

# The Corporation of the Town of Tecumseh

## By-Law Number 2023-110

Being a by-law to prohibit and regulate noise in the Town of Tecumseh

**Whereas** Section 128 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the “Municipal Act”), provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become public nuisances;

**And Whereas** it is the opinion of the Council of the Town of Tecumseh that certain kinds of noise are or could become a public nuisance;

**And Whereas** Section 129 of the Municipal Act provides that a municipality may prohibit and regulate with respect to noise and to prohibit the same unless a permit is obtained from the municipality for those matters and that the municipality may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

**And Whereas** Section 23.2 of the Municipal Act permits a municipality to delegate certain legislative and quasi-judicial powers;

**And Whereas** Subsection 391(1) and Subsection 391(3) of the Municipal Act provides that a municipality may impose fees and charges on persons for services or activities provided or done by or on behalf of it, including the costs incurred by the municipality related to administration and enforcement;

**And Whereas** Section 434.1 of the Municipal Act provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that a person has failed to comply with a by-law of the municipality;

**And Whereas** Section 434.2 of the Municipal Act provides that an administrative penalty imposed by a municipality on a person constitutes a debt of the person to the municipality and, if not paid within 15 days after the day it becomes due and payable, may be added to a tax roll and collected in the same manner as municipal taxes;

**And Whereas** Section 444 of the Municipal Act provides that a municipality may make an order requiring the person who contravened a by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity, and any person who contravenes such an order is guilty of an offence;

**And Whereas** Section 195 of the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended, provides that if a municipal by-law passed by the Council of a municipality for regulating noise created by the operation of motor vehicles on the highways is inconsistent with the Highway Traffic Act or its regulations, the provision of the by-law shall be deemed to be repealed upon the inconsistency arising;

**And Whereas** it is in the public interest to reduce noise in the Town of Tecumseh to reasonable levels, so as to preserve, protect and promote public health, safety, welfare and peace and quiet for residents and visitors of the Town of Tecumseh;

**And Whereas** the Council of the Town of Tecumseh seeks to achieve an appropriate balance between the quality-of-life expectations of the residents of the Town of Tecumseh and the business operations that support a sustainable local economy;

**Now Therefore** be it resolved that the Council of The Corporation of The Town of Tecumseh hereby enacts as follows:

## 1. Definitions

### 1.1. In this By-law:

**“Administrative Penalty”** means a monetary penalty as set out in an Administrative Monetary Penalty System By-law of the Town, as amended from time to time, for a contravention of a designated by-law of the Town;

**“Applicant”** means any Person who applies in writing to the Clerk for a Permit for an exemption from the provisions and requirements of this By-law;

**“Agricultural Area”** means those areas of the Town designated as being within an agricultural zoning district in the Town’s Zoning By-law as amended from time to time;

**“By-law Enforcement Officer”** means a Person appointed by Council as a By-law Enforcement Officer, or any other individual duly appointed or assigned as part of their duties to enforce by-laws of the Town;

**“Clerk”** means the Municipal Clerk of the Town duly appointed pursuant to the Municipal Act, and his or her designates, including but not limited to, a Deputy Clerk duly appointed by the Town;

**“Commercial Area”** means those areas of the Town designated as being within a commercial zoning district or any other zoning district in the Town’s Zoning By-law as amended from time to time, but does not include a Residential Area or Agricultural Area;

**“Construction”** means erection, alteration, repairing, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting or concreting, the laying of pipe and conduit whether above or below ground level, street and Highway, building, 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;

**“Conveyance”** means a Motor 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 Motor Vehicle if operated only within the Premises of a Person;

**“Council”** means the Council of the Town;

**“Effective Muffler”** means a muffler in good working order and in constant operation to prevent excessive or unusual Noise and excessive smoke, but does not include the following: a cut-out muffler, straight exhaust, gutted muffler, Hollywood muffler, by-pass or similar device;

**“Fees and Charges By-law”** means the Town’s by-law to prescribe administrative fees and charges which may be amended or replaced from time to time;

**“Highway”** means 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;

**“Holiday”** has the same meaning as contained in the *Retail Business Holidays Act*, R.S.O. 1990, c. R.30, as amended or replaced by successor legislation, and includes any regulations thereunder;

