

TOWN OF LUNENBURG BY-LAW #58

NOISE BY-LAW

Title

1. This By-Law is entitled the “Noise By-Law”.

Definitions

2. In this By-Law:
 - (1) “construction” includes erection, alteration, repair, dismantling and demolition of structures and includes structural maintenance, hammering, land clearing, moving of earth, rock or felled trees, rock breaking, grading, excavating, the laying of pipe or conduit whether above or below ground level, working with concrete, alteration or installation of any equipment, the structural installation of construction components or materials in any form whatsoever, the placing or removing of any construction related materials and includes any related work, but does not include blasting;
 - (2) “construction equipment” means any equipment or device designed and intended for use in construction or material handling including but not limited to air compressors, air tracks, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, backhoes, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders and other material handling equipment;
 - (3) “emergency response personnel” includes police, fire department or brigades, registered emergency services providers, search and rescue personnel, provincial, regional or municipal Emergency Measures Organizations, ambulance or emergency health services providers and includes volunteer or military personnel responding to an apparent condition of emergency;
 - (4) “motor vehicle” includes an automobile, motorcycle and any other vehicle propelled or driven otherwise than by muscular, gravitational or wind power, [provided that it shall not include a motorized wheelchair, a vehicle running only upon rails, a farm tractor or a self-propelled implement of husbandry];
 - (5) “point of reception” means any point on premises where sound, originating from other premises, including other dwelling units, is received;

- (6) “public address system” means any system comprised of one or more of the following and in any combination: loudspeaker, amplifier, microphone, turntable, reproducer, receiver or tuner, where such equipment is part of a system used to reproduce or amplify sound;

Prohibitions and Interpretations

3. No person shall engage in any activity which is likely to generate noise or sound that unreasonably disturbs the peace and tranquility of a neighbourhood. For the purpose of this section, evidence that one neighbour is unreasonably disturbed by a noise is prima facie evidence that the neighbourhood is unreasonably disturbed by the noise.
4. Without limiting the generality of section 3, the activities or noises listed in **Schedule “A”** during the proscribed times as set out therein are deemed to be activities which are likely to generate noise or sound that unreasonably disturbs the peace and tranquility of a neighbourhood if the sound resulting from the activity is audible at a point of reception.

Fixed Exemptions

5. This By-Law does not apply to:
- (1) emergency response personnel engaged in the execution of their emergency response duties; or
 - (2) persons acting at the request of emergency response personnel during an actual or apparent emergency condition;
- and, without limiting the generality of the foregoing, noises caused by emergency response vehicles and air ambulances are specifically exempt from prosecution.
6. Notwithstanding any other provisions of this By-Law, this By-Law shall not apply to or proscribe:
- (1) the emission of sound in connection with any organized traditional, festive or religious activity celebrating:
 - (a) Canada Day;
 - (b) New Year’s Eve;
 - (c) religious holidays; or
 - (d) Remembrance Day;

- (2) the emission of sound in connection with calls to worship, ringing of bells at places of religious worship, or services of religious worship;
- (3) noise caused by the Municipality, the Government of Canada, the Province of Nova Scotia, the Nova Scotia Power Inc., and telecommunication companies, and the contractors engaged by the foregoing entities and employees of the foregoing entities, when acting in the reasonable execution of their duties;
- (4) noises in connection with organized athletic or recreational activities in municipal or public park areas, arenas or community centres and noises associated with maintenance or improvement of the property occupied or used by organized athletic or recreational or sporting clubs or municipal or public park areas, arenas or community centres, including without limiting the foregoing, the grooming, tilling, mowing, and contouring of grass and soil and other activities associated therewith.
- (5) noises from the organized and scheduled activities and events of festivals, parades, street dances, rallies, or other community activities approved by the Town;
- (6) noises emitted by audible pedestrian signals;
- (7) garbage trucks operating in the Town between 6:00 a.m. and 10:00 p.m.;
- (8) noises emitted from transport trucks, including refrigerated transport trucks, servicing the fishing firms on or near the waterfront in the Town of Lunenburg.

