

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

BY-LAW NO. 97-78

**BEING A BY-LAW TO CONTROL EXCESSIVE NOISE IN
THE TOWNSHIP OF WEST LINCOLN**

WHEREAS the Municipal Act provides that by-laws may be passed by the Council of local municipalities for prohibiting or regulating, within the municipality or within any defined areas thereof, the ringing of bells, the blowing of horns, shouting and unusual noises, or noises likely to disturb the inhabitants;

AND WHEREAS the Municipal Act further provides that every Council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality;

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

1. Interpretation:

In this by-law:

- (a) "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.
- (b) "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.
- (c) "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.
- (d) "COUNCIL" means the Council of the Corporation of the Township of West Lincoln.
- (e) "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.
- (f) "MINISTER" means Minister of the Environment.
- (g) "MINISTRY" means Ministry of the Environment.
- (h) "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.

Consolidated Noise By-law (including Amending By-law 2005-79)

- (i) "MOTORIZED CONVEYANCE" means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power.
- (j) "MUNICIPALITY" means the land within the geographic limit of the Township of West Lincoln.
- (k) "NOISE" means unwanted sound.
- (l) "PERSISTENT" means constantly repeated over a period of one half (1/2) hour.
- (m) "POINT OF RECEPTION" means any point on the premises of a person where sound or vibration originating from other than those premises is received.

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. Prohibitions 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".

4. Grant of Exemption by Council:

- (1) Application to Council
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.
- (2) 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.
- (3) 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.

5. Exemption of Traditional, Festive, Religious or Recreational 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 activities listed below:

- (a) Any celebration in commemoration of a statutory holiday.
- (b) Any celebration in commemoration of a religious holiday.
- (c) Remembrance Day celebrations.
- (d) Any carnival or parade by a Service Club.
- (e) Any supervised recreational activity recognized as such by Council and/or the Recreation Coordinator.
- (f) Ringing of bells in connection with calling to worship by a recognized religious organization.

6. 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.

7. Penalty:

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.

8. By-law Repealed:

By-law No. 87-43 be and is hereby repealed.

READ A FIRST TIME THIS 18TH DAY OF AUGUST, 1997.

MAYOR

CLERK

READ A SECOND AND THIRD TIME AND FINALLY PASSED THIS 18TH DAY OF AUGUST, 1997.

MAYOR

CLERK

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

BY-LAW NO. 97-78

**BEING A BY-LAW TO CONTROL EXCESSIVE NOISE IN
THE TOWNSHIP OF WEST LINCOLN**

Read a first, second and third time and passed the 18th day of August, 1997.

CLERK

NOISE BY-LAW

SCHEDULE "A"

Prohibitions by Time & Place

Categor	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	Sunset to sunrise
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)	

<p>5.</p>	<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. 	<p>23:00 one day to 07:00 next day (to 09:00 on Sundays)</p>
<p>6.</p>	<p>“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:</p> <ol style="list-style-type: none"> 1. Racing of any motorized conveyance other than in a racing event regulated by law.” 	<p>At all times</p>

(New Section 6 added by amending By-law No. 2005-79)

**SHORT FORM WORDING & SET FINES
BY-LAW NO. 97-78**

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

ITEM	COLUMN 1 DESCRIPTION OF OFFENCE	COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE	COLUMN 3 SUGGESTED SET FINE
1.	(Cause/Permit) emission of noise within a prohibited time and place.	Section 3	\$105.00

NOTE: The penalty provision for the offences listed above is in Section 7 of By-law No. 97-78, a certified copy of which has been filed.

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

BY-LAW NO. 2005-79

BEING A BY-LAW TO AMEND BY-LAW 97-78 WHICH CONTROLS EXCESSIVE NOISE IN THE TOWNSHIP OF WEST LINCOLN.

WHEREAS the Council of the Corporation of the Township of West Lincoln enacted By-law 97-78 to control excessive noise in the Township of West Lincoln;

AND WHEREAS the Council of the Corporation of the Township of West Lincoln now deems it desirable to amend By-law 97-78 to prohibit a person(s) from emitting or causing or permitting the emission of sound resulting from an act which sound is clearly audible at a point of reception being specifically, the racing of any motorized conveyance other than in a racing event regulated by law;

NOW THEREFORE THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN ENACTS AS FOLLOWS:

1. That By-law 97-78 be amended by deleting Paragraph 3 of Category 5 of Schedule A, which states:

“The operation of any motorized conveyance other than on a highway or other place intended for its operation.”

2. That, By-law 97-78 be amended to include the following new Category 6 under Schedule A:

Category	Item Description	Urban Area	Rural Area
6.	“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: 1. Racing of any motorized conveyance other than in a racing event regulated by law.”	At all times	

3. That, this By-Law shall come into effect on the date of its passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 15th DAY OF AUGUST, 2005.

ACTING MAYOR SUE-ELLEN MERRITT

CAROLYN LANGLEY, CLERK