**“Inhabitants”** means one or more Persons who reside in the Town;

**“Motor Vehicle”** has the same meaning as contained in the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended or replaced by successor legislation, and includes any regulations thereunder;

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

**“Noise”** means any Sound or vibration that is of such a volume or nature that it creates a nuisance and is likely to disturb any Person in the Town;

**“Normal Farm Practice”** has the same meaning as contained in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, c. 1, as amended or replaced by successor legislation, and includes any regulations thereunder;

**“NPC Publications”** means the publications of the Noise Pollution Control Section of the Pollution Control Branch of the Ministry of the Environment and Climate Change;

**“Officer”** means any Person authorized to enforce this By-law, including but not limited to, a Police Officer and a By-law Enforcement Officer;

**“Order”** means an order issued by the Town requiring a Person to remedy a contravention of this By-law;

**“Permit”** means any Permit issued by the Clerk for an exemption from the terms and conditions of this by-law, and includes any conditions imposed by the Clerk on the holding of such a Permit;

**“Persistent”** means occurring continuously for a period of ten (10) minutes or more, or occurring intermittently over a period of one (1) hour or more;

**“Person”** includes an individual, sole proprietorship, partnership, limited partnership, trust or corporation, or an individual in his or her capacity as a trustee, executor, administrator or other legal representative;

**“Point of Reception”** means any location on the Premises of a Person where Sound originating from other than those Premises is received, and it shall include but is not limited to: (1) an outdoor area that is near the façade of a building, at a height of 1.5 metres above ground, typically in backyards, front yards, terraces or patios, or on a balcony or elevated terrace (for example, a rooftop) provided it is not enclosed; or (2) an indoor area that is inside a building with windows and doors closed;

**“Police Officer”** means a Person appointed as a Police Officer of the Ontario Provincial Police or other police force having jurisdiction within the Town;

**“Premises”** means land and includes the buildings and/or structures thereon;

**“Provincial Offences Act”** means the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended from time to time, or any successor legislation;

**“Residential Abutting”** means any property or business that is located adjacent to a property that is zoned as a Residential Area in the Town’s Zoning By-law as amended from time to time;

**“Residential Area”** means those areas of the Town designated as being within a residential zoning district in the Town’s Zoning By-law as amended from time to time;

**“Sound”** means the sensation produced by stimulation of the organs of hearing by vibrations transmitted through the air or other medium;

**“Sound Amplifying System”** means any system of loudspeakers, amplifiers, microphones or reproducers or any combination of such equipment, including electronic devices or electro-mechanical transducers, used in the reproduction or amplification of music, speech or other Sounds;

**“Sound Reproduction Device”** means a device intended primarily for the production or reproduction of Sound, including, but not limited to, any musical instrument, radio receiver, television receiver, tape recorder, phonograph or Sound Amplifying System;

**“Town”** means The Corporation of the Town of Tecumseh, or the geographic area of the Town of Tecumseh, depending on the context; and

“**Zoning By-law**” means the Zoning By-law of the Town as amended or replaced by successor legislation, that regulates land uses within the Town.

## **2. Applicability and Scope**

- 2.1. The provisions of this By-law apply to all Noise within the Town of Tecumseh.
- 2.2. Notwithstanding any other provision of this By-law, this By-law does not apply to Noise that falls explicitly under provincial jurisdiction and for which regulation is prescribed by NPC Publications.
- 2.3. Notwithstanding any other provision of this By-law, traffic Noise (excessive Noise resulting from the operation of moving Motor Vehicles) on a public highway is under the jurisdiction of the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended, and is enforced by the Ontario Provincial Police.
- 2.4. Notwithstanding any other provision of this By-law and in accordance with Section 130 of the Municipal Act, this By-law does not apply to Noise made in connection with deliveries of goods to any of the following:
  - a) retail business establishments;
  - b) restaurants, including cafes and bars;
  - c) hotels and motels; and
  - d) goods distributing facilities.
- 2.5. Notwithstanding any other provision of this By-law, this By-law shall not apply where a Sound is from a facility that has been designed, developed, built, operated and maintained in accordance with the terms and conditions of a valid Certificate of Approval, provisional Certificate of Approval or other approval issued under the Environmental Protection Act, R.S.O. 1990, c. E.19, as amended or replaced, where such approval addresses Sound as a source of contamination or an order or permit has been issued under the Environmental Protection Act that addresses the Sound as a source of contamination.

