

MUNICIPALITY OF MIDDLESEX CENTRE

BY-LAW NUMBER 2016-066

**BEING A BY-LAW TO CONTROL NOISE IN THE
MUNICIPALITY OF MIDDLESEX CENTRE**

WHEREAS the Municipal Act, 2001, S.O. 2001, Chapter 25, Section 129 (1) provides that by-laws may be passed by the Councils of local municipalities for prohibiting or regulating noise and vibration within the municipality;

AND WHEREAS it is deemed expedient and necessary to provide an environment free from unusual, unnecessary or excessive noises or vibrations which may disturb the inhabitants of the Municipality of Middlesex Centre;

THEREFORE the Council of the Municipality of Middlesex Centre enacts as follows:

1. Definitions

“Business Areas” means those areas within the municipality zoned under the Zoning By-law as follows:

- Village Commercial, Highway Commercial or Office Park Commercial (C1; C2; C3) Zones;
- Light Industrial, General Industrial, Farm Industrial or Extractive Industrial (M1; M2, M3; M4) zones;
- Institutional (I) Zone;
- Parks and Recreation Defined Area (PR-4), Delaware Speedway;

“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;

“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, pneumatics 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;

“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 within the premises of a person;

“Council” means the Council of the Municipality of Middlesex Centre;

“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;

“Motor vehicles” includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power;

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

“Municipality” means the Municipality of Middlesex Centre;

“Noise” means unwanted sound;

“Officer” means:

- i) any police officer,
- ii) a By-law Enforcement Officer, Building Inspector or Chief Building Official as appointed by the Council of the Municipality;

“Point of Reception” means any point where sound or vibration originating from a location other than that point is received;

“Residential Areas” means those areas within the municipality zoned under the Zoning By-law as follows:

- Urban Residential First, Second or Third Density (UR1; UR2; UR3) Zones;
- Community Residential First or Second Density (CR1; CR2) Zones;
- Hamlet Residential First Density (HR1) Zone;
- Existing Use (EU) Zone;
- Open Space (OS) Zones and Parks and Recreation Zones (PR) within Settlement Areas;

“Rural Areas” means those areas within the municipality zoned under the Zoning By-law as follows:

- Agricultural or Restricted Agricultural (A1; A2) Zones;
- Surplus Residence (SR) Zone;
- Open Space (OS) Zones outside of Settlement Areas;
- Parks and Recreation (PR) Zones outside of settlement areas, excluding PR-4 Zone, Delaware Speedway;

“Settlement Areas” means those areas of the municipality located within Urban, Community or Hamlet settlement areas as identified in the Middlesex Centre Official Plan;

“Zoning By-law” means the Municipality of Middlesex Centre Comprehensive Zoning By-law currently in effect.

2. Prohibitions

2.1 No person shall emit or cause sound resulting from an 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.

2.2 No person shall permit the emission of sound resulting from an 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

3. Exemption

3.1 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:

3.1.1 for the immediate health, safety or welfare of any person, or

3.1.2 for the preservation or restoration of property,

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

3.2 Agricultural Activity

Notwithstanding any provisions of this by-law, it shall be lawful to emit or cause or permit the emission of sound or vibration in connection with the operation of any equipment related to normal farm practices.

3.3 Educational Institutions

Notwithstanding any other provision of this by-law, it shall be lawful to emit or cause or permit the emission of sound or vibrations in connection with the normal operation of educational institutions during regular business hours and/or during school authorized activities.

3.4 Traditional 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 or other activities:

- ringing of church bells;
- parades approved by the Municipality of Middlesex Centre, the County of Middlesex and/or the Ontario Provincial Police.

3.5 Delaware Speedway

Notwithstanding any other provision of this by-law, it shall be lawful to emit or cause or permit the emission of sound or vibrations in connection with the racing of automobiles at Delaware Speedway between 11:00 a.m. and 11:30 p.m.

