibited Periods of Time

A - 23:00 one day to 7:00 next day

B - 01:00 to 07:00 next day

Prohibited Activity	Prohibited Period of Time		
	Quiet Zone	Residential Area	Commercial/Industrial Zone
1. The detonation of fireworks or explosive devices not used in construction	At all times	At all times	At all times
2. The discharge of firearms	At all times	At all times	At all times
3. The operation of a combustion engine which 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 which is not a Conveyance	At all times	At all times	A
4. The excessive 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 or auditory signaling device.	At all times	A	A
5. The operation of any motorized Conveyance other than on a highway or other place intended for its operation. This includes all Commercial Vehicles over one ton except for limited designated deliveries.	At all times	A	N/A
6. The venting, release or pressure relief of air, steam or other gaseous material product or compound from autoclave, boiler pressure vessel, pipe, valve machine, device or system	At all times	A	N/A
7. Persistent barking, calling or whining or other similar persistent noisemaking by any domestic pet or any other animal kept or used for any purpose other than agriculture.	At all times	At all times	At all Times
8. The operation of a commercial car wash with air drying equipment	At all times	A	N/A
9. Excessive yelling, shouting, hooting, whistling or singing	At all times	A	B

10.	Loading, unloading, delivering, packing, un-packing, 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	A	A	N/A
11.	The operation of any equipment in connection with construction.	A	A	N/A
12.	The operation of solid waste bulk lift or refuse compacting equipment.	A	A	A
13.	The operation of domestic machinery and equipment.	A	A	N/A

4. **Public Safety Exemption**

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 for the accomplishment of such emergency purpose.

5. **Grant of Exemption by Council**

a. Application to Council

Notwithstanding anything contained in this by-law, any person may make application to Council to be granted an exception 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. 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.

c. 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 or Religious Activities**

Notwithstanding any other provisions of this by-law, 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 listed traditional, festive, religious and other activities: Victoria Day, Canada Day, and Fiddle Weekend.

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. **Offences**

Every person contravening any provision of this by-law shall be guilty of an offence under the Provincial Offences Act.

This By-Law repeals By-Law 24-1978

READ A FIRST, SECOND and THIRD time in Open Council, and finally passed this the 27th day of September 2004.

MAYOR

TOWN CLERK