## **3. General Prohibition**

- 3.1. No Person shall, at any time, emit, cause, or permit the emission of Noise, which Noise is clearly audible at Point of Reception, which is likely to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the Inhabitants of the Town.

## **4. Prohibitions by Time & Area**

- 4.1. No Person shall emit, cause, or permit the emission of any Noise or unusual Sound that disturbs or is likely to disturb any Inhabitant of the Town, which Noise is clearly audible at Point of Reception during the times and areas as outlined in Schedule “A” attached.

## **5. Sound Reproduction or Amplification Devices**

- 5.1. No Person shall operate or use or cause to be operated or used any Sound Reproduction Device on any Highway or other public place.
- 5.2. No Person shall operate or cause to be operated a vehicle radio, stereo, amplifier, speaker, or other similar device on or in a vehicle that is clearly audible at least 8 metres from the vehicle.
- 5.3. No Person shall cause or permit the activation of a security alarm resulting in the Noise emitted for a duration in excess of five (5) minutes.

## **6. Mufflers**

- 6.1. No Person shall discharge into the open air, on any property other than a Highway, the exhaust of any Motor Vehicle except through an Effective Muffler or other device which effectively prevents loud or explosive Noises.

## **7. Unnecessary Motor Vehicle Noise**

- 7.1. No Person while on private property shall emit, cause, or permit the emission of Noise resulting from the unnecessary operation of a Motor Vehicle such as the sounding of a horn, revving of an engine, squealing of tires, banging, clanging or any similar sound that is clearly audible at any Point of Reception.
- 7.2. No Person while on private property shall emit, cause, or permit the emission of Noise resulting from the operation of a Motor Vehicle with a trailer resulting in banging, clanking, squealing or other like Noises that is clearly audible at a Point of Reception.
- 7.3. No Person shall emit, cause, or permit the emission of Noise resulting from dynamic braking, engine braking, or engine retarding of a Motor Vehicle.

## **8. Idling Motor Vehicles**

- 8.1. No Person shall operate or permit the operation of an engine or motor in, or on, any Motor Vehicle or item of attached auxiliary equipment for a continuous period exceeding three (3) minutes while such vehicle is stationary, except:
  - a) the continuous operation of the engine or motor is essential to the basic function of the vehicle or equipment; 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-mix 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.

**9. Yelling, Shouting & Screaming**

- 9.1. No Person shall emit, cause, or permit Persistent Noise, including yelling, shouting, screaming, or hooting, to be made by any Person.

**10. Animals**

- 10.1. No Person shall cause or permit Persistent Noise, including barking, calling, or whining or other similar Persistent Noise, to be made by any animal kept or used for any purpose.

**11. Fireworks, Explosives & Firearms**

- 11.1. No Person shall cause or permit the detonation of fireworks or explosive devices not used in Construction, save and except in accordance with and authorized by the Town's Fireworks By-law.
- 11.2. No Person shall cause or permit the discharge of firearms, save and except as authorized by a Town by-law or any governmental agency having jurisdiction.

**12. General Exemptions**

- 12.1. Notwithstanding any other provisions of this By-law, this By-law does not apply to a Person who emits, causes, or permits the emission of Noise or vibration in connection with:
- a) operation of emergency vehicles by police, fire, and paramedic services;
  - b) any special event that is specifically approved by the Town, only to the extent of the authority for such event;
  - c) any projects, activities or operations undertaken by the Town, or by any agents or contractors of the Town engaged in carrying out projects, activities, or operations on behalf of the Town;
  - d) any Construction, rehabilitation or maintenance work conducted by the Province of Ontario, the Government of Canada and any of their agencies or agents including the operation of Motor Vehicles and equipment actually engaged in the work;
  - e) any Construction, rehabilitation or maintenance work conducted by the County of Essex or any utility company, provided that reasonable prior notice of such activity is provided to the Town;
  - f) measures undertaken for the immediate health, safety, or welfare of Persons under emergency circumstances;
  - g) Normal Farm Practices, including operation of farm equipment or machinery for cultivating, seeding, crop maintenance, or harvesting on any lands in an Agricultural Area;

