

CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2001-43

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) "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) "Agricultural Area" means those areas of the municipality designated as agricultural in the municipality's Comprehensive Zoning By-law.
- (c) "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 or agricultural 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) 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.

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/ Agricultural Areas
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 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 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 signaling 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

TABLE 3-1 CONTINUED		PROHIBITED PERIOD OF TIME	
		Commercial Area	Residential/ Agricultural Areas
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.	N/A	8:00 P.M. to 6:00 A.M.
13.	The operation of any equipment in connection with construction.	N/A	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.	N/A	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.	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.	At all times	At all times

4. EXCEPTIONS

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:

- (a) Emergency measures undertaken,
 - (i) for the immediate health, safety or welfare of 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) 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:

1. Heritage Festival;
2. Emancipation Day;
3. 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.

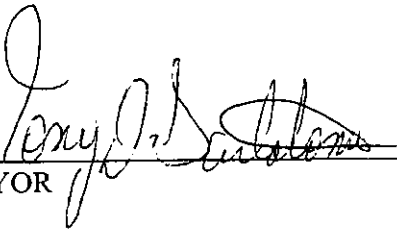
8. PENALTY

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 and By-law Number 2253 of the Township of Anderdon be 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.

READ A FIRST AND SECOND TIME THIS 9TH DAY OF OCTOBER 2001,

READ A THIRD TIME AND FINALLY PASSED THIS 26th DAY OF NOV. 2001.

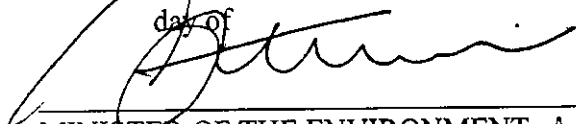

MAYOR


CLERK

I hereby certify the foregoing to be a
complete and true copy of By-law Number 2001-43

CLERK

This By-law is approved pursuant to the
Provisions of The Environmental Protection
Act, 1971, as amended, at Toronto, this

day of 

MINISTER OF THE ENVIRONMENT AND ENERGY

JUL 25 2002

SET FINE SCHEDULE

CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2001-43

A By-law Respecting the Emission of Sounds

PART 1 Provincial Offences Act

ITEM	SHORT FORM WORDING	OFFENCE CREATING PROVISION	SET FINE (includes costs)
1	[Emit / Cause / Permit] noise by racing motorized conveyance	s. 2(1)	\$300.00
2	[Emit / Cause / Permit] noise by squealing tires	s. 2(2)	\$300.00
3	[Emit / Cause / Permit] noise from combustion engine with ineffective muffler	s. 2(3)	\$300.00
4	[Emit / Cause / Permit] noise from pneumatic device with ineffective muffler	s. 2(3)	\$300.00
5	[Emit / Cause / Permit] noise from insecure load on vehicle	s. 2(4)	\$300.00
6	[Emit / Cause / Permit] noise from insecure load on trailer	s. 2(4)	\$300.00
7	[Emit / Cause / Permit] noise from inadequate maintenance of vehicle	s. 2(4)	\$300.00
8	[Emit / Cause / Permit] noise from inadequate maintenance of trailer	s. 2(4)	\$300.00
9	[Emit / Cause / Permit] noise from engine in stationary vehicle over 5 minutes	s. 2(5)	\$300.00
10	[Emit / Cause / Permit] noise from engine in stationary equipment over 5 minutes	s. 2(5)	\$300.00
11	[Emit / Cause / Permit] noise from vehicle horn	s. 2(6)	\$300.00
12	[Emit / Cause / Permit] noise from warning device	s. 2(6)	\$300.00

ITEM	SHORT FORM WORDING	OFFENCE CREATING PROVISION	SET FINE (includes costs)
13	[Emit / Cause / Permit] noise from construction equipment with ineffective muffler	s. 2(7)	\$300.00
14	[Emit / Cause / Permit] persistent noise by non-agricultural animal	s. 2(8)	\$300.00
15	[Emit / Cause / Permit] noise from non-conveyance combustion engine	s. 3 Table 3-1(1)	\$300.00
16	[Emit / Cause / Permit] noise from electronic device with loudspeaker	s. 3 Table 3-1(2)	\$300.00
17	[Emit / Cause / Permit] noise from auditory signaling device	s. 3 Table 3-1(3)	\$300.00
18	[Emit / Cause / Permit] noise from stationary powered rail car	s. 3 Table 3-1(4)	\$300.00
19	[Emit / Cause / Permit] noise from motorized conveyance not on highway	s. 3 Table 3-1(5)	\$300.00
20	[Emit / Cause / Permit] noise from motorized conveyance not on place intended for use	s. 3 Table 3-1(5)	\$300.00
21	[Emit / Cause / Permit] noise from release of gaseous material	s. 3 Table 3-1(6)	\$300.00
22	[Emit / Cause / Permit] noise from commercial car wash with air drying equipment	s. 3 Table 3-1(7)	\$300.00
23	[Emit / Cause / Permit] noise by yelling	s. 3 Table 3-1(8)	\$300.00
24	[Emit / Cause / Permit] noise by shouting	s. 3 Table 3-1(8)	\$300.00

ITEM	SHORT FORM WORDING	OFFENCE CREATING PROVISION	SET FINE (Includes costs)
25	[Emit / Cause / Permit] noise by hooting	s. 3 Table 3-1(8)	\$300.00
26	[Emit / Cause / Permit] noise by whistling	s. 3 Table 3-1(8)	\$300.00
27	[Emit / Cause / Permit] noise by singing	s. 3 Table 3-1(8)	\$300.00
28	[Emit / Cause / Permit] noise from power assisted hang glider	s. 3 Table 3-1(9)	\$300.00
29	[Emit / Cause / Permit] noise from power assisted parafoil	s. 3 Table 3-1(9)	\$300.00
30	[Emit / Cause / Permit] noise from snow making equipment	s. 3 Table 3-1(10)	\$300.00
31	[Emit / Cause / Permit] noise from advertising by amplified sound	s. 3 Table 3-1(11)	\$300.00
32	[Emit / Cause / Permit] noise from handling any material	s. 3 Table 3-1(12)	\$300.00
33	[Emit / Cause / Permit] noise from construction equipment	s. 3 Table 3-1(13)	\$300.00
34	[Emit / Cause / Permit] noise from domestic tool other than snow removal	s. 3 Table 3-1(14)	\$300.00
35	[Emit / Cause / Permit] noise from solid waste bulk lift	s. 3 Table 3-1(15)	\$300.00
36	[Emit / Cause / Permit] noise from refuse compacting equipment	s. 3 Table 3-1(15)	\$300.00
37	[Emit / Cause / Permit] noise from commercial car wash without air drying equipment	s. 3 Table 3-1(16)	\$300.00

ITEM	SHORT FORM WORDING	OFFENCE CREATING PROVISION	SET FINE (includes costs)
38	[Emit / Cause / Permit] persistent noise by non-agricultural animal	s. 3 Table 3-1(17)	\$300.00

NOTE: The penalty provision for the offences indicated above is section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33.