

THE CORPORATION OF THE TOWN OF ERIN

**BY-LAW NUMBER 6001-24
(INDEXED AS BY-LAW NUMBER 24-20)**

**BEING A BY-LAW TO REGULATE, PROHIBIT AND OTHERWISE CONTROL NOISE
IN THE TOWN OF ERIN AND TO REPEAL BY-LAW 5001-05**

WHEREAS sections 8, 9 and 11 of the *Municipal Act, 2001* authorize the Town of Erin to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6 and 8 of subsection 11(2) authorize by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; the protection of persons and property; and paragraph 9 of subsection 11(3) authorizes by-laws respecting animals;

AND WHEREAS section 128 of the *Municipal Act, 2001* authorizes the Town of Erin to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of the Council of the Town of Erin are or could become public nuisances;

AND WHEREAS in the opinion of the Council of the Town of Erin certain kinds of noise are or could become a public nuisance;

AND WHEREAS section 129 of the *Municipal Act, 2001* authorizes the Town of Erin to prohibit and regulate with respect to noise and, in particular, to prohibit noise unless a permit is obtained from the Town of Erin and to impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS section 425 of the *Municipal Act, 2001* authorizes the Town of Erin to pass by-laws providing that a person who contravenes a by-law of the Town of Erin passed under that Act is guilty of an offence;

AND WHEREAS the *Municipal Act, 2001* further authorizes the Town of Erin, amongst other things, to delegate its authority, to impose fees or charges on persons for services or activities provided or done by or on behalf of it, to provide for inspections and inspection orders, and to make orders to discontinue activity or to do work;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF ERIN
HEREBY ENACTS AS FOLLOWS:**

1.0. TITLE AND SCOPE

1.1. This By-law may be referred to as “**Noise By-law**”

1.2. This By-law is hereby prescribed and adopted as restrictions on noise which is likely to disturb the inhabitants of the Town of Erin.

- 1.3. This By-law does not apply so as to prevent a Farm, as defined below, from engaging in Normal Farm Practices, as defined below.
- 1.4. Whenever this By-law refers to a Person or thing with reference to a gender or the gender neutral, the intention is to read the By-law with the gender applicable in all circumstances, and all words used in present, past, future tense shall be mean the same.
- 1.5. Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in Section 2.1 of this By-law. Where any word appears in ordinary case, the commonly applied English language meaning is intended.
- 1.6. All words importing the singular shall include the plural, and words imparting the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law requires otherwise.

2.0 **DEFINITIONS:**

2.1 In this By-law:

“Clerk” means the Clerk for the Municipality, or any person designated by the Clerk;

“Construction” includes the erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, laying of pipe and conduit whether above or below ground level, application of concrete, equipment installation and alteration and the structural installation of construction components and materials in any form or for any purpose, any work in connection therewith, and includes preparation for future construction activity;

“Construction Equipment” means any equipment or device designed and intended for use in Construction, or material handling, including but not limited to, hand tools, power tools, air compressors, pile drivers, pneumatic or hydraulic tools, electrically operated tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, and scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;

“Council” means the Council of The Corporation of the Town of Erin;

“Farm” means an agricultural operation as defined in the *Farming and Food Production Protection Act, 1998* and includes such an operation that is not carried on with the expectation of gain but otherwise meets the definition of the Act;

“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;

“Motorized Snow Vehicle” means a self-propelled vehicle designed to be driven primarily on snow;

“Motor Vehicle” includes an automobile, motorcycle, motor assisted bicycle unless otherwise indicated in the *Highway Traffic Act*, and any other vehicle propelled or driven otherwise by muscular power, but does not include a streetcar or other motor vehicle running only upon rails, a power-assisted bicycle, a motorized snow vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry or a road-building machine;

“Municipality” means The Corporation of the Town of Erin or the geographic area of The Corporation of the Town of Erin, as the context requires;

