

Consolidated Noise By-law 076-22

Revision Date
August 15, 2022

Amending By-law	Date	Brief Description	Notes
086-22	July 18, 2022	Amend section 13.1 – add coming into force date	

[Editor's Note: Revoked provisions are indicated by a strikethrough. Added provisions are indicated by underlining.]

This Office Consolidation is provided for convenience and ease of reference only. It comprises the By-Law and all amendments and modifications up to the last date noted above. The official version of the By-Law and all amending bylaws thereto are contained in the Clerk's Department. Any reliance upon the Office Consolidation is done at the sole risk of the user. The Town does not verify the accuracy or completeness of the Office Consolidation and bears no responsibility or liability to any person or entity for any deficiencies, inaccuracies, errors or omissions contained in the Office Consolidation. This Office Consolidation only reflects amendments that have come into force and effect as of the date of this Consolidation.

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THE CORPORATION OF THE TOWN OF INNISFIL

BY-LAW NO. 076-22

A By-law of The Corporation of the Town of Innisfil respecting the emission of sounds, and to repeal By-law No. 122-16 and all amendments.

WHEREAS, the *Municipal Act*, 2001 S.O. 2001, c.25 (“*Municipal Act*, 2001”) Section 9, provides that Sections 8 and 11 shall be interpreted broadly so as to confer broad authority on municipalities to (a) enable municipalities to govern their affairs as they consider appropriate and (b) enhance their ability to respond to municipal issues;

AND WHEREAS Section 129, Subsection 1 of the *Municipal Act*, 2001, provides authority for municipalities to prohibit and regulate Noise and Vibration;

AND WHEREAS The Council of the Corporation of the Town of Innisfil deems it necessary to expedite to regulate or prohibit Noise within the Town of Innisfil.

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

1. Definitions

In this by-law:

Agricultural Area means those areas of the Town designated for agricultural use in the Corporation’s Zoning By-law;

All Terrain Vehicle has the same meaning as in the Town’s ATVs on Roads By-Law, being By-Law No. 099-05, as amended;

Commercial Area means those areas of the Town designated for commercial use in the Corporation’s Zoning By-law;

Construction means the 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 structural installation of Construction components and materials in any form or for any purpose, and includes and work in connection therewith;

Commercial Construction means Construction activities carried out by building contractors, land developers, and related trades, agents and subcontractors. Commercial Construction shall not include works carried out under the direction of any government or regulatory bodies, including but not limited to, school boards, conservation authorities, the Town of Innisfil, the County of Simcoe, the Province of Ontario, or the Government of Canada. Commercial Construction shall not include works completed by the homeowner (see Domestic Works);

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Construction Equipment means any equipment or device designed and intended for use in Construction or material handling, including but not limited to air compressors, power saws, belt sanders, electric or power drills, jackhammers, 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. Such equipment would emit a sound level in excess of 90 decibels.

Conveyance means 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;

Council means the Council of Corporation of the Town of Innisfil;

Domestic Works means any Construction, renovation or repair being completed by a homeowner to his or her own property;

Highway means any lands dedicated as 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 or pedestrians;

Industrial Area means those areas of the Town designated for industrial use in the Corporation's Zoning By-law;

Minister means Minister of the Environment;

Ministry means the Ministry of the Environment;

Motor Vehicle means an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power, but does not include the cars of railways; or any other motor vehicles running only upon rails, or a motorized snow vehicle, off road vehicle, all-terrain 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;

Motorized Conveyance means a Conveyance propelled or driven otherwise than by muscular, gravitational or wind power;

Noise means either:

- (i) unwanted or meaningless sound that exceeds an average of 90 decibels as measured at the Point of Reception by a qualified noise professional in accordance with the practices, policies and procedures of the Ministry of Environment, or
- (ii) unwanted or meaningless sound that in the opinion of the Officer is likely to disturb the inhabitants of the Town;

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Noise Exemption Permit means an exception to this by-law by way of a Town of Innisfil approved permit, as described in Section 5;

Officer means an official of the Town, a Police Officer or any other Person designated by Council as responsible for the administration of this by-law from time to time;