3.6 Municipal Activity

Notwithstanding any other provision of this by-law, it shall be lawful to emit or cause or permit the emission of sound or vibrations in connection with the operation of municipal service vehicles and related equipment.

4. Grant of Exemption by By-Law Enforcement Officer

4.1 Exemption – application process

Notwithstanding anything contained in this by-law, any person may make application to the By-Law Enforcement Officer to request an exemption from any of the provisions of this by-law with respect to any source of sound or vibration for which they might be prosecuted.

4.2 Exemption – details of application

The application mentioned in Section 5.1 shall be made in writing, at least sixty (60) days prior to the proposed date of the event and shall include:

- 4.2.1 The name and address of the applicant;
- 4.2.2 The location of the premises where the proposed exemption is being sought;
- 4.2.3 A description of the type of sound or vibration in respect of which the exemption is sought;
- 4.2.4 Statement of the particular provision or provisions of the by-law from which the exemption is sought;
- 4.2.5 The reasons why the exemption should be granted; and
- 4.2.6 The application for exemption fees as set out in the Municipality's current Fees and Charges By-law.

4.3 Exemption – circulation for public comment

Upon receipt of an application for exemption by the Municipality, the By-law Enforcement Officer shall notify the owners of lands within the vicinity of the requested exemption, indicating the date and time on which the By-law Enforcement Officer will consider the request for exemption. The notice will outline the details of the exemption request. The notice will request that comments or concerns about the request for exemption be in written form and addressed to the By-Law Enforcement Officer

4.4 Exemption – appeal of decision

If an exemption is denied by the By-law Enforcement Officer, the applicant may appeal the decision to Council within ten (10) business days of the written decision provided by municipal staff. The appeal must be made in writing and addressed to the By-law Enforcement Officer of the Municipality. Council shall consider the appeal, which will be accompanied by a report from the By-law Enforcement Officer at a regularly scheduled meeting of Council.

4.5 Exemption – breach

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

5. 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.

6. Enforcement

6.1 Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act* and as set out in Schedule "B", Set Fines.

6.2 The provisions of this By-law shall be enforced by an Officer.

7. Effective Date

This by-law shall come into force and take effect on the day of the final reading thereof.

8. Repealed By-Law

By-law 2011-054 is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME, AND FINALLY PASSED this 22nd day of June, 2016.

Deputy Mayor Clare Bloomfield

Wang Yong
Clerk

**Municipality of Middlesex Centre
By-Law 2016-066: Noise Control**

**Schedule "A"
Prohibitions by Time and Place**

Item	Residential Areas	Rural Areas	Business Areas
1. Excessive noise likely to disturb the inhabitants of any property.	At all times	At all times	At all times
2. The operation of a combustion engine which, i. is, or ii is used in, or iii is intended for use in a toy or model or replica and has no function other than amusement and which is not a conveyance.	At all times	9:00 pm – 9:00 am	At all times
3. The operation of any combustion engine or pneumatic device without an effective exhaust muffling device in good working order and in constant operation.	At all times	At all times	At all times
4. The operation of a vehicle or vehicle with a trailer resulting in banging, clanking, squealing, squealing of tires, or other like sounds due to improperly secured load or equipment of inadequate maintenance.	At all times	At all times	At all times
5. The operation or maintenance of an engine or motor in, or on, any motor vehicle or item or attached auxiliary equipment for a continuous period exceeding five minutes while such vehicle is stationary.	8:00 pm - 7:00 am	At all times	9:00 pm - 7:00 am
6. 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.	11:00 pm – 7:00 am	11:00 pm – 7:00 am	1:00 am – 11:00 am