“Municipal Law Enforcement Officer” means a person appointed by Council to enforce the by-laws of the Municipality pursuant to section 15 of the *Police Services Act*;

“Normal Farm Practices” means normal farm practices as defined in the *Farming and Food Production Protection Act, 1998*;

“Noise” means sound or vibration that is of such volume, level or nature that is likely to disturb the inhabitants of the Municipality;

“Officer” means a person appointed by the Ontario Provincial Police within the boundaries of the Municipality, and any Municipal Law Enforcement Officers responsible for the enforcement of this By-law;

“Off-Road Vehicle” means a vehicle propelled or driven otherwise than by muscular power or wind and designed to travel:

- (a) on not more than three wheels; or
- (b) on more than three wheels and being of a prescribed class of vehicle;

“Permit” means a permit issued by the Municipality exempting the permit holder from the provisions of this By-law, at a specific location, for a specific period of time, for a specific purpose;

“Person” means an individual, and/or a corporation;

“Point of Reception” means any point on the premises of a Person where sound or vibration originating from other than those premises is received;

“Public Utility Company” includes a business or enterprise that maintains the infrastructure for a public service and supplies essential goods and services including but not limited to water, gas, electricity, telephone, waste disposal and other communication systems;

“**Vehicle**” includes a Motor Vehicle, trailer, traction engine, farm tractor, road-building machine, motorcycle, bicycle and any Vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a Motorized Snow Vehicle, or the cars or electric or steam railways running only upon rails;

3.0. GENERAL PROHIBITIONS

3.1. No Person shall make any Noise which is likely to disturb the inhabitants of the Municipality.

3.2. No Person shall emit or cause or permit the emission of Noise resulting from any of the activities listed in this subsection, which is clearly audible at the Point of Reception, **at any time:**

- (a)** The operation of an engine, motor, Construction Equipment or pneumatic device without an effective exhaust, intake-muffling or other sound attenuation device, which device is in good working order and in constant operation;
- (b)** Persistent yelling, shouting, whistling, hooting or singing;
- (c)** The sounding of any alarm, bell, horn, siren or other warning device for unreasonable period of time;
- (d)** The operation of any air conditioner, heat pump, pool pump, compressor, condenser, chiller, cooling tower or similar device, which is not in good working order;
- (e)** The operation of any auditory signaling device, including by not limited to the ringing of bells or gongs and the blowing of horns or sirens, 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;
- (f)** All selling, hawking or other advertising by shouting or outcry or amplified sound;
- (g)** Squealing of tires on a Motor Vehicle, or Off-Road Vehicle; and,
- (h)** Operation of a Vehicle or Vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to improperly secured load or equipment, or inadequate maintenance.

4.0. PROHIBITIONS BY TIME AND PLACE

4.1. No person shall emit or cause or permit the emission of Noise or authorize the making or causing of any Noise or authorize or permit the continuation of any Noise which results from any of the activities listed in **Schedule 1** if, at the Point of

Reception, such Noise is likely to disturb the inhabitants of the **Municipality during the prescribed times.**

5.0. EXEMPTIONS

5.1. Despite any other provision in this By-law, this By-law shall not apply to Noise arising from:

- (a)** Activities or matters undertaken by the Municipality, the County, a local board of the Municipality or the County, or any governmental agencies that supersede the authority of the Municipality;
- (b)** The operation of Vehicles and equipment utilized for the clearing and removal of snow from public or private property;
- (c)** The operation of machinery by or on behalf of a Public Utility Company.

6.0. APPLICATION FOR EXEMPTION

6.1. Any Person may apply to the Clerk to be granted an exemption from any of the provisions of this By-law through the issuance of a Permit.