Person means any human being, association, firm, partnership, incorporated company, corporation, agent or trustee, and the heirs, executors or other legal representatives of a Person to whom the context can apply, according to law;

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

Place of Worship means a building dedicated to religious worship, including but not limited to a church, temple, mosque, monastery, gurdwara, convent or temple;

Provincial Offences Act means the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, and the regulations thereunder;

Residential Area means those areas of the Town designated for residential use in the Corporation’s Zoning By-law;

Statutory Holidays means any of the eleven (11) observed public/civic holidays, being New Year’s Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, August Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day, Boxing Day;

Town means the Corporation of the Town of Innisfil;

Urban Area means the areas of the Town designated as Urban Areas of settlement in the Corporation’s Zoning By-law;

Vibration means to shake, quiver, throb, move back and forth rapidly, usually in an uncontrolled manner;

Violation means an act of non-compliance with any agreement or permit held with the Town, or an act of non-compliance with this or any other Town By-law, as determined by the Town of Innisfil in its sole and reasonable discretion;

Zoning By-law means the Council approved by-law relating to Zoning, in accordance with Section 34 of the Planning Act, as amended.

2. General Prohibitions

2.1 No Person within the geographical boundary of the Town shall emit or cause or permit the emission of Noise resulting from an act listed herein, and which Noise is clearly audible at a Point of Reception:

(a) Racing of any Motor Vehicle or Motorized Conveyance other than in a racing event permitted by law.

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- (b) The operation of a Motor Vehicle or Motorized Conveyance in such a way that the tires squeal.
- (c) The operation of any combustion engine or pneumatic device without an exhaust or intake muffling device in good working order and in constant operation as specified by the unit's manufacturer.
- (d) The operation of a Motor Vehicle or a Motor Vehicle with a trailer resulting in banging, clanging, 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 Motor Vehicle is stationary in a Residential Area 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 Motor 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 engines for the safety and welfare of the operator, passengers or animals. Or the preservation of perishable cargo, and the Motor 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 Area, Agricultural Area or Commercial Area without effective muffling devices in good working order and in constant operation.
- (h) The operation of an All-Terrain Vehicle within the boundaries of a settlement area in such as a way as to create Noise that is persistent and/or a nuisance.

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- 2.2** No person shall make, cause or permit Noise at any time that is unreasonable and persistent.
- (a) This section only applies to Noise that is not otherwise described in section 2.1 or Appendix 1.
- 2.3** No parent or guardian of a person under sixteen years of age shall authorize or knowingly permit that person to make, cause or permit Noise at any time that is unreasonable and persistent.
- (a) This section only applies to Noise that is not otherwise described in section 2.1 or Appendix 1 unless, in the discretion of the Town, the Noise is of a nature that is so unreasonable and/or so persistent that a Noise Exemption Permit is required.

3. Prohibitions By Time and Place

No Person within the Town shall emit or cause the emission of Noise resulting from any act listed in Appendix 1, hereinafter set out, if clearly audible at a Point of Reception located in an area of the Town within a prohibited time shown for such an area.

4. Exemption for Public Safety

Notwithstanding any other provision of this by-law, it shall be lawful to emit or cause or permit the emission of Noise 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 Noise or Vibration is clearly of a longer duration or nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

5. Application for Noise Exemption Permits

- (a) Notwithstanding anything contained in this By-law, any Person may make an application, in a form as approved by the Town of Innisfil, to the Manager of Land Use Planning, or the Manager of Engineering, or the Manager of Community Development Standards Branch, or their designates to request a Noise Exemption Permit from the prohibitions contained in Table 4-1. The Town of Innisfil may refuse to grant any Noise Exemption Permit. The Town of Innisfil may grant a Noise Exemption Permit with conditions or limitations at the sole discretion of any of the authorities listed above. The Town of Innisfil reserves the right to charge a fee for the Noise Exemption Permit, per the Fees and Charges By-law:
- i. Noise Exemption Permits for Commercial Construction shall only apply to Saturdays, excluding Saturdays on Holiday weekends, between the hours of 8:00 a.m. and 4:00 p.m.;