Grant of Exemptions By Council

7. Any person may make application to Council to be granted an exemption from any of the provisions of this By-Law with respect to the emission of noise from an industrial, institutional, commercial or community activity for which that person might otherwise be prosecuted. Council, by resolution, may refuse to grant the exemption, or may grant the exemption applied for, or may grant any exemption of lesser effect. Any exemption so granted shall:
 - (1) specify a time period of not greater than 5 years during which the exemption shall be effective;
 - (2) shall be confirmed in writing by the Town Manager/Clerk before becoming effective; and

- (3) shall include such terms and conditions as Council deems appropriate.
8. In deciding whether or not to grant an exemption under section 8 or in determining terms or conditions of the exemption, Council shall give consideration to:
 - (1) the social or economic benefit of the proposed activity to the municipality;
 - (2) the volume, nature, duration and consistency of noise emission from the proposed activity;
 - (3) the proximity and nature of abutting or adjacent land uses;
 - (4) the hours of operation of the proposed activity;
 - (5) any other factor relevant to balancing the interests of the applicant in the proposed activity against the interests of those persons who might be disturbed by the proposed activity.
9. Applications for an exemption for an activity of less than 14 days duration do not require a public hearing pursuant to this section or notice pursuant to section 11, but all other exemptions, renewals of exemptions, or amendments expanding the scope of an exemption shall only be granted after a public hearing at which Council shall give the applicant and any person interested in the application an opportunity to be heard.
10. Ten days' notice of the time, date and purpose of a public hearing pursuant to section 10, shall be mailed by the applicant to the assessed owner or owners, as shown in the records of the Assessment Office, of each property which contains a building located within 150 meters of the property which will be the subject of the hearing, except that where the exemption is sought for an outdoor event not conducted at a fixed location, notice may be given by advertisement, of not less than 25 square cm. in size, in a local newspaper of mass circulation.
11. Any contravention of the terms or conditions of an exemption pursuant to section 8 shall constitute a contravention of this By-Law. In addition to any other available remedies for such contravention, the Town Manager/Clerk may, on reasonable and probable grounds, and without a hearing, suspend an exemption for a period of up to 30 days pending Council's review of the exemption.
12. Any exemption pursuant to section 8 shall be reviewable by Council at any time upon 10 days' notice to the person exempted, and Council is free to revoke, suspend or restrict the exemption with or without cause having regard to the

criteria set forth in section 9, without giving notice to adjacent owners in accordance with section 10.

Penalty

13. An offence under this By-law is a summary offence ticket offence. Any person engaging in activity likely to generate noise or sound that unreasonably disturbs peace and tranquility of the neighbourhood according to the terms of this Bylaw is subject to a fine of \$237.20 (per Schedule M-22 to the Summary Offence Tickets Regulations, pursuant to Section 8 of Chapter 450 of the Summary Proceedings Act).

The enforcement body is the Town of Lunenburg's designated policing provider.

Repeal

14. By-Law No. 15, the By-Law Respecting Peace and Good Order, is hereby repealed.

Schedule "A"

Part 1: **Activities proscribed at all times:**

1. 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;
2. The operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to an improperly secured load or equipment or inadequate maintenance;
3. 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;
4. The discharge of firearms except when used as a signaling device in a sporting competition with blank ammunition;
5. The operation of any item of construction equipment in an area designated as a residential zone under the Land Use By-law without effective muffling devices in good working order and in constant operation;
6. The release of private fireworks and similar aerial pyrotechnics.

Part 2: **Activities proscribed on any day of the week before 7:00 a.m. or after 11:00 p.m.:**

1. The operation in the outdoors of any power tool for domestic purposes (including, without limiting the foregoing, lawn mowers) but not including snow removal equipment;
2. Yelling, shouting, hooting, whistling, singing or playing musical instruments that can be heard from a distance of 200 feet;
3. The operation of any public address system, television set, disc player, tape deck, D.V.D., phonograph, or radio or any similar device in a manner such that the sound from the equipment being operated is audible beyond the bounds of the property from which the noise is emitted;
4. Construction or the use or operation of construction equipment, except where such equipment is used or operated on any highway.

Part 3: Activities proscribed on a Monday, Tuesday, Wednesday, Thursday, or Friday before 7:00 a.m. or after 11:00 p.m.; on a Saturday before 8:00 a.m. or after 11:00 p.m.; and on a Sunday, Statutory Holiday or Remembrance Day at all times during any such day:

1. All selling or advertising by shouting or outcry or amplified sound.