

THE CORPORATION OF THE TOWN OF ERIN

BY-LAW NO. 5001-05 (indexed as # 05-05)

Being a by-law to provide for the regulation and prohibition of unusual noises or noises likely to disturb the public and/or the prevention of public nuisances.

WHEREAS it is expedient to exercise the power conferred upon the Council by The Municipal Act, 2001, as amended to regulate the emission of sounds or vibrations;

AND WHEREAS the people have a right to and should be ensured an environment free from unusual, unnecessary or excessive sound or noise which may degrade the quality and tranquility of their life or cause nuisance;

NOW THEREFORE, the Council of the Corporation of the Town of Erin enacts as follows:

1. **Short Title**

This by-law may be cited as the “noise control” by-law.

2. **Interpretation**

(1) For the purposes of this by-law, the following terms shall have the corresponding meaning;

(a) “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, ditches, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;

(b) “Highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

(c) “Institutional Area” means an area designated as an institutional zone in the Zoning By-law of the Town of Erin;

(d) “Motor Vehicle” includes an automobile, motorcycle, motor assisted vehicle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include a street car, 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;

(e) “Motorized Conveyance” means a conveyance propelled or driven otherwise than by muscular power; but does not include the cars of electric or steam railway, 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, R.S.O., 1990, c.H.8, as amended;

(f) “Municipality” means the land within the geographic limit of the Corporation of the Town of Erin;

(g) “Noise” means sound that is of such a volume or nature that it is likely to disturb the inhabitants of the municipality;

(h) “Point of Reception” means any point on the premises of a person where sound or vibration originating from other than those premises is received.

(i) “Person” includes a corporation, organization, association, partnership and the like;

(j) “Residential Area” means an area designated as residential in the zoning By-law of the Town of Erin, as may be amended from time to time.

(k) “Statutory holiday” means New Year’s Day, Good Friday, Victoria Day, Canada Day, Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day and Boxing Day.

3. General Prohibitions

No Person shall emit or cause or permit the emission of sound resulting from an act listed in Schedule 1 – General Prohibitions, and which sound is clearly audible at a point of reception at anywhere within the municipality, at any time.

4. Prohibitions by Time and Place

No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule 2 – Prohibitions by Time and Place if clearly audible at a point of reception located in an area of the municipality within a prohibited time shown for such an area.

5. 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:

(1) for the immediate health, safety or welfare of the inhabitants or any of them; or,

(2) for the preservation or restoration of property; unless such sound or vibration is clearly of a longer duration or by nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

6. Grant of Exemption by Council

(1) Application to Municipality

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 and the municipality 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 a time period, not in excess of six months, during which it is effective and may contain such terms and conditions as the municipality deems appropriate.

(2) Details of Application for Exemption

The application mentioned in subsection 6(1) shall be made in writing, in the form attached as Schedule 4 – Application for Exemption, and shall contain:

(a) the name, address and telephone number of the applicant;

(b) a description of the source and location of sound in respect of which exemption is sought;

(c) a statement of the particular provision or provisions of this by-law from which exemption is sought;

- (e) the reasons why the exemption should be granted;
- (f) a statement of the steps, if any, planned or presently being taken to bring about compliance with the by-law.

(3) Decision

In deciding whether to grant the exemption, Council shall give the applicant and any person opposed to the applications an opportunity to be heard and may consider such other matters as it deems appropriate.

(4) Breach

A breach of any of the terms or conditions of an exemption granted by the Municipality that is caused or permitted by the applicant shall render the exemption null and void.

(5) Every person applying for an exemption shall, at least 10 business days prior to the Council meeting at which the request for exemption is to be addressed by Council, provide to the Clerk or the Chief Building Official of the municipality:

- (a) a complete and accurate application form as prescribed by the municipality setting out the particulars respecting the exemption requested; and
- (b) payment of the exemption processing fee in the amount set by Council and in effect at the time of such exemption request.

7. Exemption of Activities

This by-law shall not apply to a person who emits or causes or permits the emission of sound in connection with any of the activities listed on Schedule 3 - Exemption of Activities.

8. Exemption of Normal Farm Practices

This by-law shall not apply to a person who emits or causes or permits the emission of sound in connection with normal farming practices within the meaning of the Farming and Food Protection Act, 1998, S.O. 1998, c.1 as amended.

9. 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.


10. Enforcement and Penalty Provisions

- (1) The provisions of this by-law shall be enforced pursuant to the provisions set out in Part I of the Provincial Offences Act.
- (2) Any person violating any of the provisions of this by-law is guilty of an offence and upon conviction shall be subject to a fine, exclusive of costs and all such fines shall be recoverable under the provisions of Part I of the Provincial Offences Act.

11. Upon the coming into force of this by-law repeals and replaces By-Law # 98-05.

Read a first and second time this day of February, 2005.

Read a third time and passed this day of February, 2005.



Mayor



Clerk

BY-LAW 5001-05
SCHEDULE 1

General Prohibitions

1. Racing of any motorized vehicle other than in a lawful racing event.
2. The operation of a motor vehicle in such a way that the tires squeal.
3. The operation of any combustion engine, pneumatic device or construction equipment without an effective exhaust or intake-muffling device in good working order and in constant operation.
4. The operation of a motor vehicle or a motor vehicle with a trailer resulting in banging, clanking, squealing or other 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, anywhere within the geographic area of the Town of Erin, where the point of reception is in a Residential Area or Institutional Area 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 or 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 purpose of delivery or loading; or
 - d) prevailing low temperatures make longer idling periods 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 use of any mechanical equipment that is not operating or being maintained in accordance with the manufacturers specifications resulting in noise other than that emitted in the normal operation of the equipment.
7. The operation of a motor vehicle horn or other warning device except where required or authorized by by-law or in accordance with good safety practices.
8. The operation of a stereo or other electronic device designed to amplify sound in, or on, a motor vehicle in such a way that the sound can easily be heard outside of the motor vehicle.

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SCHEDULE 2

Prohibitions by Time and Place

Act	PROHIBITED PERIOD OF TIME
	Residential Area
1. The discharge of firearms.	At all times
2. The operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers, and intended for the production, reproduction or amplification of sound in a residential area.	A
3. The operation of any motorized conveyance other than on a highway or other place intended for its operation.	B
4. Yelling, shouting, hooting, whistling or singing.	A

A - 23 00 one day to 07 00 next day (09 00 Sundays)

B - 21 00 one day to 07 00 next day (09 00 Sundays)

BY-LAW 5001-05
SCHEDULE 3

Activities to Which the By-law does not apply

A list of sources (activities) shall constitute this Schedule and shall specify those events which Council considers to be exempt from the provisions of this By-law.

- (a) Road and Bicycle races authorized by the municipality;
- (b) Regimental salutes.
- (c) Parades authorized by the municipality;
- (d) Fireworks displays authorized by the municipality;
- (e) Midways and circuses authorized by the municipality;
- (f) Sporting, recreational and entertainment events in public parks, buildings or grounds authorized by the municipality;
- (g) Musical and other performances in public parks, buildings or grounds authorized by the municipality;
- (h) Special neighbourhood social activities on streets or other public land authorized by the municipality;
- (i) Transformers and diesel operated pumps owned by the municipality and necessary preventive maintenance work undertaken by the municipality;
- (j) Necessary municipal operations, including but not limited to snow clearing, street cleaning and garbage collection, undertaken by on or behalf of the municipality;
- (k) Snow removal that is essential for the normal operation of a business;
- (l) Church clocks striking the hour and chimes ringing and the playing of any church carillon.

