

CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 1998-43

A By-law respecting the emission of sounds.

WHEREAS it is deemed expedient to exercise the power conferred upon the Council by the Environmental Protection Act, RSO 1990, Chapter E19, and other statutory authority;

AND WHEREAS a recognized body of scientific and technological knowledge exists by which sound and vibration may be substantially reduced;

AND WHEREAS it is deemed expedient to reduce and control such sound or vibration;

NOW THEREFORE the Council of the Corporation of the Town of Amherstburg enacts as follows:

1. **INTERPRETATION**

(1) In this by-law,

- (a) "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" means any equipment or device designed and intended for use in construction or material handling, including but not limited to, air 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) "Corporation" means the Council of the Corporation of the Town of Amherstburg;
- (e) "Council" means the Council of The Corporation of the Town of Amherstburg;
- (f) "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;
- (g) "Minister" means Minister of the Environment;
- (h) "Ministry" means Ministry of the Environment;

- (i) "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 machine, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the Highway Traffic Act;
- (j) "Motorized Conveyance" means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- (k) "Municipality" means the land within the geographic limit of the Town of Amherstburg;
- (l) "Noise" means unwanted sound;
- (m) "Noise Control Officer" means a Police Officer of the Town of Amherstburg or any person designated by Council as responsible for the administration of this by-law from time to time;
- (n) "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) "Residential Area" means those areas of the Municipality designated as residential in the municipality's comprehensive Zoning By-law.
- (b) "Commercial Area" means those areas of the municipality designated as commercial in the municipality's Comprehensive Zoning By-law.

2. GENERAL PROHIBITIONS

No person within the boundary of the municipality 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;
- (2) The operation of a motor vehicle in such a way that the tires squeal;
- (3) 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;
- (4) 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;

- (5) 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 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) 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; 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 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 circulation system for seasonal change of antifreeze, cleaning of the fuel system, carburetor or the like, when such work is performed other than for profit.
- (6) 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;
- (7) The operation of any item of construction equipment in a residential area without effective muffling devices in good working order and in constant operation.
- (8) The barking or howling of a dog under his or her control so as to disturb the peace and quiet of any resident.

3. PROHIBITIONS BY TIME AND PLACE

No person within the municipality shall emit or cause or permit the emission of sound resulting from any act listed in Table 3.1, hereinafter set out, if clearly audible at a point of reception located in an area of the municipality indicated within a prohibited time shown for such an area.

TABLE 3-1

	PROHIBITED PERIOD OF TIME	
	Commercial Area	Residential Area
1. The operation of a combustion engine which, (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.	Midnight to 7:00 A.M.	At all times
2. 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 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	At all times
3. 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.	Midnight to 7:00 A.M.	At all times
4. 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.	Midnight to 7:00 A.M.	At all times
5. The operation of any motorized conveyance other than on a highway or other place intended for its operation	Midnight to 7:00 A.M.	At all times
6. 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.	Midnight to 7:00 A.M.	9:00 P.M. to 8:00 A.M.
7. The operation of a commercial car wash with air drying equipment	Midnight to 7:00 A.M.	11:00 P.M. to 8:00 A.M.
8. Yelling, shouting, hooting, whistling or singing.	Midnight to 7:00 A.M.	At all times
9. The operation of a power assisted hang glider or parafoil	Midnight to 7:00 A.M.	At all times
10. The operation of any item of snow making equipment.	Midnight to 7:00 A.M.	At all times
11. All selling or advertising by shouting or outcry of amplified sound.	Midnight to 7:00 A.M.	At all times
12. 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 6:00 A.M.

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13.	The operation of any equipment in connection with construction		8:00 p.m. to 6:00 a.m.
14.	The operation or use of any tool for domestic purposes other than snow removal	Midnight to 7:00 a.m.	9:00 p.m. to 8:00 a.m.
15.	The operation of solid waste bulk lift or refuse compacting equipment		8:00 p.m. to 6:00 a.m.
16.	The operation of a commercial car wash of a type other than mentioned in Item 7.	Midnight to 7:00 a.m.	11:00 p.m. to 8:00 a.m.
17.	The barking or howling of a dog	At all times	At all times

4. EXCEPTION

Notwithstanding any other provision of this by-law, it shall be lawful to emit or cause to permit the emission of sound or vibration in connection with:

- (a) Emergency measures undertaken,
 - (i) for the immediate health, safety or welfare or the inhabitants or any of them; or,
 - (ii) 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.
- (b) Any sound arising from the operation of any farm implement or works associated with the operation of farming.
- (c) Any vehicle of the police or fire department or any ambulance or any public service or emergency vehicle while answering a call.
- (d) The use in a reasonable manner of any apparatus or mechanism for the amplification of the human voice or of music in a public park or any other commodious space in connection with any public election meeting, public celebration, or other lawful gathering, provided written permission of the Town has first been obtained.

5. GRANT OF EXCEPTION 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 (6) 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.

6. **EXEMPTION OF TRADITIONAL, FESTIVE OR RELIGIOUS ACTIVITIES**

Notwithstanding any other provision 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 hereinafter listed traditional, festive, religious and other activities, such as, but not necessarily limited to:

- (a) Heritage Festival;
- (b) Emancipation Day;
- (c) Ringing of church bells or chimes.

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. **PENALTY**


Every person who contravenes any of the provisions of this by-law is guilty of an offence and is liable to a fine not to exceed Five Thousand Dollars (\$5,000), exclusive of costs, and every such fine is recoverable under the Provincial Offences Act.

9. That By-law Number 985, of the Town of Amherstburg, is repealed.

10. This by-law shall come into full force and take effect upon the day following the final passing thereof upon which it is approved by the Minister of the Environment and Energy.



MAYOR



CLERK

First Reading: August 10, 1998

Second Reading: August 10, 1998

Third Reading: August 10, 1998