

The Corporation of the Town of Petrolia

By-law Number 61 of 2009

A BY-LAW TO PROHIBIT AND REGULATE NOISE AND VIBRATION

WHEREAS Section 129 of the Municipal Act 2001 states that a Municipality may Prohibit and Regulate matters with respect to noise and vibration excluding lands approved for industrial use within the Industrial District;

AND WHEREAS the Council wishes to list the By-law as an Offence under Part 1 of the Provincial Offences Act;

NOW THEREFORE the Municipal Council of the Corporation of the Town of Petrolia enacts the following:

Definitions

Section 1

“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.

“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 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 Petrolia.

“Dwelling Unit” means a dwelling unit within the meaning of the Zoning By-Law.

“Engine Brake” means a device commonly used in a truck, power unit, semi-trailer unit to slow or brake the vehicle by means of closing exhaust valves on the engine of the vehicle, or any similar device.

“Industrial District” means an industrial district as established by The Zoning By-Law and subject to the provisions of an approved site plan control agreement.

“Minister” means the Minister of the Environment and Energy (MOEE)

“Ministry” means the Ministry of the Environment and Energy (MOEE)

“Motor vehicle” includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; or a motorized snow vehicle, ATV, 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 a muscular, gravitational or wind power.

“Municipality” means the land within the geographic limit of the Town of Petrolia.

“Noise” means unwanted sound as regulated in the provisions of the by-law and includes but not limited to any unreasonably loud or excessive noise, noise which unreasonably disturbs, injures, or endangers the co-repose health, peace or safety of reasonable persons of ordinary standing within the jurisdictional limited of the Town and /or noise which is so harsh, prolonged, unnatural, or unusual in time place as to occasion unreasonable discomfort to any persons with neighbourhood from which said noises emanate, or as their guests operators or customers of places of business, or as to detrimental adversely affect such residences or place of business.

“Outdoor Public Event” means an outdoor concert, sporting event, festival attraction or similar event, whether held on private or public property which the public-at-large is invited or admitted.

“Permitted Premises” means permitted premises within the meaning Alcohol and Gaming Regulations Act, 1997.

“Person” includes any company, corporation, owner, partnership, firm, association, society or party.

“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 any member of the Ontario Provincial Police

“Municipal Enforcement Officer” means any person appointed by the municipality to act as a Municipal Enforcement Officer / Provincial Offenses Officer and or By-law Officer.

SECTION 2 General Prohibitions

Emissions – clearly audible – set out

No person shall emit or cause or permit the emission of sounds resulting from an act in so far as they are calculated to disturb the inhabitants of the Town of Petrolia more specifically described as factors for determining whether a sound is unreasonably loud or excessive include, but are not limited to the proximity of the sound to sleeping facilities, whether residential commercial, the land use, nature and zoning of the area from which the sound enters and the area where it is received or perceived, the time of day or night the sound occurs, the duration of the sound, the volume of the sound, the nature of the sound, whether the sound is recurrent, intermittent or constant, and the nature of the event or activity from which the sound emanates;

3.1 Racing – motorized conveyance – exception

No person shall emit or cause or permit the emission of sound as a result of Racing of any Motorized Conveyance other than in a racing event regulated by law.

3.2 Tires – squealing

No person shall emit or cause or permit the emission of sound as a result of the operation of a motor vehicle in such a way that the tires squeal.

3.3 Engine – pneumatic device – exhaust – ineffective and Engine Breaking

No person shall emit or cause or permit the emission of sound as a result of the operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in good working order and that is in constant operation and engine breaking.

3.4 Horn – use – other then warning

No person shall emit or cause or permit the emission of sound as a result of 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.

3.5 Construction equipment – operation

No person shall emit or cause or permit the emission of sound as a result of the operation any item of construction equipment in an area without effective muffling devices in good working order and that is in constant operation.

Section 4

PROHIBITIONS – BY TIME – PLACE

No person shall within the limits of the Town of Petrolia make or permit to be made the following noises and vibrations in so far as they are calculated to disturb the inhabitants of those communities.

4.1 Engine – combustion – toy – for amusement

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from 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 which is not a conveyance.

4.2 Loudspeakers – amplification sound equipment

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from 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 unless a Special Events Permit has been approved by permit issued by the Town.

4.3 Signaling device – use other than for safety

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from the operation of any auditory signaling device, including but not limited to the ringing of bells or gongs and the blowing of horns, the use of drums, 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.

4.4 Barking – calling – other – animal – pet

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from the 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.

4.5 Selling – advertising – by shouting

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from selling or advertising by shouting or outcry or amplified sound.

4.6 Construction Activity and Construction equipment – use

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from the operation of any equipment in connection with construction between 9:00pm to 7:00am, unless in the commission of work connected with an emergency.

4.7 Tools – domestic use – exception – snow removal

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from the operation or use of any tool for domestic purpose other than snow removal between 9:00pm to 7:00am.

