

# The Corporation of the Town of Tecumseh

## By-Law Number 2002 - 07

A by-law respecting the emission of sounds

**Whereas** it is expedient to exercise the power conferred upon the Council by the Environmental Protection Act, R. S. O. 1990, c. E-19, as amended, 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** the people have a right to and should be ensured an environment free from unusual, unnecessary, or excessive sound or vibration which may degrade the quality and tranquillity of their life or cause nuisance; and

**Whereas** it is the policy of the Council to reduce and control such sound or vibration;

**Now Therefore the Council of The Corporation of The Town of Tecumseh enacts as follows:**

### 1. Interpretation

(1) In this by-law

(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 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 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

“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

“Corporation” means The Corporation of the Town of Tecumseh.

(e) Council

“Council” means the Council of The Corporation of the Town of Tecumseh;

(f) Highway

“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

“Minister” means Minister of the Environment;

(h) Ministry

“Ministry” means The Ministry of the Environment;

(i) Motor Vehicle

“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, R.S.O. 1990, c. H.8, as amended.

(j) Motorized Conveyance

“Motorized Conveyance” means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;

(k) Municipality

“Municipality” means the land within the geographic limit of The Corporation of the Town of Tecumseh;

## (l) Noise

“Noise” means unwanted sound;

## (m) Noise Control Officer

“Noise Control Officer” means a Police Officer of the Town of Tecumseh or any person designated by Council as responsible for the administration of this by-law from time to time;

## (n) 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.

## (o) “Provincial Offences Act”

“Provincial Offences Act” means the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, and the regulations thereunder.

**2. Zone**

## (1) In this by-law

## (a) Residential Area

“Residential Area” means those areas of the municipality designated as residential in the following by-laws of the former municipalities of:

The Town of Tecumseh	By-law number 1746
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The Township of Sandwich South	By-law number 85-18
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The Village of St. Clair Beach	By-law number 2065
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as may be amended from time to time or consolidated into one by-law.

## (b) Agricultural Area

“Agricultural Area” means those areas of the municipality designate as agricultural in the following by-laws of the former municipalities of:

The Town of Tecumseh	By-law number 1746
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The Township of Sandwich South	By-law number 85-18
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The Village of St. Clair Beach	By-law number 2065
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as may be amended from time to time or consolidated into one by-law.

(c) Commercial Area

“Commercial Area” means those areas of the municipality designated as commercial in the following by-laws of the former municipalities of:

The Town of Tecumseh	By-law number 1746
The Township of Sandwich South	By-law number 85-18
The Village of St. Clair Beach	By-law number 2065

as may be amended from time to time or consolidated into one by-law.

### 3. 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 Motor Vehicle or a Motor Vehicle with a trailer resulting in banging, clanging, 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 Motor Vehicle is stationary in a Residential Area unless:
  - (a) 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
  - (b) operation of such engine or motor is essential to a basic function of the Motor Vehicle or equipment, including but not limited to, operation of ready-mixed concrete trucks, lift platforms and refuse compactors; or

- (c) 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 Motor Vehicle is stationary for purposes of delivery or loading; or
  - (d) prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or
  - (e) 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, Agricultural Area or Commercial Area without effective muffling devices in good working order and in constant operation.

#### **4. Prohibitions by Time and Place**

No person within the municipality shall emit or cause the emission of sound resulting from any act listed in [Table 4-1](#), hereinafter set out, if clearly audible at a Point of Reception located in an area of the municipality within a prohibited time shown for such an area.

#### **5. Exemption for Public Safety**

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

- (1) for the immediate health, safety or welfare of the inhabitants or any of them; or
- (2) 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.

#### **6. 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/she might be prosecuted and Council, by resolution, may refuse to grant any exception 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.

## **7. 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 hereinafter listed traditional, festive, religious and other activities, namely:

- (1) Corn Festival; and
- (2) Ringing of Church bells or chimes.