- h) operation of bells, chimes, carillons, and clocks in any building dedicated to religious worship, including but not limited to a church, synagogue, temple, or mosque, between the hours of 7:00 a.m. to 10 p.m. of any day;
- i) operation of bells, chimes, carillons, and clocks in any school when the school is open and in operation for students;
- j) operation of any transit vehicles, trains or equipment that is operated by an public transit authority, public government body, railroad authority or any agency of the aforementioned;
- k) operation of bells or horns utilized as traffic control devices, including but not limited to bells and other audible devices at traffic signal locations, and bells and horns associated with railway crossings; and
- l) snow removal activities that are necessary to render safe and/or operational any property on which a business, a school or a residential apartment or condominium is located, which does not include maintenance, staging and preparation of equipment that is used as part of such snow removal activities, unless such maintenance, staging or preparation is part of the snow removal activity and is conducted on, or in the immediate vicinity, of the property subject to the snow removal.

### **13. Temporary Noise Exemptions**

- 13.1. Notwithstanding any other provision of this By-law, any Person may make an application to the Clerk for a Permit to allow such Persons to emit, cause or permit Noise otherwise restricted by this By-law for the period of time set out in such Application for a Permit. The Clerk may:
  - a) grant the requested Permit, with or without conditions;
  - b) refuse to grant the requested Permit; or
  - c) grant the requested Permit to a greater or lesser extent than requested in the Application with or without conditions.
- 13.2. The application for a Permit shall be filled out in the prescribed form as approved by the Town and shall be accompanied by the non-refundable application fee in the Town's Fees and Charges By-law.
- 13.3. An application for a Permit exempting from the provisions of this By-law shall be made in writing and shall include the following:
  - a) the Applicant's name, address, and other prescribed contact information;
  - b) the description of the source of Noise or vibration in respect of which the Permit is sought;



- c) the date(s), time(s) and location(s) of the event or other activity for which the Permit is being sought;
  - d) the Applicant's reason for requesting the Permit;
  - e) the name, address and other prescribed contact information for the Person(s) who will be supervising the event or activity for which the Permit is being sought;
  - f) a statement of steps, if any, planned or presently being taken to minimize the Noise;
  - g) a non-refundable application fee, as set out in the Town's Fees and Charges By-law; and
  - h) any other information requested by the Clerk.
- 13.4. Notwithstanding any other provision of this By-law, a Permit application for an event or activity shall be completed in accordance with this By-law and submitted to the Clerk at least thirty (30) days prior to the event or activity for which the Permit is being sought.
- 13.5. In considering an application for a Permit, the Clerk shall have regard to:
- a) any negative effects the issuance of the Permit may have on neighbouring properties or on the Town;
  - b) any benefits the issuance of the Permit may have on neighbouring properties or on the Town;
  - c) whether the location of the event or activity is Residential Abutting;
  - d) any previous violations of this By-law or previous contraventions of a Permit by the Applicant; and
  - e) anything further that the Clerk considers relevant in the circumstances, acting reasonably.
- 13.6. Any Permit granted shall specify the period of time during which it is in effect and may contain such terms and conditions as the Clerk deems fit, acting reasonably.
- 13.7. The conditions that the Clerk may impose on a Permit under this By-law may include but are not limited to:
- a) the type and volume of Sound;
  - b) the days during which the Permit is in effect;
  - c) the times during which the Permit is in effect;

