



The Corporation of the Town of New Tecumseth

By-law 2011-101 (Consolidated – as amended)

NOISE CONTROL BY-LAW

A by-law to Regulate Noise within the Town of New Tecumseth

Consolidation		
Amendment No. 1	By-law No. 2013-158	November 25, 2013

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**THE CORPORATION OF THE TOWN OF
NEW TECUMSETH**

BY-LAW

Number 2011-101

"NOISE CONTROL BY-LAW"

A by-law to Regulate Noise within the Town of New Tecumseth
and to repeal By-law 95-67

WHEREAS Section 128 of *The Municipal Act 2001*, S.O. 2001, c. 25, as amended, provides authority for municipalities to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

AND WHEREAS Section 129 of *The Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides authority for municipalities to prohibit and regulate noise and vibration;

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 the Council of the Corporation of the Town of New Tecumseth deems it necessary and expedient to regulate or prohibit noise within the town which is likely to disturb the inhabitants and become a public nuisance;

NOW THEREFORE the Council of The Corporation of the Town of New Tecumseth does hereby enact as follows:

1. TITLE:

1.1 This By-law shall be known and may be cited as the "Noise Control By-law."

2. DEFINITIONS:

For the purpose of this By-law:

2.1 "**Construction**" includes the erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, blasting, rock crushing, 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 work in connection therewith;

- 2.2 “**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;
- 2.3 “**Council**” means the Council of the Corporation of the Town of New Tecumseth;
- 2.4 “**Highway**” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of motorized vehicles and includes the area between the lateral property lines thereof;
- 2.5 “**Motor Vehicle**” includes an automobile, a motorcycle, a motor-assisted bicycle, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car or other motor vehicle running only upon rails, a power-assisted bicycle, a motorized snow vehicle, off road vehicle, all terrain vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry or a road-building machine;
- 2.6 “**Motorized conveyance**” means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- 2.7 “**Noise**” means unwanted sound
- 2.8 “**Officer**” means a Municipal Law Enforcement Officer, a Police Officer or other person appointed by a by-law to enforce the provisions of this by-law;
- 2.9 “**Person**” means any human being, association, firm, partnership, incorporated company, corporation, agent or trustee, and the heirs, executors or other legal representatives of a person to whom the context can apply, according to law;
- 2.10 “**Point of reception**” means any point on the premises of a person where sound or vibration originating from other than those premises is received;
- 2.11 “**Town**” means The Corporation of the Town of New Tecumseth.

3. GENERAL PROHIBITIONS:

- 3.1 No person shall emit or cause or permit the emission of noise resulting from any activity listed in Schedule "A", attached hereto, if clearly audible at a point of reception.

4. PROHIBITIONS BY TIME:

- 4.1 No person shall emit or cause or permit the emission of noise resulting from any activity listed in Column 1 of Schedule "B", attached hereto, and which noise is clearly audible at a point of reception within a prohibited time shown in Column 2.

5. EXEMPTION FOR PUBLIC SAFETY:

- 5.1 Notwithstanding any other provision of this By-law, it shall be lawful to emit or cause or permit the emission of noise or vibration in connection with emergency measures undertaken:

5.1.1 for the immediate health, safety or welfare of the inhabitants or any of them;
or

5.1.2 for the preservation or restoration of property;

unless such noise or vibration is clearly of a longer duration or nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

6. GENERAL EXEMPTIONS:

- 6.1 This By-law shall not apply to a person who emits or causes or permits the emission of noise in connection with any of the activities listed in Schedule "C" attached hereto this By-law.

7. GRANT OF EXEMPTION BY COUNCIL:

- 7.1 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 noise or vibration for which he/she may be prosecuted.

7.2 Details of Application for Exemption

The application mentioned in subsection 7.1 shall be made in writing and shall contain:

7.2.1 the name, address and telephone number of the applicant

7.2.2 a description of the source and location of sound in respect of which exemption is sought

- 7.2.3 a statement of the particular provision(s) of this By-law from which the exemption is sought
- 7.2.4 the period of time, of a duration not in excess of six (6) months, for which the exemption is sought;
- 7.2.5 the reasons why the exemption should be granted;
- 7.2.6 a statement of the steps, if any, planned or presently being taken to bring about compliance with this By-law.

7.3 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 deems appropriate. The Council, by resolution, may refuse to grant an exemption or may grant the exemption applied for or may grant an exemption of lesser effect. An 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 the Town deems appropriate.

In deciding whether to grant the exemption, Council shall consider the impact of the noise on inhabitants in the affected area of the Town, the duration of the proposed noise, the compliance record of the applicant in relation to this By-law and previous decisions made by Council in similar circumstances.

7.4 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.

8. ENTRY AND INSPECTION:

- 8.1 An Officer may at any time, enter onto land to determine whether this By-law is being complied with.
- 8.2 Every owner shall permit the Officer to inspect any land for the purposes of determining compliance with this By-law.
- 8.3 Notwithstanding any provision of this By-law, an Officer shall not enter or remain in any room or place actually being used as a dwelling, unless:
 - 8.3.1 the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of a warrant issued under the Provincial Offences Act, R.S.O. 1990, c.P.33, as amended.
 - 8.3.2 a warrant issued under the provincial Offences Act, R.S.O. 1990, c. P.33, as amended, is obtained.

9. OBSTRUCTION:

- 9.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law.
- 9.2 Any person who has been alleged to have contravened any of the provisions of this By-law, shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of his duties.

10. PENALTY:

- 10.1 Any person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended.