6.2. The application for the issuance of a Permit shall be made in writing at least thirty (30) days prior to the commencement of the requested exemption and shall contain:

- (a)** The name and contact information of the applicant;
- (b)** A description of the source of the Noise for which the exemption is being sought;
- (c)** The date, time and location of the activity for which the exemption is being sought;
- (d)** A letter of consent from the property owner (if applicable) consenting to the exemption;
- (e)** The provision or provisions of this By-law for which the exemption is being sought;
- (f)** The reason why the exemption should be granted;
- (g)** The name and contact information of the contact Person or Persons who will be supervising the activities for which the exemption is being sought and who will be available to address concerns raised by Persons within the area where the Noise is heard;

- (h) Other information or documentation as requested by the Clerk to assist them in assessing the application; and
 - (i) Any application fee established in accordance with the Municipality's *Fees and Charges By-law*, as amended.
- 6.3. The application fee, noted above, shall be non-refundable.
- 6.4. The Clerk may circulate the application for the issuance of a Permit to various Municipal departments, the County of Wellington, Council and to the local police department to obtain feedback.
- 6.5. In determining whether to issue a Permit, the Clerk shall:
 - (a) Determine whether the applicant has provided all the information required by section 6.2 of this By-law;
 - (b) Determine whether the applicant has complied with all of the terms and conditions of approval of any previous temporary noise permit issued to the applicant, if any;
 - (c) Consider any negative effects the issuance of the Permit may have on neighbouring properties or the Municipality; and
 - (d) Consider any benefits the issuance of the Permit may have for neighbouring properties or the Municipality.
- 6.6. The Clerk may:
 - (a) Issue a Permit;
 - (b) Refuse a Permit; or,
 - (c) Issue a Permit with conditions.
- 6.7. In issuing a Permit, the Clerk:
 - (a) Shall identify:
 - i. The location and type of activity being authorized;
 - ii. The type of Noise that is being authorized;
 - iii. The days and times during which the Noise is authorized; and
 - (b) May impose conditions upon the Permit deemed suitable in the circumstances, as determined by the Clerk.

6.8. The Clerk may impose conditions on Permits including, but not limited to:

- (a)** The type and volume of Noise that may be made;
- (b)** The times during which Noise may be made;
- (c)** The date of expiry of the Permit;
- (d)** Requiring the posting of security prior to the activity; and,
- (e)** Requiring that the applicant, Municipal Staff, or a professional engineer to monitor the noise levels resulting from the event or activity and requiring a report of the findings to be filed with the Municipality within thirty (30) days of the event or activity, all at the applicant's expense.

6.9. The Municipality shall notify the applicant of the Clerk's decision.

6.10. Any Permit issued under this By-law shall expire on the date set out on the Permit, or if no date is set out on the Permit, the Permit shall expire forty-eight (48) hours after its issuance.

6.11. Any breach by the holder of the Permit of any of its terms or conditions shall render the Permit immediately null and void.

6.12. Every holder of a Permit shall comply with the terms and conditions of the Permit.

7.0. REVOCAATION OF PERMIT

7.1. The Clerk, an Officer, or Council may immediately revoke a Permit issued under this By-law if, in their opinion:

- (a)** The terms or conditions of the Permit have been contravened; and/or,
- (b)** The information provided pursuant to section 6.2 of this By-law is discovered to be false or misleading.

7.2. The Clerk, an Officer, or Council, upon revoking a Permit, shall immediately notify the holder of the Permit of such revocation using the most expedient means available.

8.0. ADMINISTRATION AND ENFORCEMENT

8.1. This By-law may be enforced by any Officer.

8.2. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer exercising a power or performing a duty under this By-law.

9.0. AUTHORITY TO ENTER

- 9.1.** Any Officer may enter onto land at any reasonable time for the purpose of carrying out an inspection to determine if this By-law or an order issued under this By-law is being complied with.
- 9.2.** For an inspection authorized by this By-law, an Officer may:
- (a)** require the production for inspection of documents or things relevant to the inspection;
 - (b)** inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c)** require information from any Person concerning a matter related to the inspection; and
 - (d)** alone or in conjunction with a Person possessing special or expert knowledge, make examinations, samples or photographs necessary for the purposes of the inspection.