4.8 Refuse – compacting equipment – other

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception from the operation of solid waste bulk lift or refuse compacting equipment between 9:00pm to 7:00am.

4.9 Vehicles

No person shall emit or cause or permit the emission of sound that is clearly audible at a point of reception caused by any licensed or unlicensed motorized vehicle, including trucks, motor cars, snow mobiles, motor bikes, and ATV's, in starting up or driving said motorized vehicle, truck, motor car, snow mobile, motor bike, and ATV's.

SECTION 5 Penalty Section

5.1 Every Person who contravenes any provision of this by-law is guilty of an offence and on conviction may be subject to a fine as provided for in the Provincial Offences Act.

See Set Fine "Schedule A" attached

SECTION 6 Enforcement

6.1 For the purposes of this by-law, this by-law is enforced by the Ontario Provincial Police, By-law officer, Provincial Offences Officer, or any person appointed by the Municipality to enforce said by-law.

SECTION 7 Investigation

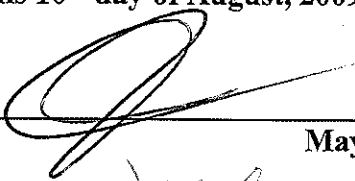
7.1 For the purpose of this by-law an appointed person such as the Ontario Provincial Police, Municipal Enforcement Officer, Provincial Offences Officer may enter onto private property to determine the source of a Sound or Noise.

SECTION 8 Repeal

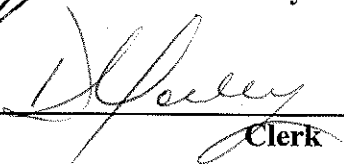
8.1 That any by-laws or provisions of by-laws found to be inconsistent with the provisions found in this by-law shall be and are hereby repealed.

By-law read a first and second time the 10th day of August, 2009.

By-Law read a Third Time and finally passed this 10th day of August, 2009



Mayor



Clerk

Clerk's Certificate

Certified a true copy of By-Law Number 61-2009 passed by the Council of The Town of Petrolia on this 10th August, 2009.

TOWN OF PETROLIA
 SCHEDULE "A" to
 BY-LAW No. 61 of 2009
 TITLE: Noise By-law
 PART 1 – Provincial Offences Act

SET FINE SCHEDULE

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Emit Sound from Racing – motorized conveyance	Sec. 3.1	\$250.00
2	Emit Sound from Squealing Tires	Sec. 3.2	\$250.00
3	Emit Sound from Ineffective Exhaust – Engine Breaking	Sec. 3.3	\$250.00
4	Emit Sound from Use of Horn other than warning	Sec. 3.4	\$250.00
5	Emit Sound from Ineffective Muffling device – construction equipment	Sec. 3.5	\$250.00
6	Emit Sound from Engine Combustion on toy device not used for conveyance	Sec. 4.1	\$250.00
7	Emit Sound from Loudspeakers – amplifiers	Sec. 4.2	\$500.00
8	Emit Sound from Signaling Device other than when required	Sec. 4.3	\$250.00
9	Emit Sound from Barking, Calling or Whining of domestic pet	Sec. 4.4	\$250.00
10	Emit Sound from Yelling, Shouting, Whistling or other noise for the purposes of selling or advertising	Sec. 4.5	\$250.00
11	Emit Sound from Construction and /or Use of Construction equipment after hours	Sec. 4.6	\$250.00
12	Emit Sound from Use of Domestic equipment after hours	Sec. 4.7	\$250.00
13	Emit Sound from Use of waste or refuse equipment after hours	Sec. 4.8	\$250.00
	Emit Sound from Noise from licensed or unlicensed motorized vehicles	Sec. 4.9	\$250.00

NOTE: The penalty section for offences cited above is Section 5.1 of By-law No. 61 of 2009, a certified copy of which has been filed.



September 11, 2009

Ms. Dela Horley
Clerk/Administrator
Town of Petrolia
411 Greenfield Street
P.O. Box 1270
Petrolia, Ontario N0N 1R0

Dear Ms. Horley:

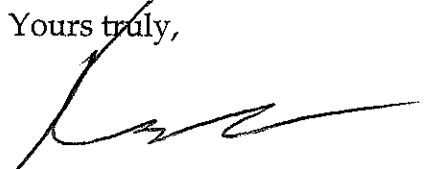
**Re: Set Fines - Provincial Offences Act - Part I
By-law Number 61 of 2009, of the Town of Petrolia**

Enclosed herewith is a copy of an Order, and a copy of a schedule of set fines for the above referenced By-Law, the By-law indicated in the schedule.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

I have forwarded the copy of the Order and the schedule of set fines to the Provincial Offences Court in Sarnia together with a certified copy of the By-law.