11. SEVERABILITY:

- 11.1 If any court of competent jurisdiction declares any section or part of this By-law to be invalid, such section or part of a section thereof shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent there from and to be enacted as such and the remainder of the By-law shall be valid and shall remain in force.

12. REPEAL OF BY-LAWS:

- 12.1 That By-law 95-67 is hereby repealed.

13. EFFECTIVE DATE:

- 13.1 That this By-law shall come into force and effect on the date of passing.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 19th DAY
OF SEPTEMBER, 2011**

MAYOR

CLERK

Office Consolidation

SCHEDULE "A"

GENERAL PROHIBITIONS

The following activities are subject to prosecution pursuant to Section 3 of the By-law, if clearly audible at a point of reception:

1. The operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electromechanical transducers, and intended for the production, reproduction or amplification of sound;
2. The operation of a stereo or other electronic device designed to amplify sound in, or on, a motor vehicle in such a way that the sound can easily be heard outside of the motor vehicle;
3. The operation of any construction equipment, combustion engine or pneumatic device without an exhaust or intake muffling device in good working order and in constant operation;
4. Racing of any motorized conveyance other than in a lawful racing event;
5. The operation of a motor vehicle or motorized conveyance in such a way that the tires squeal;
6. The operation of a motor vehicle or motor vehicle with a trailer resulting in banging, clanging, squealing or other like sounds due to improperly secured load or equipment, or inadequate maintenance;
7. The operation of a motorized conveyance or motor vehicle horn or other warning device except where required or authorized by law or in accordance with good safety practices;
8. The operation of an air conditioner, water pump, pool pump or filter, heat pump or the like that is not in proper working order;
9. Ringing bells, blowing or sounding any horn, yelling, shouting, or hooting.
10. All selling or advertising by shouting or outcry or amplified sound;
11. Detonation of explosives.
12. Activities that produce sound of such nature that is unwanted, on-going, persistent, unusual, repetitive, a public nuisance, that is likely to disturb the inhabitants of the Town.

SCHEDULE "B"
PROHIBITION BY TIME

The following activities are subject to prosecution pursuant to Section 4 of the By-law, if clearly audible at a point of reception:

	Column 1	Column 2
<u>Item</u>	<u>Activity</u>	<u>Prohibited Period of Time</u>
		For Each Day is:
1.	Construction or maintenance activities other than snow removal	<u>Monday to Friday</u> 7:00 p.m. to the following 7:00 a.m.* <u>Saturday</u> 7:00 p.m. to 11:59 p.m. <u>Sunday & Statutory Holidays</u> At all times to the following 7:00 a.m.
2.	The operation of construction equipment	<u>Monday to Friday</u> 7:00 p.m. to the following 7:00 a.m.* <u>Saturday</u> 7:00 p.m. to 11:59 p.m. <u>Sunday, & Statutory Holidays</u> At all times to the following 7:00 a.m.
3.	Operation of domestic equipment including lawnmowers and garden tillers	<u>Sunday to Friday</u> 9:00 p.m. to the following 8:00 a.m. <u>Saturday</u> 9:00 p.m. to the following 9:00 a.m. <u>Sunday and days preceding Statutory Holidays</u> 9:00 p.m. to the following 9:00 a.m.
4.	Any noise arising from a compression release engine brake and the operation of a compression release engine brake	<u>Sunday to Saturday</u> 9:00 p.m. to 7:00 a.m.

*For construction that occurs over a normal and reasonable period of time. Construction projects in excess of three years duration would require an exemption from Council

SCHEDULE "C"
GENERAL EXEMPTIONS

The following activities are considered to be exempt from the provisions of this By-law:

1. The sirens or noises associated with essential services, all activities of the Town, the County of Simcoe, the Province of Ontario, any utility provider, or their servants or agents associated with the provision of maintenance or essential services;
2. Activities directly associated with the conduct of Town-sanctioned public or private special events including the detonation of fireworks
3. The use of vehicles, equipment and construction equipment when utilized for the clearing of snow from public and private property;
4. The noise caused by farm equipment performing any farm operations;
5. The ringing of bells, chimes or clocks associated with religious or public buildings or uses;
6. Generators for the purpose of power outages.
7. Work carried on by the Town or its agents, contractors, servants or employees, acting within the scope of their contract or employment;
8. The performance of any use permitted in an Industrial Zone as set out in any by-law in force from time to time passed pursuant to S. 34 of the *Planning Act*, R.S.O. 1990, p. 13, or any predecessor or successor of that section, and further that the noise generated is pursuant to work done in the normal manner and that the work does not contravene any federal, provincial or municipal laws or regulations.
9. During an emergency involving the health, safety or welfare of the public.



SCHEDULE "D"
NOISE CONTROL BY-LAW - BY-LAW 2011-101
NOISE CONTROL BY-LAW EXEMPTION APPLICATION

1. Preamble
The undersigned ("the applicant") hereby requests the Council of the Town of New Tecumseth to consider this application for an exemption from provisions contained in the Town of New Tecumseth Noise Control By-law 2011-101.

2. Applicant/Property Owner

Applicant/Agent: _____

Address: _____ Postal Code: _____

Phone: _____ Fax: _____

Owner(s) Name: _____

Address: _____ Postal Code: _____

Phone: _____ Fax: _____

3. Address of Event:

4. Description of noise anticipated and the source(s) of the noise:

5. Time of day noise anticipated:

6. Date(s) for which an exemption is being sought:

7. Explain why existing by-law provisions cannot be complied with:

Signature of applicant or agent

Date