

## The Corporation of The Town Of Essex

### By-Law Number 690

A by-law to control noise in the Town  
of Essex

Whereas Section 129 of the Municipal Act 2001 and amendments thereto, provides that the councils of local municipalities may pass By-Laws for regulating or prohibiting with respect to noise;

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 Essex 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, 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) **Council**

"Council" means the Council of the Corporation of the Town of Essex;

(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) **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;

(g) **Motorized Conveyance**

"motorized conveyance" means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;

**(h) Municipality**

"municipality" means the land within the geographic limit of the Town of Essex;

**(i) Noise**

"noise" means unwanted sound;

**(j) Noise Control Officer**

"Noise Control Officer" means a Police Officer of the Town of Essex or any person or law enforcement agency designated by Council as responsible for the administration of this by-law from time to time;

**(k) 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 & Institutional Area**

"Residential & Institutional Area" means those areas of the municipality designated as Residential or Institutional in By-Law No. 694 of the Corporation of the Town of Harrow, By-Law No. 1902 of the Corporation of the Township of Colchester South, By-Law No. 2125 of the Corporation of the Township of Colchester North and By-Law No. 2010 of the Corporation of the Town of Essex as amended from time to time;

**2. General Prohibitions:**

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 other than in a racing event regulated By-Law.
- (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 (5) minutes, while such vehicle is stationary in a Residential & Institutional Area unless:
  - (i) the original equipment manufacturer specifically recommends in writing or print (which recommendation, upon request made by the Noise Control Officer, shall be produced by the operator within a reasonable length of time) 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 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.

- (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 in a Residential & Institutional Area without effective muffling devices in good working order and in constant operation.
- (h). Dynamic braking or engine braking or engine retarding of a motor vehicle.

3. **Prohibitions by Time And Place**

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

**Table 3 - 1**

Prohibitions By Time And Place

	<b>Act</b>	<b>Prohibited Period Of Time</b>	
			<b>Residential &amp; Institutional Area</b>
1.	The detonation of fireworks or explosive devices not used in construction.		At all times
2.	The discharge of firearms.		At all times
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
4.	The operation of any electronic device or group of connected electronic devices incorporating one (1) or more loud speakers or other electro-mechanical transducers, and intended for the production, reproduction or amplification of sound.		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
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 owned or controlled by a railway governed by the Canada Railway Act.		At all times
7.	The operation of any motorized conveyance other than on a highway or other place intended for its operation.		At all times

8.	The venting, release or pressure relief of air, steam or other gaseous material, product or compound from any auto-clave, boiler, pressure vessel, pipe, valve, machine, device or system.	9:00 p.m. to 8:00 a.m.
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
10.	The operation of any type of commercial car wash.	11:00 p.m. to 8:00 a.m.
11.	Yelling, shouting, hooting, whistling or singing.	At all times
12.	The operation of a power assisted hang glider or parafoil	At all times
13.	The operation of any item of snow making equipment.	At all times
14.	All selling or advertising by shouting or outcry or amplified sound.	At all times
15.	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 8:00 a.m.
16.	The operation of any equipment in connection with construction.	8:00 p.m. to 7:00 a.m.
17.	The operation or use of any tool for domestic or private purposes other than snow removal.	9:00 p.m. to 8:00 a.m.

#### 4. **Exemption**

##### **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:

- (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 than is reasonably necessary for the accomplishment of such emergency purpose.

#### 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) **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.

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 activities:

Harrow Fair Parade  
Camoos Portuguese Festival Parade  
Legion Remembrance Day Parade  
Santa Claus Parade  
Essex Fun Fest Parade

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 this 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 by the Provincial Offences Act, R.S.O. 1990 c P.33.

9. By-Law #220 of the Town of Essex is hereby repealed.

10. This by-law shall come into full force and effect upon the final passing thereof.

Read A First, Second, Third Time Finally Passed This 8<sup>th</sup> Day Of August, 2005.