Yours truly,


Kathleen E. McGowan
Regional Senior Justice
West Region

Enclosures

/pp

cc: Manager, Provincial Offences Court

TOWN OF PETROLIA
SEP 15 2009
RECEIVED

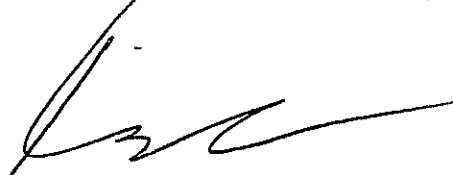
ONTARIO COURT OF JUSTICE

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. 61 of 2009, of the Town of Petrolia, attached hereto are the set fines for those offences. This Order is to take effect September 11, 2009.

Dated at London this 11th day of September, 2009



Kathleen E. McGowan
Regional Senior Justice
West Region

TOWN OF PETROLIA
SCHEDULE "A" to
BY-LAW No. 61 of 2009
TITLE: Noise By-law
PART 1 – Provincial Offences Act

SET FINE SCHEDULE

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9	Emit Sound from Barking, Calling or Whining of domestic pet	Sec. 4.4	\$250.00
10	Emit Sound from Yelling, Shouting, Whistling or other noise for the purposes of selling or advertising	Sec. 4.5	\$250.00
11	Emit Sound from Construction and /or Use of Construction equipment after hours	Sec. 4.6	\$250.00
12	Emit Sound from Use of Domestic equipment after hours	Sec. 4.7	\$250.00
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	Emit Sound from Noise from licensed or unlicensed motorized vehicles	Sec. 4.9	\$250.00

NOTE: The penalty section for offences cited above is Section 5.1 of By-law No. 61 of 2009, a certified copy of which has been filed.

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PROTECTION

Chapter 772 NOISE

CHAPTER INDEX

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- 772.1.1 Construction - defined
- 772.1.2 Construction equipment - defined
- 772.1.3 Conveyance - defined
- 772.1.4 Council - defined
- 772.1.5 Highway - defined
- 772.1.6 Minister - defined
- 772.1.7 Ministry - defined
- 772.1.8 Motor vehicle - defined
- 772.1.9 Motorized conveyance - defined
- 772.1.10 Municipality - defined
- 772.1.11 Noise - defined
- 772.1.12 Noise control officer - defined
- 772.1.13 Point of reception - defined

Article 2 GENERAL PROHIBITIONS

- 772.2.1 Emissions - clearly audible - set out
- 772.2.2 Racing - motorized conveyance - exception
- 772.2.3 Tires - squealing
- 772.2.4 Engine - pneumatic device - exhaust - ineffective

772.2.1

NOISE

772.2.7

**Article 2
GENERAL PROHIBITIONS**

772.2.1 Emissions - clearly audible - set out

No person shall omit or cause or permit the emission of sound resulting from an act as set out in:

- (a) this Article, which sound is clearly audible at a point of reception; and
- (b) Article 3, if clearly audible at a point of reception located in the municipality within a prohibited time shown. By-law 29-1997, 14 April, 1997.

772.2.2 Racing - motorized conveyance - exception

Racing of any motorized conveyance other than in a racing event regulated by law is prohibited.

772.2.3 Tires - squealing

The operation of a motor vehicle in such a way that the tires squeal is prohibited.

772.2.4 Engine - pneumatic device - exhaust - ineffective

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, is prohibited.

772.2.5 Engine - operation - more than 5 minutes - stationary

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 is prohibited unless the provisions of Section 772.2.6 through 772.2.12 apply.

772.2.6 Engine - operation - continuous - if recommended

Section 772.2.5 does not apply if, 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.

772.2.7 Engine - operation - continuous - essential to operation

Section 772.2.5 does not apply if 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-mixed concrete trucks, lift platforms and refuse compactors.

772.3.3

NOISE

772.3.10

772.3.3 Loudspeakers - amplification sound equipment

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 is prohibited at all times. By-law 28-1990, 9 April, 1990.

772.3.4 Signalling device - use other than for safety

The operation of any auditory signalling device, including but not limited to the ringing of bells or gongs and the blowing of horns, the use of drums, 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 is prohibited at all times. By-law 28-1990, 9 April, 1990; By-law 29-1997, 14 April, 1997.

772.3.5 Barking - calling - other - animal - pet

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, is prohibited at all times.

772.3.6 Yelling - shouting - whistling - other

Yelling, shouting, hooting, whistling or singing is prohibited at all times.

772.3.7 Selling - advertising - by shouting

All selling or advertising by shouting or outcry or amplified sound is prohibited at all times.

772.3.8 Construction equipment - use

The operation of any equipment in connection with construction is prohibited between 9:00 p.m. to 7:00 a.m.

772.3.9 Tools - domestic use - exception - snow removal

The operation or use of any tool for domestic purposes other than snow removal is prohibited between 9:00 p.m. to 7:00 a.m.

772.3.10 Refuse - compacting equipment - other

The operation of solid waste bulk lift or refuse compacting equipment is prohibited between 9:00 p.m. to 7:00 a.m.

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