

The Corporation of the Municipality of Central Elgin

BY-LAW NO. 212
As amended by By-law 867

Being a by-law to control noise in the Municipality of Central Elgin.

WHEREAS it is expedient to exercise the power conferred upon the Council by The Environmental Protection Act, R.S.O., 1990 Chapter 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 right to and should be ensured an environment free from unusual, unnecessary, or excessive sound or vibration which may degrade the quality and tranquility of their life or cause nuisance; and

WHEREAS it is the policy of the Council to reduce and control such sound and vibration;

NOW THEREFORE, the Council of The Corporation of the Municipality of Central Elgin 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 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**

"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, tractors, 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) **Council**

"Council" means the Council of The Corporation of the Municipality of Central Elgin;

- (e) **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;
- (f) **Minister**
"Minister" means Minister of the Environment;
- (g) **Ministry**
"Ministry" means Ministry of the Environment;
- (h) **Motor Vehicles**
"motor vehicles" 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;
- (i) **Motorized Conveyances**
"motorized conveyances" means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- (j) **Municipality**
"Municipality" means the lands within the geographic limit of The Corporation of the Municipality of Central Elgin;
- (k) **Noise**
"noise" means unwanted sound;
- (l) **Noise Control Officer**
"Noise Control Officer" means a person designated by Council as responsible for the administration of this by-law;
- (m) **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.

(2) **Zones**

In this by-law,

- (a) **Residential Area**
"Residential Area" means those areas of the municipality specified as follows:

R1 Residential Zone 1
R2 Residential Zone 2
R3 Estate Residential Zone
pursuant to Zoning By-law 1998 as amended of The Corporation of the Township of Yarmouth.

R1 Residential Zone 1
R2 Residential Zone 2
pursuant to Zoning By-law 1507 as amended of The Corporation of the Village of Port Stanley.

R1 Residential Zone 1
R2 Residential Zone 2
pursuant to Zoning By-law 1677 as amended of The Corporation of the Township of Southwold.

R1 Single Residential - One
R2 Single Residential - Two
RM1 Multiple Residential - One
pursuant to Zoning By-law #91-21 as amended of The Corporation of the Village of Belmont.

(b) **Quiet Zone**

"Quiet Zone" means those areas of the municipality specified as follows:

IN Institutional Use - as defined
and
Clinic - as defined
pursuant to Zoning By-law 1998 as amended of The Corporation of the Township of Yarmouth.

IN Institutional Zone
pursuant to Zoning By-law 1507 as amended of The Corporation of the Village of Port Stanley.

INSTITUTIONAL "I" ZONE
pursuant to Zoning By-law #91-21 as amended of The Corporation of the Village of Belmont.

(c) **Open Space Areas**

"Open Space Areas" means those areas of the municipality specified as follows:

OS1 Open Space Zone 1
OS2 Open Space Zone 2
pursuant to Zoning By-law 1998 as amended of The Corporation of the Township of Yarmouth.

OS2 Open Space Zone 2
pursuant to Zoning By-law 1507 as amended of The Corporation of the Village of Port Stanley.

OS1 Open Space Zone 1
OS2 Open Space Zone 2
pursuant to Zoning By-law 1677 as amended of The Corporation of the Township of Southwold.

Open Space "OS" Zone
pursuant to Zoning By-law #91-21 as amended of The Corporation of the Village of Belmont.

(d) **Business Zone**

"Business Zone" means those areas of the municipality specified as follows:

- B1 Business Zone 1
- B2 Business Zone 2
- B3 Business Zone 3
- B4 Business Zone 4
- B5 Business Zone 5

pursuant to Zoning By-law 1998 as amended of The Corporation of the Township of Yarmouth.

- B1 Business Zone 1
- B2 Business Zone 2
- B3 Business Zone 3
- B4 Business Zone 4
- B5 Business Zone 5
- B6 Business Zone 6
- OS3 Open Space Zone 3

pursuant to Zoning By-law 1507 as amended of The Corporation of the Village of Port Stanley.

- B3 Business Zone 3

pursuant to Zoning By-law 1677 as amended of The Corporation of the Township of Southwold.

- GC General Commercial
- HC Highway Commercial
- M Industrial
- MC Industrial Commercial
- ND Neighbourhood Development Zone

pursuant to Zoning By-law #91-21 as amended of The Corporation of the Village of Belmont.

2. General Prohibitions

No person shall emit 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 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 or a Quiet Zone, 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 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 vehicle is stationary for purposes of delivery or loading; or,
- (d) prevailing low temperatures make longer idling period 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 Quiet Zone or Residential Area without effective muffling devices in good working order and in constant operation.

3. Prohibition by Time and Place

No person shall emit or permit the emission of sound resulting from an act listed in Table 3 - 1 if clearly audible at a point of reception located in an area of the municipality within a prohibited time shown for such an area.

4. Exemption

(1) Public Safety

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

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

(2) Agricultural Activity

Notwithstanding any provisions of this by-law, it shall be lawful to emit or cause to permit the emission of sound or vibration in connection with the operation of any equipment, apparatus or device used in agriculture for food crop seeding, chemical spraying or harvesting.