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- ii. Noise Exemption Permits for other activities will be considered on a case-by-case basis;
 - iii. Noise Exemption Permits shall expire on December 31 of the calendar year in which the permit is issued.
- (b) In addition to any other remedies available to the Town at law, the Manager of Land Use Planning, the Manager of Engineering and the Manager of Community Development Standards Branch each shall have the sole discretion to suspend or revoke a Noise Exemption Permit issued pursuant to Section 5(a) above based on the following criteria (also known as the “three strike rule”):
- i. that the first Violation by a Noise Exemption Permit holder be recorded;
 - ii. that the second Violation by a Noise Exemption Permit holder be recorded and result in the Noise Exemption Permit being suspended for four (4) consecutive Saturdays, not inclusive of Saturdays falling within Statutory Holiday weekends;
 - iii. that the third Violation by a Noise Exemption Permit holder be recorded and result in the Noise Exemption Permit being revoked for the balance of the calendar year for which the permit is issued;
 - iv. at the end of the calendar year in which a Noise Exemption Permit has been issued, any permit holder with three Violations shall be deemed ineligible for a permit for the following calendar year;
 - v. at the end of the calendar year in which a Noise Exemption Permit has been issued, any permit holder with fewer than three Violations shall have one Violation removed from the record, and the remaining Violation, if any, shall be carried forward to the next year;
 - vi. developers/builders will inherit one Violation for every three Violations issued to their contractors/sub-trades.

6. Exemption for Traditional, Festive or Religious Activities

Notwithstanding any other provisions of this by-law, this by-law does not apply to a Person who emits or causes or permits the emission of Noise or Vibration in connection with any of the hereinafter listed traditional, festive, religious and other activities, namely:

- (a) Ringing of bells or chimes from a Place of Worship.
- (b) Bona-fide farming operations.

7. Exemption of Essential Services

Despite any other provision in this by-law, it shall be lawful to emit or cause or permit the emission of sound from:

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- (a) Bells or sirens required for the purposes of public safety, including sirens operated by police services, fire and paramedic services, or bells or whistles operated by rail or transit services;
- (b) Measures undertaken for immediate health, safety or welfare of persons under emergency circumstances;
- (c) Measures undertaken as a result of an emergency requiring immediate action for the construction, preservation, restoration or demolition of any highway; or
- (d) Government work (including works undertaken by or on behalf of the Town, InnServices Utilities Inc., InnPower Inc., or the County of Simcoe).

8. Exemption for Delivery of Goods to Listed Locations

Pursuant to section 130 of the Municipal Act, 2001, Nothing in this By-Law is meant to prohibit or regulate Noise made in connection with the delivery of goods to any of the following:

- (a) Retail business establishments;
- (b) Restaurants, including cafés and bars;
- (c) Hotels and motels; or
- (d) Goods distribution facilities.

9. Offences, Penalties

- 9.1 Every Person who contravenes any provision of this by-law, including but not limited to non-compliance with the conditions of a Permit issued under this By-Law, may be charged with an offence and upon conviction shall be liable to a fine as provided for in the *Provincial Offences Act*, R.S.O., c. P.33, or any amendment or successor legislation.
- 9.2 Each offence is designated as a continuing offence and is subject to, for each day or part of a day that the offence continues a fine of not more than \$10,000 for a Person, other than a corporation, and a fine of not more than \$25,000 for a corporation. The total of all of the daily fines imposed for each offence may exceed \$100,000.
- 9.3 If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

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9.4 No Person shall obstruct, hinder, or otherwise interfere with an Officer or other duly appointed individual in the lawful carrying out of their duties and responsibilities under the provisions of this By-law.

10. Right of Entry

10.1 In accordance with section 436(1) of the *Municipal Act*, 2001, an Officer may enter upon land within the Town at any reasonable time for the purpose of carrying out inspections to determine whether the following are being complied with:

- (a) This By-Law;
- (b) A Noise Exemption Permit issued in accordance with this By-Law; or
- (c) A notice or order issued in accordance with this By-Law.

10.2 For the purposes of an inspection under section 10.1, an Officer may:

- (a) Require, for inspection, the production 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 of them;
- (c) Require information from any other person concerning a matter related to the inspection;
- (d) Be accompanied by such person as the Officer determines is necessary if such person or persons possess(es) special or expert knowledge related to the purpose of the inspection; and
- (e) Make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

11. Orders to Comply

11.1 An Officer who finds a contravention of this by-law may make one or more orders requiring discontinuance of the contravening activity or to do work to correct the contravention under section 444 or 445 of the *Municipal Act*, 2001.