## **8. Exemption of Essential Services**

Notwithstanding any other provisions of this by-law, essential services and incidental noise from all activities of the Corporation of the Town of Tecumseh, or its servants or agents, associated with the provision of maintenance and essential services is permissible.

## **9. Severability**

If any court of competent jurisdiction should declare any 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.

## **10. Penalty**

Every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not more than Five Thousand Dollars (\$5,000.00), exclusive of costs, and every such fine is recoverable under the Provincial Offences Act.

That By-law No. 2001-12 and any other by-laws which are inconsistent with this by-law are hereby repealed.

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

**Read** a first, second, third time and finally passed this 22nd day of January, 2002.

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Ed Renaud, Mayor

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S. M. Brophey, Clerk

**This** By-law is approved pursuant to the provisions of the Environmental Protection Act, R.S.O. 1990, c. E-19, as amended, at Toronto, this                      day of                      , 2002.

Minister of Environment And Energy

**The Corporation of the Town of Tecumseh**  
**Part 1 Provincial Offences Act**  
**By-Law 2002-07 – A By-Law Respecting the Emission of Sounds**

<b>No.</b>	<b>Offence</b>	<b>Section of the Act</b>	<b>Fee</b>
1	Causing or permitting sound from any motorized conveyance by racing.	Sect. 3 (a)	\$105.00
2	Causing or permitting sound by the squealing of tires	Sect. 3 (b)	\$105.00
3	Causing or permitting sound from a combustion engine or pneumatic device without an effective exhaust or intake muffling device.	Sect. 3 (c)	\$105.00
4	Causing or permitting sound from a Motor Vehicle or a Motor Vehicle with a trailer improperly maintained	Sect. 3 (d)	\$105.00
5.	Causing or permitting sound from a motor or Motor Vehicle while stationery in a Residential Area for a period exceeding 5 minutes.	Sect. 3 (e)	\$105.00
6.	Causing or permitting sound from a motor vehicle horn or other warning device.	Sect. 3 (f)	\$105.00
7	Causing or permitting sound from construction equipment without an effective muffling device.	Sect. 3 (g)	\$105.00
8	Causing or permitting sound through the detonation of fireworks or explosive devices.	Sect. 4 Table 4-1 #1	\$105.00
9	Causing or permitting sound through the discharge of a firearm.	Sect. 4 Table 4-1 #2	\$105.00
10	Causing or permitting sound from a combustion engine in use in or intended for use in a toy or model.	Sect. 4 Table 4-1 #3	\$105.00
11	Causing or permitting sound from any electronic device or musical instrument.	Sect. 4 Table 4-1 #4	\$105.00
12	Causing or permitting sound from any auditory signalling device	Sect. 4 Table 4-1 #5	\$105.00
13	Causing or permitting sound from the operation of any powered rail car or refrigeration car	Sect. 4 Table 4-1 #6	\$105.00
14	Causing or permitting sound from any Motorized Conveyance in an area not for its operation	Sect. 4 Table 4-1 #7	
15	Causing or permitting sound by the venting, releasing or pressure relief of air, steam or other material.	Sect. 4 Table 4-1 #8	\$105.00