**Municipality of Middlesex Centre
By-Law 2016-066: Noise Control**

**Schedule "A" (Continued)
Prohibitions by Time and Place**

Item	Residential Areas	Rural Areas	Business Areas
7. 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.	7:00 pm – 11:00 am	7:00 pm – 11:00 am	1:00 am – 11:00 am
8. The operation of any motorized conveyance other than on a highway or other place intended for its operation.	At all times	N/A	At all times
9. Racing of any motorized conveyance.	At all times	At all times	At all times
10. 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	9:00 pm to 7:00 am	9:00 pm to 7:00 am
11. 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
12. The operation of a commercial car wash with or without air drying equipment.	12:00 am – 6:00 am	N/A	N/A
13. The operation of a power assisted hang glider or parasail.	At all times	N/A	At all times

**Municipality of Middlesex Centre
By-Law 2016-066: Noise Control**

**Schedule "A" (Continued)
Prohibitions by Time and Place**

Item	Residential Areas	Rural Areas	Business Areas
14. The operation of any item of snow making equipment.	At all times	N/A	N/A
15. All selling or advertising by shouting or outcry or amplified sound.	At all times	N/A	7:00 pm – 7:00 am
16. Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials, or refuse, whatsoever, unless necessary for the maintenance of essential services.	Midnight - 6:00 am	N/A	N/A
17. The operation of any motor vehicle or equipment in connection with construction.	8:00 pm – 7:00 am	8:00 pm – 7:00 am	8:00 pm – 7:00 am
18. The operation or use of any tool for domestic purposes other than snow removal.	11:00 pm – 7:00 am	N/A	N/A
19. The operation of solid waste bulk lift or refuse compacting equipment.	7:00 pm – 7:00 am	N/A	N/A

**Municipality of Middlesex Centre
By-Law 2016-066: Noise Control
Part I Provincial Offences Act**

**Schedule "B"
Part 1 – Provincial Offences Act – Set Fines**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision or Defining Offence	COLUMN 3 Set Fine
1.	Noise excessive and likely to disturb when prohibited	s. 2 Sch. A (1)	\$150.00
2.	Noise from operation of combustion engine when prohibited	s. 2 Sch. A (2)	\$150.00
3.	Noise from ineffective muffling device when prohibited	s. 2 Sch. A (3)	\$150.00
4.	Noise from vehicle requiring maintenance or insecure load when prohibited	s. 2 Sch. A (4)	\$150.00
5.	Noise from engine while stationary for greater than five minutes when prohibited	s. 2 Sch. A (5)	\$150.00
6.	Noise from electronic device with speaker producing sound when prohibited	s. 2 Sch. A (6)	\$150.00
7.	Noise from auditory signaling device when prohibited	s. 2 Sch. A (7)	\$150.00
8.	Noise from a motorized conveyance when prohibited	s. 2 Sch. A (8)	\$150.00
9.	Noise from racing of a motorized conveyance when prohibited	s. 2 Sch. A (9)	\$150.00
10.	Noise from release of gas pressure when prohibited	s. 2 Sch. A (10)	\$150.00
11.	Noise from persistent whining or barking of domestic pet when prohibited	s. 2 Sch. A (11)	\$150.00
12.	Noise from commercial car wash when prohibited	s. 2 Sch. A (12)	\$150.00
13.	Noise from power glider or parasail when prohibited	s. 2 Sch. A (13)	\$150.00
14.	Noise from snow making equipment when prohibited	s. 2 Sch. A (14)	\$150.00
15.	Noise from selling or advertising when prohibited	s. 2 Sch. A (15)	\$150.00
16.	Noise from handling containers or materials when prohibited	s. 2 Sch. A (16)	\$150.00
17.	Noise from construction when prohibited	s. 2 Sch. A (17)	\$150.00
18.	Noise from tool for domestic purposes when prohibited	s. 2 Sch. A (18)	\$150.00
19.	Noise from waste lift or compacting when prohibited	s. 2 Sch. A (19)	\$150.00

NOTE: The penalty provision(s) for the offence(s) indicated above is Section 6.1 of the By-law Number 2016-066, a certified copy of which by-law has been filed.