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- 11.2 The order may be served personally on the person to whom it is directed or by registered mail to the last known address of that person, in which case it shall be deemed to have been given on the fifth day after it is mailed.
- 11.3 If there is evidence that the occupant of the land is not the registered property owner, the notice shall be served on both the registered property owner and the occupant of the land.
- 11.4 If the address of the registered property owner is unknown, the Town is unable to effect service on the registered property owner or occupant of the land under subsection 11.2 or the delay necessary to give an order would result in circumstances that endanger the health or safety of any person or similarly serious consequences, a placard stating the terms of the order and placed in a conspicuous place upon land or near the property shall be deemed to be sufficient notice to the registered property owner or the occupant of the land.

12. Severability

- 12.1 If any court of competent jurisdiction should declare any 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.
- 12.2 Where a source of Noise is subject to more than one provision of this by-law, the most restrictive provision applies.

13. In Force and Short Form Title

- 13.1 This by-law shall be known as the “**Noise By-law**” and shall come into force and take effect ~~a date to be named by the CAO~~ on August 15th, 2022. [Amended by By-Law 086-22]
- 13.2 That By-Law 122-16 and its amendments are hereby repealed.

Pass this 22nd day of June 2022.

Lynn Dollin **Mayor**

Lee Parkin **Clerk**

Appendix 1

PROHIBITIONS BY TIME AND PLACE

The table below references the Town of Innisfil's Zoning By-law and associated maps, as amended or succeeded.

	Sound	Prohibition Period of Time			
		Residential Area	Agricultural Area	Commercial Area	Industrial Area
1.	The discharge of firearms.	At all times	None	At all times	At all times
2.	The operation of a combustion engine which, (i) is, or (ii) is use 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.	8:00 p.m. to 8:00 a.m.	8:00 p.m. to 8:00 a.m.	8:00 p.m. to 8:00 a.m.	None
3.	The sound from or created by audio or visual device, public address system, sound equipment, loud speaker, or any musical or sound producing instrument of whatever kind when the same is played or operated in such a manner or with such volume as to disturb the peace, quiet, comfort or repose of any individual in any office, dwelling house, apartment, hotel, hospital, or any other type of residence.	At all times	At all times	At all times	None
4.	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	10:00 p.m. to 8:00 a.m.	10:00 p.m. to 8:00 a.m.	None
5.	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.	9:00 p.m. to 8:00 a.m.	None	None	None

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	Sound	Prohibition Period of Time			
		Residential Area	Agricultural Area	Commercial Area	Industrial Area
6.	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	At all times
7.	The operation of a commercial car wash.	8:00 p.m. to 8:00 a.m.	None	None	None
8.	Yelling, shouting, hooting or other boisterous activity.	At all times	None	None	None
9.	All selling or advertising by shouting or outcry or amplified sound.	8:00 p.m. to 8:00 a.m.	None	None	None
10.	Loading, unloading, delivering, packing, unpacking, or otherwise handling and containers, products, materials, or refuse, whatsoever, unless necessary for the maintenance of essential services or the moving of private household effects or <u>exempted by section 8.</u>	9:00 p.m. to 7:00 a.m.	None	9:00 p.m. to 7:00a.m.	None
11.	The operation or use of any Construction Equipment in connection with Commercial Construction activities.	8:00 p.m. to 7:00 a.m. No Saturdays, Sundays, or Statutory Holidays 4:00 p.m. to 8:00 a.m. Saturdays with a Noise Exemption Permit	8:00 p.m. to 7:00 a.m.	8:00 p.m. to 7:00 a.m.	None
12.	The operation or use of any Commercial Equipment for Domestic Works, other than snow removal.	8:00 p.m. to 7:00 a.m. No Sunday or Statutory Holidays	None	None	None
13.	The operation of power lawn mowers.	10:00 p.m. to 7:00 a.m. 10:00 p.m. to 6:00 a.m. – golf courses	None	None	None