No.	Offence	Section of the Act	Fee
16	Causing or permitting sound by permitting a domestic pet or animal to bark, call or whine.	Sect. 4 Table 4-1 #9	\$105.00
17	Causing or permitting sound by operating a commercial car wash with air drying equipment.	Sect. 4 Table 4-1 #10	\$105.00
18	Causing or permitting sound by yelling, shouting and hooting.	Sect. 4 Table 4-1 #11	\$105.00
19	Causing or permitting sound by operating a power assisted hang glider or parafoil.	Sect. 4 Table 4-1 #12	\$105.00
20	Causing or permitting sound in selling or advertising by shouting or outcry or amplified sound.	Sect. 4 Table 4-1 #13	\$105.00
21	Causing or permitting sound by loading, unloading, delivering or handling of materials or products.	Sect. 4 Table 4-1 #14	\$105.00
22	Causing or permitting sound from the operation of waste bulk lift or refuse compacting equipment.	Sect. 4 Table 4-1 #14	\$105.00
23	Causing or permitting sound by operating any construction equipment.	Sect. 4 Table 4-1 #15	\$105.00
24	Causing or permitting sound from the operation of any tool other than snow removal.	Sect. 4 Table 4-1 #16	\$105.00
25	Causing or permitting sound from the operation of a power lawn mower.	Sect. 4 Table 4-1 #17	\$105.00
26	Causing or permitting sound from a commercial car wash other than a commercial car wash with air drying equipment.	Sect. 4 Table 4-1 #18	\$105.00
27	Causing or permitting sound from dynamic engine braking, engine braking or engine retarding on a motor vehicle	Sect. 4 Table 4-1 #19	\$105.00

**Table 4-1 - Prohibitions by Time and Place**

Offence	Residential Area	Agricultural Area	Commercial Area
1. The detonation of fireworks or explosive devices not used in construction.	At all times except for the celebrations of Victoria Day, the birthday of the reigning Sovereign, Canada Day (July 1st), the American Independence Day (July 4th) and New Year's Eve (December 31st)		At all times
2. The discharge of firearms.	At all times	As Approved	At all times
3. The operation of a combustion engine which,  (i) is, or (ii) is use 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.	8:00 p.m. to 8:00 a.m.	8:00 p.m. to 8:00 a.m.	8:00 p.m. to 8:00 a.m.

<b>Offence</b>	<b>Residential Area</b>	<b>Agricultural Area</b>	<b>Commercial Area</b>
4. 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 a 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	At all times
5. 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.	At all times	10:00 p.m. to 8:00 a.m.	10:00 p.m. to 8:00 a.m.
6. The operation of any powered rail car including but not limited to refrigeration cars, locomotives or self-propelled passenger cars, which stationary on property not owned or controlled by a railway governed by the Canada Railway Act.	At all times	10:00 p.m. to 8:00 a.m.	11:00 p.m. to 7:00 a.m.
7. The operation of any Motorized Conveyance other than on a Highway or other place intended for its operation.	At all times		11:00 p.m. to 7:00 a.m.
8. 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.	9:00 p.m. to 8:00 a.m.		11:00 p.m. to 7:00 a.m.

<b>Offence</b>	<b>Residential Area</b>	<b>Agricultural Area</b>	<b>Commercial Area</b>
9. 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	At all times
10. The operation of a commercial car wash with air drying equipment.	At all times	11:00 p.m. to 7:00 a.m.	11:00 p.m. to 7:00 a.m.
11. Yelling, shouting and hooting.	At all times		11:00 p.m. to 7:00 a.m.
12. The operation of a power assisted hang glider or parafoil.	At all times		11:00 p.m. to 7:00 a.m.
13. All selling or advertising by shouting or outcry or amplified sound.	9:00 p.m. to 7:00 a.m.	9:00 p.m. to 7:00 a.m.	9:00 p.m. to 7:00 a.m.
14. 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 7:00 a.m.	9:00 p.m. to 6:00 a.m.	9:00 p.m. to 6:00 a.m.
15. The operation of any equipment in connection with construction.	8:00 p.m. to 7:00 a.m.	8:00 p.m. to 7:00 a.m.	8:00 p.m. to 7:00 a.m.
16. The operation or use of any tool for domestic purposes other than snow removal.	9:00 p.m. to 8:00 a.m.		
17. The operation of power lawn mowers.	10:00 p.m. to 7:00 a.m.		
18. The operation of a commercial car wash of a type other than mentioned in item 10.	At all times		
19. Dynamic braking, engine braking or engine retarding of a motor vehicle	At all times	At all times	At all times

The penalty provisions for the offences indicated above is Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33.