10.0. OFFENCE

- 10.1.** 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 for in the *Provincial Offences Act*, R.S.O. 1990, Chap. P.33, as amended.
- 10.2.** When a Person has been convicted of an offence under this By-law, the Provincial Offences Court or any court of competent jurisdiction thereafter may, in addition to any penalty imposed on the Person convicted, issue an order prohibiting the continuation or repetition of the offence by the person convicted.

11.0. SEVERABILITY

If any section, subsection part or parts of this By-law is declared by any court of law to be illegal or ultra vires, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

12.0. REPEAL OF BY-LAWS

- 12.1.** Upon the coming into force of this By-law, By-law 5001-05 (Indexed as By-law 05-05) is hereby repealed.

13.0. SCHEDULES

13.1. Schedule “1” appended to this By-law is incorporated and forms part of this By-law.

14.0. ENACTMENT

14.1. This By-law comes into force and effect on May 1st, 2024.

Passed in open Council on April 25, 2024.

Mayor, Michael Dehn

Clerk, Nicole Cardow

SCHEDULE '1' TO BY-LAW NO. 6001-24

Types of Noise		Prohibited Times
Category	Activity	
Instruments/ Human	The playing of musical instruments, including percussion instruments	2300 hours (11:00pm) of one day to 0700 hours of the next day (0900 Sundays)
	Operation of any device or group of connected devices intended for the production, reproduction, or amplification of voices or sound	2300 hours (11:00pm) of one day to 0700 hours of the next day (0900 Sundays)
Automotive/ Engines	Excessive revving of Vehicle, or Off-Road Vehicle engines	At any time
	The operation of a combustion engine for a toy or a replica of a larger device such as a remote-controlled toy airplane, which is not a conveyance and which has no purpose other than amusement	2300 hours (11:00pm) of one day to 0700 hours of the next day (0900 Sundays)
	Operation of any motorized conveyance other than on a highway or other place intended for its operation	2100 hours (9:00pm) of one day to 0700 hours of the next day (0900 Sundays)
Construction Related	Alterations, repairs, erection, dismantling, or any activity related to Construction	2100 hours (9:00pm) of one day to 0700 hours of the next day
	The operation of Construction Equipment, or Vehicles in connection with Construction	1900 hours (7:00pm) of one day to 0700 hours of the next day
	Outdoor operation of any powered or non-powered tool for domestic purposes other than snow removal	2300 hours (11:00pm) of one day to 0700 hours of the next day (0900 Sundays)
	Loading, unloading, packing or otherwise handling of containers etc. (unless for maintenance of an essential service or for the moving of private household effects.)	2100 hours (9:00pm) of one day to 0700 hours (7:00am) of the next day

Maintenance/ Equipment/ Appliances/ Operations	Venting, release or relief of air, steam or other gaseous material, product or compound from any autoclave, boiler, pressure vessel, pipe, valve, machine, device or system	2300 hours (11:00pm) of one day to 0700 hours of the next day (0900 Sundays)
	Operation of solid waste bulk lift or refuse compacting equipment	2100 hours (9:00pm) of one day to 0700 hours of the next day (0900 Sundays)

THE CORPORATION OF THE TOWN OF ERIN
By-Law 6001-24: Noise
Short Form Wordings and Schedule of Fines

Part I Provincial Offences Act

Item	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1.	Make noise – disturb inhabitants of the Municipality	Section 3.1	\$400.00
2.	Emit/cause/permit emission of noise from prohibited activity	Section 3.2	\$400.00
3.	Emit, cause, or permit the emission of noise at a prohibited time	Section 4.1	\$400.00
4.	Fail to comply with conditions of Permit	Section 6.12	\$750.00
5.	Hinder or obstruct or attempt to hinder or obstruct an Officer	Section 8.2	\$800.00

Note: The general penalty provision for the offences indicated above is Section 10.1 of By-law No. **6001-24**, a certified copy of which has been filed.