
of The

*Corporation of the Township
of Pelee*

BEING A BY-LAW TO CONTROL NOISE IN THE TOWNSHIP OF PELEE

WHEREAS it is expedient to exercise the power conferred upon the Council of the Township of Pelee 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 the 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 or vibration;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF PELEE ENACTS AS FOLLOWS:

1. **Definitions for the purpose of this By-law:**
 - a) "Construction" includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and highway building, concreting, equipment installation and alterations and the structural installation of construction components and materials in any form or purpose, and includes any work in connection therewith;
 - b) "Construction equipment" means any equipment or device designed and intended for use in construction, or material handling, including but not limited to, air 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" 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" means the Council of the Corporation of the Township of Pelee.
- e) "Hamlet Area" means those areas of the municipality specified as follows:
H - Hamlet Zone
- f) "Highway" includes 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) "Holiday" as defined in the Interpretation Act, R.S.O. 1990, c 1.11
- h) "Minister" means Minister of the Environment;
- i) "Ministry" means Ministry of the Environment;
- j) "Motor Vehicle" includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than but muscular power; but does not include farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the Highway Traffic Act;
- k) "Motorized Conveyance" means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- l) "Municipality" means the land within the geographical limit of the Corporation of the Township of Pelee;
- m) "Noise" means unwanted sound;
- o) "Point of Reception" means any point on the premises of a person within a residential area or quiet zone as defined in this By-law, where sound or vibration originating other than those premises is received.
- p) "Agricultural Area" means those areas of the municipality specified as follows:
A - Rural Zone

2. General Provisions

No person 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:

- a) Racing of any motorized conveyance.
- b) The operation of a motor vehicle in such a way that the tires squeal.

- c) 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.
- d) The operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing, or other like sounds due to improperly secured load or equipment, or inadequate maintenance.
- e) 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 unless:
 - i) the original equipment manufacturer specifically recommends a longer idling period for normal and efficient operation of the motor vehicle in which case such recommended period shall not be exceeded; or,
 - ii) operation of such engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to, operation of ready-mixed concrete trucks, lift platforms and refuse compactors; or,
 - iii) weather conditions justify the use of heating or refrigerating systems powered by the motor or engine for the safety and welfare of the operator, passengers or animals, or the preservation of perishable cargo, and the vehicle is stationary for purposes of delivery or loading; or,
 - iv) prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or,
 - v) the idling is for the purpose of cleaning and flushing the radiator and associated circulated system for seasonal change of antifreeze, cleaning of the fuel system, carburator or the like, when such work is performed other than for profit.
- f) 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.
- g) The operation of any item of construction equipment without effective muffling devices in good working order and in constant operation.

3. Prohibition by Time and Place

No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule "A" 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 to Schedule "A" Public Safety

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

- a) For the immediate health, safety or welfare of the inhabitants of 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.

5. Grant of Exemption by Council

a) 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 may be prosecuted and Council, by resolution, may refuse to grant any exemption of lesser effect and any exemption granted shall specify the time period, not in excess of six months, during which it is effective and may contain such terms and conditions as council sees fit.

b) 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.

c) Breach

Breach by the applicant of any of the terms or conditions or any exemption granted by Council, shall render the exemption null and void.

6. Exemption of Traditional 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 activities.

- a) Canada Day Fireworks Display
- b) Operation of Big Marsh Pump
- c) Operation of Curry Marsh Pump
- d) Operation of Round Marsh Pump
- e) Operations of the Pelee Island Ferries

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.

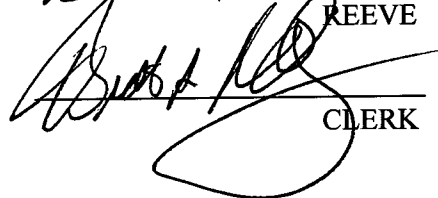
8. Penalty

Every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty and every such fine is recoverable under the Provincial Offences Act.

Read a first and second time this 3rd day of June, 1996

Read a third and final time this 3rd day of June, 1996.


REEVE


CLERK

SCHEDULE "A"

BY-LAW NO. 1527

	<u>Prohibited Period of Time</u>		
	<u>Hamlet Area</u>	<u>Residential Area</u>	<u>Agricultural Area</u>
1. The operation of any auditory signalling device, including, but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles, or operation of auditory pest control devices or the production reproduction or amplification of any similar sounds by electronic or other means except where required or authorized by law or in accordance with good safety practices.	2 a.m - 7 a. m	7 P. M - 7 A. M	7 P. M - 7 A. M
2. 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
3. Persistent barking, calling, 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 IN ALL ZONES	
4. Yelling, shouting, hooting, whistling, or singing.	2 a.m - 7 a. m	11 P. M. - 7 A. M	11 P. M. - 7 A. M
5. Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials, or refuse, whatsoever unless necessary for the maintenance of essential services.	11 P. M. - 7 A. M	11 P. M. - 7 A. M	N/A
6. The operation of any equipment in connection with construction	NO HOLIDAYS, 11 P.M. - 7 A. M ALL OTHER DAYS IN ALL ZONES		
7. The operation or use of any tool for domestic purposes other than snow removal	11 P. M. - 7 A. M	11 P. M. - 7 A. M	N/A