5. 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 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. **Details of Application for Exemption**

- (a) The application mentioned in subsection (1) shall be made in writing, in duplicate, and shall contain:
- i) the name and address of the applicant;
 - ii) a description of the source of sound or vibration in respect of which exemption is sought;
 - iii) a statement of the particular provision or provisions of the by-law from which exemption is sought;
 - iv) the period of time, of a duration not in excess of six months, for which the exemption is sought;
 - v) the reasons why the exemption should be granted; and
 - vi) a statement of the steps, if any, planned or presently being taken to bring about compliance with the by-law.
- b) The Clerk shall post notice of the application for an exemption to this By-law on the Municipality's website at least ten days prior to the date when the application is to be received by Council. The notice shall contain the information required by clauses 2.1 (a)i) through 2.1 (a)vi). By-law 867

3. **Noise Control Officer**

Council shall cause one copy of the application for exemption to be delivered to the Noise Control Officer and he shall prepare a report to Council forthwith, stating his opinion of the merits of the application and his recommendations as to terms and conditions which, in his opinion, should be imposed upon the applicant if the exemption is granted and Council will not consider the application for exemption until it has received the report of the Noise Control Officer.

4. **Report**

The Noise Control Officer shall forward a copy of his report to the applicant at the address shown on the application by prepaid registered mail and shall, not sooner than two weeks after the mailing of the report to the applicant, submit the report to Council and shall, on request, make his report available for public inspection.

5. **Decision**

In deciding whether to grant the exemption, Council shall consider the application, the report of the Noise Control Officer and any written submission then received by Council and made by the applicant after receipt of the report of the Noise Control Officer and the Council may consider such other matters as it sees fit.

6. **Breach**

Breach by the applicant of any of the terms or conditions of the exemption 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 listed traditional, festive, religious and other similar activities:

1. CALIPSO days duly authorized by Council;
2. Any parade duly authorized by Council;
3. Any fireworks display duly authorized by Council;

4. Any fireworks display safely detonated on private property on festive holidays such as Victoria Day (May), Canada Day (July) and New Years Eve.

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 upon conviction is liable to a fine as provided in the Provincial Offences Act.

READ a first and second time this 19 day of June, 2000.

READ a third time and finally passed this 19 day of June, 2000.

PROHIBITIONS BY TIME AND PLACE

TABLE 3 - 1

PROHIBITED PERIOD OF TIME

	Quiet Zone	Residential Area	Open Space	Business
1. The detonation of fireworks except as noted in 6.4., or explosive devices not used in construction.	At all times.	At all times.	At all times.	At all times.
2. The discharge of firearms.	9:00 pm of one day to 7:00 am of the next day (1:00 pm on Sundays)	9:00 pm of one day to 7:00 am of the next day (1:00 pm on Sundays)	N/A	9:00 pm of one day to 7:00 am of the next day (1:00 pm on Sundays)
3. 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.	At all times.	At all times.	9:00 pm of one day to 9:00 am of the next day	At all times.
4. 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.	At all times.	7:00 pm of one day to 7:00 am of the next day	7:00 pm of one day to 7:00 am of the next day	Midnight - 9 a.m.
5. The operation of any auditory signaling devices, 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.	7:00 pm of one day to 7:00 am of the next day.	7:00 pm of one day to 7:00 am of the next day	Midnight - 7 a.m.
6. 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.	At all times.	At all times.	N/A	Midnight - 7 a.m.
7. The operation of any motorized conveyance other than on a highway or other place intended for its operation.	At all times.	At all times.	N/A	At all times.
8. Racing of any motorized conveyance at a racing facility.	At all times.	At all times.	10:00 pm of one day to 9:00 am of the next day	At all times.

PROHIBITIONS BY TIME AND PLACE

TABLE 3 - 1

PROHIBITED PERIOD OF TIME

	Quiet Zone	Residential Area	Open Space	Business
9. 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.	At all times.	At all times.	At all times.	At all times.
10. 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.	At all times.
11. The operation of a commercial car wash with or without air drying equipment.	At all times.	At all times.	11:00 pm of one day to 7:00 am of the next day	11:00 pm of one day to 7:00 am of the next day
12. Yelling, shouting, hooting, whistling or singing.	At all times.	11:00 pm of one day to 7:00 am of the next day	11:00 pm of one day to 7:00 am of the next day.	11:00 pm of one day to 7:00 am of the next day
13. The operation of a power assisted hang glider or parafoil.	At all times.	At all times.	N/A	At all times.
14. The operation of any item of snow making equipment.	At all times.	At all times.	N/A	N/A
15. All selling or advertising by shouting or outcry or amplified sound.	At all times.	7:00 pm of one day to 7:00 am of the next day	N/A	7:00 pm of one day to 7:00 am of the next day
16. Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials, or refuse, whatsoever, unless necessary for the maintenance of essential services.	11:00 pm of one day to 7:00 am of the next day	11:00 pm of one day to 7:00 am of the next day	N/A	N/A
17. The operation of any equipment in connection with construction.	8:00 pm of one day to 7:00 am of the next day	8:00 pm of one day to 7:00 am of the next day	8:00 pm of one day to 6:00 am of the next day	8:00 pm of one day to 7:00 am of the next day
18. The operation or use of any tool for domestic purposes other than snow removal.	11:00 pm of one day to 7:00 am of the next day	11:00 pm of one day to 7:00 am of the next day	N/A	N/A
19. The operation of solid waste bulk lift or refuse compacting equipment.	7:00 pm of one day to 7:00 am of the next day	7:00 pm of one day to 7:00 am of the next day	N/A	N/A