- d) Noise mitigation measures to be implemented;
  - e) that the surrounding neighbourhood be notified by the Applicant and proof of such notification shall be provided to the Town, to the satisfaction of the Clerk, with such notice period, method of notification and area of notification to be determined on a case by case basis by the Clerk;
  - f) that, if deemed warranted by the Clerk acting in its sole discretion, a qualified individual or qualified individuals, as determined by the Clerk, be present at the place and/or times specified by the Permit so as to monitor the sound and file a report with the Town, at the Applicant's expense, with such qualified individual(s) providing to the Town in advance of the monitoring, written details of the sound measuring device to be used for the purposes of monitoring the Sound including its sensitivity and calibration; and
  - g) that a By-law Enforcement Officer monitor the event or other activity at the expense of the Applicant as set out in the Town's Fees and Charges By-law, if deemed appropriate by the Clerk.
- 13.8. Any breach of the terms or conditions of the Permit granted by the Clerk, or any error or omission in the information provided to the Town pursuant to Section 12.3 of this By-law, shall immediately render the Permit null and void.
- 13.9. The decision of the Clerk to issue a Permit, to refuse to issue a Permit, or to set terms and conditions for a Permit, is final and binding.
- 14. Powers of Entry**
- 14.1. In accordance with Section 436 of the Municipal Act, an Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether the following are being complied with:
- a) this By-law;
  - b) a direction or order made under the Municipal Act or this By-law; or
  - c) a condition of a Noise Permit granted under this By-law.
- 15. Order to Discontinue Activity**
- 15.1. In accordance with Sections 444 and 445 of the Municipal Act, an Officer may issue an Order requiring any Person who caused or permitted a contravention of this By-law to discontinue such contravention, or requiring any Person who cause or permitted a contravention to do work to correct the contravention.
- 15.2. An Order made under Section 14.1 of this By-law shall identify:
- a) the location of the property on which the contravention occurred;

- b) the reasonable particulars of the contravention of this By-law; and
- c) the date and time by which there must be compliance with the Order.

15.3. An Order under Section 14.1 of this By-law may be given orally or in writing and if in writing, may be served personally on the Person to whom it is directed or sent by regular mail to the last known address of that Person. The Order shall be deemed to have been received on the fifth day after it is mailed if it is delivered by regular mail to the last known address of that Person. An affidavit of service shall be admissible in evidence in any proceeding as proof of service of mailing of the Order.

15.4. A Person in receipt of an Order shall comply with the requirements of the Order.

## **16. Remedial Action**

16.1. In accordance with Section 446 of the Municipal Act, if a Person fails to comply with an Order, an Officer or Persons acting upon his or her instructions may enter the lands at any reasonable time for the purposes of doing the things described in the order at the property Owner's expense.

16.2. The Town may recover the remedial action and enforcement cost incurred under Section 15.1 of this By-law by legal action and/or by adding them to the tax roll and collecting them in the same manner as property taxes in accordance with Section 446 of the Municipal Act.

## **17. Penalty Provisions**

17.1. Every Person who contravenes any of the provisions of this By-law is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

17.2. Upon conviction, any fine imposed under this By-law may be collected under the authority of the Provincial Offences Act.

17.3. For the purposes of this By-law, "multiple offences" means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law.

17.4. For the purposes of this By-law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.

## **18. Continuation & Repetition Prohibited by Order**

18.1. The court in which the conviction has been entered, and any court of competent jurisdiction, thereafter, may make an order prohibiting the continuation or repetition of the offence by the Person convicted, and such order shall be in addition to any other penalty imposed on the Person.

**19. Administrative Penalties**

- 19.1. Instead of laying a charge under the Provincial Offences Act for any breach of any provision of this By-law, an Officer, may issue an Administrative Penalty to the Person who has contravened this By-law provided the authority for the Town to issue Administrative penalties has been granted by municipal by-law.
- 19.2. An Officer has the discretion to either proceed by way of an Administrative Penalty or a charge laid under the Provincial Offences Act. If an Administrative Penalty is issued to a Person for a contravention of this By-law, no charge shall be laid against that same Person for the same contravention.
- 19.3. The amount of the Administrative Penalty for a contravention of a provision of this By-law is fixed as set out in an Administrative Penalty By-law of the Town, as amended from time to time, or any successor by-law.
- 19.4. A Person who is issued an Administrative Penalty shall be subject to the procedures as provided for in an Administrative Penalty By-law of the Town, as amended from time to time, or any successor by-law.
- 19.5. An Administrative Penalty imposed on a Person pursuant to this By-law this is not paid within fifteen (15) days after the day it becomes due and payable, constitutes a debt of the Person to the Town and may be added to a municipal tax roll and collected in the same manner as municipal taxes.