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Mayor

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Clerk

**PART 1 PROVINCIAL OFFENCES ACT**  
**TOWN OF ESSEX BY-LAW TO CONTROL NOISE**

Item No.:	Column 1 OFFENCE SHORT FORM WORDING	Column 2 SECTION OFFENCE CREATING PROVISIONS OR DEFINING OFFENCE	Column 3 SET FINE
1	Create a sound from racing motor vehicle other than racing event	2(a)	\$100.00
2	Create a sound from operating a combustion engine - ineffective exhaust device	2(c)	\$100.00
3	Create a sound from operating a combustion engine - ineffective intake muffling device	2(c)	\$100.00
4	Create a sound from operating a pneumatic device - ineffective exhaust device	2(c)	\$100.00
5	Create a sound from operating a pneumatic device - ineffective intake muffling device	2(c)	\$100.00
6	Operate vehicle - banging or other like sound - improperly secured load	2(d)	\$100.00
7	Operate vehicle - clanking or other like sound - improperly secured loan	2(d)	\$100.00
8	Operate vehicle - squealing or other like sound - improperly secured loan	2(d)	\$100.00
9	Operate vehicle - banging or other like sound - improperly secured equipment	2(d)	\$100.00
10	Operate vehicle - clanking or other like sound - improperly secured equipment	2(d)	\$100.00
11	Operate vehicle - squealing or other like sound - improperly secured equipment	2(d)	\$100.00
12	Operate vehicle - banging or other like sound - inadequate maintenance	2(d)	\$100.00
13	Operate vehicle - clanging or other like sound - inadequate maintenance	2(d)	\$100.00
14	Operate vehicle - squealing or other like sound - inadequate maintenance	2(d)	\$100.00
15	Operate vehicle with trailer - banging or other like sound - improperly secured load	2(d)	\$100.00
16	Operate vehicle with trailer - clanging or other like sound - improperly secured load	2(d)	\$100.00
17	Operate vehicle with trailer - squealing or other like sound - improperly secured load	2(d)	\$100.00
18	Operate vehicle with trailer - banging or other like sound - improperly secured equipment	2(d)	\$100.00
19	Operate vehicle with trailer - clanging or other like sound - improperly secured equipment	2(d)	\$100.00
20	Operate vehicle with trailer - squealing or other like sound - improperly secured equipment	2(d)	\$100.00
21	Operate vehicle with trailer - banging or other like sound - inadequate maintenance	2(d)	\$100.00
22	Operate vehicle with trailer - clanging or other like sound - inadequate maintenance	2(d)	\$100.00
23	Operate vehicle with trailer - squealing or other like sound - inadequate maintenance	2(d)	\$100.00
24	Operate engine/motor on/in motor vehicle - five minutes continuous in residential area	2(e)	\$100.00
25	Operate engine/motor on/in motor vehicle - five minutes continuous in institutional area	2(e)	\$100.00
26	Create a sound from operating a engine/motor on auxiliary equipment - five minutes continuous in residential area	2(e)	\$100.00
27	Create a sound from operating a engine/motor on auxiliary equipment - five minutes continuous in institutional area	2(e)	\$100.00
28	Create a sound from operating a motor vehicle horn - not required/authorized by law	2(f)	\$100.00
29	Create a sound from operating a motor vehicle horn - not good safety practice	2(f)	\$100.00
30	Create a sound from operating a motor vehicle warning device - not required/authorized by law	2(f)	\$100.00
31	Create a sound from operating a motor vehicle warning device - not good safety practice	2(f)	\$100.00
32	Create a sound from operating a construction equipment in residential area - ineffective muffling device	2(g)	\$100.00

**NOTE:** THE PENALTY PROVISION FOR THE OFFENCES INDICATED ABOVE ARE SECTION 8 OF BY-LAW #690, A CERTIFIED COPY OF WHICH HAS BEEN FILED.

Item No.:	Column 1  OFFENCE  SHORT FORM WORDING	Column 2  SECTION  OFFENCE CREATING PROVISIONS OR DEFINING OFFENCE	Column 3  SET FINE  Includes Costs
33	Create a sound from operating construction equipment in institutional area – ineffective muffling device	2(g)	\$100.00
34	Create a sound from operating construction equipment in residential area – ineffective muffling device	2(g)	\$100.00
35	Create a sound from operating construction equipment in institutional area – ineffective muffling device	2(g)	\$100.00
36	Causing the emission of sound-dynamic braking	2(h)	\$100.00
37	Causing the emission of sound-engine braking	2(h)	\$100.00
38	Causing the emission of sound-engine retarding	2(h)	\$100.00
39	Emission of sound - detonation of fire works - residential area	3.1	\$100.00
40	Emission of sound - detonation of explosive - residential area	3.1	\$100.00
41	Emission of sound - discharge of firearm - residential area	3.2	\$100.00
42	Emission of sound - operate combustion engine – on toy, model or replica in residential area - improper time	3.3	\$100.00
43	Emission of sound by operation of loud speaker(s) - residential area	3.4	\$100.00
44	Emission of sound by operation of electro-mechanical transducer in a residential area	3.4	\$100.00
45	Emission of sound - operation of auditory signaling device in a residential area	3.5	\$100.00
46	Emission of sound - operation of powered rail car while stationary in a residential area.	3.6	\$100.00
47	Emission of sound form operating motorized conveyance not on highway-residential area	3.7	\$100.00
48	Emission of sound - the venting, releasing or pressure relief of air or steam in a residential area - improper time	3.8	\$100.00
49	Emission of sound - venting, release or pressure relief of gaseous material, product/compound - residential area - improper time	3.8	\$100.00
50	Permit persistent barking, calling, whining or other similar persistent noise - domestic pet - residential area	3.9	\$100.00
51	Emission of sound - operate commercial car wash - improper time - residential area	3.10	\$100.00
52	Yelling, shouting, hooting, whistling or singing in a residential area.	3.11	\$100.00
53	Emission of sound - operation of a power assisted hang glider or parasol - residential area	3.12	\$100.00
54	Emission of sound - snow making equipment – residential area	3.13	\$100.00
55	Emission of sound - yell by shouting, outcry or amplified sound - residential area	3.14	\$100.00
56	Emission of sound - advertising by shouting, outcry or amplified sound - residential area	3.14	\$100.00
57	Emission of sound - loading or unloading containers, products, materials or refuse - residential area	3.15	\$100.00
58	Emission of sound - delivering containers, products, materials or refuse - residential area	3.15	\$105.00
59	Emission of sound - packing or unpacking containers, products, materials or refuse - residential area	3.15	\$100.00
60	Emission of sound - handling containers, products, materials or refuse - residential area	3.15	\$100.00
61	Emission of sound - operate construction equipment, improper time - residential area	3.16	\$100.00
62	Emission of sound - operate tool for domestic/private purposes - improper time - residential area	3.17	\$100.00

**NOTE:** THE PENALTY PROVISION FOR THE OFFENCES INDICATED ABOVE ARE SECTION 8 OF BY-LAW #690, A CERTIFIED COPY OF WHICH HAS BEEN FILED.

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 Municipal By-law No. 690 of the Town of Essex, attached hereto is the set fine, for those offences. This Order is to take effect September 26, 2005.

Dated at London this 26<sup>th</sup> day of September, 2005.



Alexander M. Graham  
Regional Senior Justice  
West Region