**20. Collection of Unpaid Fines**

- 20.1. Where a fine is in default, the Town may proceed with civil enforcement against the Person upon whom the fine has been imposed, pursuant to the Provincial Offences Act.
- 20.2. The Town may make a request to the treasurer of a local municipality to add any part of a fine that is in default to the tax roll for any property in the local municipality for which all the Owners are responsible for paying the fine and collect it in the same manner as municipal taxes.

**21. Enforcement**

- 21.1. The provisions of this By-law may be enforced by an Officer.
- 21.2. An Officer who has reasonable grounds to believe that a Person has contravened any provision of this By-law may require that Person to provide their identification to the Officer.
- 21.3. Every Person who is required by an Officer to provide identification under Section 21.2 of this By-law shall identify themselves to the Officer. Giving their correct name, date of birth, and address shall constitute sufficient identification. Failure to provide sufficient identification shall constitute obstruction of the Officer as set out in Section 22.2 of this By-law.

**22. Offences**

- 22.1. Any Person who contravenes or fails to comply with any provision of this By-law or an Order issued pursuant to this By-law is guilty of an offence.
- 22.2. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under this By-law.
- 22.3. No Person shall fail to comply with any condition or term of any Order issued under this By-law. If there is a contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be continuing offence for each day or part of a day that the contravention remains uncorrected.

**23. Validity and Severability**

- 23.1. If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be invalid, illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the remainder of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.
- 23.2. If there is a conflict between the provisions of this By-law and any other by-law of the Town in force or a provincial or federal statute or regulation, the more restrictive provisions shall apply.
- 23.3. The Schedules referenced herein and attached hereto are hereby declared to form part of this By-law.

**24. Short Title**

- 24.1. This By-law may be referred to as the “Noise Control By-law” or “Noise By-law”.

**25. Repeal**

- 25.1. By-law 2002-07, By-law 2007-39, By-law 2007-48, and By-law 2021-067 (the “Repealed By-laws”) and any amendments thereto are hereby repealed in their entirety upon the coming into force of this By-law.
- 25.2. Any by-laws of the Town or resolutions of Council, or portions thereof, inconsistent with or contrary to this By-law are hereby repealed upon the coming into force of this By-law.

**26. Transition**

- 26.1. Every enforcement action or proceeding taken pursuant to the Repealed By-laws shall, as necessary, be deemed to have been taken pursuant to this By-law and every such enforcement action or proceeding may be carried to its conclusion pursuant to the authority granted by this By-law.

26.2. If an enforcement action or proceeding has been validly commenced pursuant to the Repealed By-laws and authority for such enforcement action or proceeding does not exist pursuant to this By-law, then such enforcement action or proceeding may be continued to its conclusion and the provisions of the Repealed By-laws necessary to permit such enforcement action or proceeding to be concluded shall be deemed to remain in effect for the purposes of bring such enforcement action or proceeding to a conclusion.

**27. Enactment**

27.1. This By-law shall come into force and effect upon the date of an Order of the Ontario Court of Justice approving the set fines for the offences of this By-law.

**Read** a first, second, third time and finally passed this 12th day of December, 2023.



**Gary McNamara**

Signed with ConsignO Cloud (2023/12/13)  
Verify with verifio.com or Adobe Reader.



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Gary McNamara, Mayor

**Robert Auger**

Signed with ConsignO Cloud (2023/12/14)  
Verify with verifio.com or Adobe Reader.



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Robert Auger, Clerk

## Schedule "A"

### By-Law Number 2023-110

#### Noise Prohibitions by Time & Area

Notwithstanding any other provisions of this By-law, the following Noises shall be deemed to be Noises likely to disturb any Person in the Town if clearly audible at a Point of Reception within a time period as shown, except if the Noise originates from an exempted area of the Town:

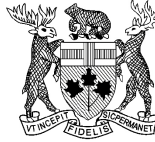
Description of Sound	Prohibited Times	Exempted Areas
1. The operation of any equipment in connection with Construction.	From 8:00 pm to 7:00 am the next day	Commercial Areas, except those that are Residential Abutting
2. The operation of any tool for domestic purposes other than snow removal.	<u>Monday to Friday</u> From 9:00 pm to 8:00 am the next day  <u>Saturdays, Sundays, and Holidays</u> From 9:00 pm to 9:00 am the next day	N/A
3. The operation of an engine or motor which is used in or is intended for use in, a toy or a model or replica of any device, which toy, model or replica has no function other than amusement, and which is not a Conveyance.	<u>Monday to Friday</u> From 9:00 pm to 7:00 am the next day  <u>Saturdays, Sundays, and Holidays</u> From 8:00 pm to 9:00 am the next day	N/A
4. The repair of Motor Vehicles.	<u>Monday to Friday</u> From 8:00 pm to 7:00 am the next day  <u>Saturdays, Sundays, and Holidays</u> From 8:00 pm to 9:00 am the next day	N/A

5. The loading, unloading, delivering, packing, unpacking, or otherwise handling of any containers, products or materials.	<p><u>Monday to Friday</u> From 9:00 pm to 7:00 am the next day</p> <p><u>Saturdays, Sundays, and Holidays</u> From 8:00 pm to 9:00 am the next day</p>	N/A
6. The operation of solid waste, refuse or recyclable bulk-lift or refuse-compacting equipment.	From 6:00 pm to 6:00 am the next day	Commercial Areas & Agricultural Areas, except those that are Residential Abutting
7. The use of any Sound Reproduction Device or Sound Amplification Device that <b>is not</b> in a Residential Area or on a property that is Residential Abutting.	<p><u>Monday to Friday</u> From 11:00 pm to 7:00 am the next day</p> <p><u>Saturdays, Sundays, and Holidays</u> From 11:00 pm to 9:00 am the next day</p>	N/A
8. The use of any Sound Reproduction Device or Sound Amplification Device that <b>is</b> in a Residential Area or on a property that is Residential Abutting.	<p><u>Monday to Friday</u> From 9:00 pm to 7:00 am the next day</p> <p><u>Saturdays, Sundays, and Holidays</u> From 10:00 pm to 9:00 am the next day</p>	Commercial Areas & Agricultural Areas
9. The operation of a commercial car wash equipped with air drying equipment.	From 10:00 pm to 8:00 am the next day	N/A
10. The operation of power lawn mowers.	<p><u>Monday to Friday</u> From 9:00 pm to 8:00 am the next day</p> <p><u>Saturdays, Sundays, and Holidays</u> From 9:00 pm to 9:00 am the next day</p>	N/A



OFFICE OF THE REGIONAL SENIOR JUSTICE  
ONTARIO COURT OF JUSTICE  
WEST REGION

80 DUNDAS STREET, 10<sup>th</sup> FLOOR, UNIT L  
LONDON, ONTARIO N6A 6A8



CABINET DU JUGE PRINCIPAL RÉGIONAL  
COUR DE JUSTICE DE L'ONTARIO  
RÉGION DE L'OUEST

80, RUE DUNDAS, 10<sup>e</sup> ÉTAGE, UNITÉ L  
LONDON (ONTARIO) N6A 6A8

TELEPHONE/TÉLÉPHONE (519) 660-2292  
FAX/TÉLÉCOPIEUR (519) 660-3138

March 4, 2024

Robert Auger  
917 Lesperance Rd  
Tecumseh, ON N8N 1W9

Dear Mr Auger

**Re: Set Fines - Provincial Offences Act - Part 1 By-law 2023-110, Noise By-Law**

Enclosed herewith is the Part 1 original Order and original schedule of set fines for the above referenced Bylaw, the Bylaw indicated in the schedules.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

Please ensure that a copy of the said documents is forwarded to the Provincial Offences Court in Windsor, together with a certified copy of the Bylaw.

Yours truly,

A handwritten signature in black ink, appearing to read 'M. Edward Graham'.

M. Edward Graham  
Regional Senior Justice  
Ontario Court of Justice  
Encl.

/tz

**ONTARIO COURT OF JUSTICE**

**PROVINCIAL OFFENCES ACT**

**PART I**

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and **By-law 2023-110 of the Town of Tecumseh** attached hereto are the set fines for those offences. This Order is to take effect March 4, 2024.

Dated at London this 4<sup>th</sup> day of March 2024.



M. Edward Graham  
Regional Senior Justice  
Ontario Court of Justice

## The Corporation of the Town of Tecumseh

### Part I Provincial Offences Act

#### By-Law Number 2023-110: Noise Control By-Law

<b>Item</b>	<b>Short Form Wording</b>	<b>Provision Creating or Defining Offence</b>	<b>Set Fine</b>
1.	(Cause)(permit) emission of Noise clearly audible at Point of Reception	Section 3.1	\$500.00
2.	(Emit)(cause)(permit) Noise by operation of Construction equipment when prohibited	Section 4.1 Schedule A (1)	\$500.00
3.	(Emit)(cause)(permit) Noise by operation of tool for domestic purposes when prohibited	Section 4.1 Schedule A (2)	\$500.00
4.	(Emit)(cause)(permit) Noise by operation of (engine)(motor) for (toy)(model)(replica) when prohibited	Section 4.1 Schedule A (3)	\$500.00
5.	(Emit)(cause)(permit) Noise by repair of Motor Vehicle when prohibited	Section 4.1 Schedule A (4)	\$500.00
6.	(Emit)(cause)(permit) Noise by (loading)(unloading)(delivering) of (products)(materials) when prohibited	Section 4.1 Schedule A (5)	\$500.00
7.	(Emit)(cause)(permit) Noise by operation of (solid waste)(refuse) (recyclable) bulk-lift or compacting equipment when prohibited	Section 4.1 Schedule A (6)	\$500.00
8.	(Emit)(cause)(permit) Noise by use of (Sound Reproduction Device)(Sound Amplification Device) not in (Residential Area)(on Residential Abutting property) when prohibited	Section 4.1 Schedule A (7)	\$500.00
9.	(Emit)(cause)(permit) Noise by use of (Sound Reproduction Device)(Sound Amplification Device) in (Residential Area)(on Residential Abutting property) when prohibited	Section 4.1 Schedule A (8)	\$500.00
10.	(Emit)(cause)(permit) Noise by operation of commercial car wash with air drying equipment when prohibited	Section 4.1 Schedule A (9)	\$500.00
11.	(Emit)(cause)(permit) Noise by operation of power lawn mowers when prohibited	Section 4.1 Schedule A (10)	\$500.00

12.	(Operate)(cause to be operated) Sound Reproduction Device on (Highway)(public place)	Section 5.1	\$500.00
13.	(Operate)(cause to be operated) vehicle (stereo)(amplifier)(speaker) clearly audible 8 metres from vehicle	Section 5.2	\$500.00
14.	(Cause)(permit) activation of security alarm resulting in Noise emitted for more than 5 minutes	Section 5.3	\$500.00
15.	Discharge into open air exhaust of Motor Vehicle except through Effective Muffler on property other than Highway	Section 6.1	\$500.00
16.	(Cause)(permit) Noise from unnecessary operation of Motor Vehicle on private property	Section 7.1	\$500.00
17.	(Cause)(permit) Noise from operation of Motor Vehicle with a trailer on private property	Section 7.2	\$500.00
18.	(Cause)(permit) Noise from (dynamic breaking)(engine breaking)(engine retarding) of Motor Vehicle	Section 7.3	\$500.00
19.	(Cause)(permit) operation of (engine) (motor) of stationary (Motor Vehicle)(attached equipment) for period exceeding than 3 minutes	Section 8.1	\$500.00
20.	(Cause)(permit) Persistent (yelling) (shouting)(screaming)(hooting) Noise made by a Person	Section 9.1	\$500.00
21.	(Cause)(permit) Persistent (barking) (calling)(whining) Noise made by any animal kept for any purpose	Section 10.1	\$500.00
22.	(Cause)(permit) detonation of (fireworks)(explosives) not authorized and permitted by Fireworks By-law	Section 11.1	\$500.00
23.	(Cause)(permit) discharge of firearms not authorized or permitted	Section 11.2	\$500.00
24.	Failure to provide identification to an Officer upon request	Section 21.3	\$500.00
25.	(Hinder)(obstruct)(attempt to hinder) (attempt to obstruct) an Officer	Section 22.2	\$500.00
26.	Failure to comply with condition of Order issued	Section 22.3	\$500.00

**Note:** The general penalty provision for the offences indicated above is Section 17.1 of By-Law Number 2023-110, a certified copy of which has been filed.