

HALIFAX REGIONAL MUNICIPALITY

BY-LAW NUMBER N-200

RESPECTING NOISE

BE IT ENACTED by the Council of Halifax Regional Municipality as follows:

Short Title

1. This By-law shall be known as By-law Number N-200, and may be cited as the "Noise By-law".

Interpretation

2. In this By-law,
 - (a) "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 work in connection therewith; but does not include blasting;
 - (b) "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;
 - (c) "Council" means the Halifax Regional Council;
 - (d) "Motor vehicle" includes an automobile, motorcycle and any other vehicle propelled or driven otherwise than by muscular, gravitational or wind power; but does not include a motorized wheelchair or a car, locomotive or other motor vehicle running only upon rails; a motorized snow vehicle; traction engine; farm tractor; self-propelled implement of husbandry; or road-building machine within the meaning of the Motor Vehicle Act;
 - (e) "Point of reception" means any point on the premises of a person where sound, originating from other than those premises, is received;

- (f) "Property line" is an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but does not include intra-building real property divisions;
- (g) "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;
- (h) "recreational vehicle" means any motor vehicle which is designed to be, or intended to be, used other than on a public highway or on the surface of the water and includes, without limiting the generality of the foregoing, all-terrain vehicles, trail bikes and snowmobiles but does not include a motor home or travel trailer for the purposes of this By-Law;
- (i) "residential area" means an area of the Municipality zoned only for residential uses in accordance with the Land Use By-law;

General Prohibition

3. (1) No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood.

(2) Without limiting the generality of subsection (1), the activities listed in Schedule "A" during the prohibited times and places as set out therein are deemed to be activities that unreasonably disturb the peace and tranquillity of a neighbourhood.

(3) For the purpose of a prosecution pursuant to subsections (1) or (2), evidence that one neighbour is unreasonably disturbed by a noise is prima facie evidence that the neighbourhood is unreasonably disturbed by the noise.

Prescribed Exemptions

4. (1) Notwithstanding any other provisions of this By-law, it shall be lawful to emit or cause or permit the emission of sound in connection with emergency measures taken

- (a) for the immediate health, safety or welfare of the inhabitants or any of them;
- (b) for the preservation or restoration of property

unless such sound is clearly of a longer duration or more disturbing than is reasonable necessary for the accomplishment of such emergency purposes.

- (2) Notwithstanding any other provisions of this By-law, this By-law shall not apply to:
- (a) the days listed in Schedule “B”, the emission of sound in connection with any of the traditional, festive, religious or other activities listed therein; or
 - (b) the emission of sound in connection with any of the activities listed in Schedule “C”;
 - (c) employees, contractors, or agents of the Municipality, the Government of Canada, the Province of Nova Scotia, the Halifax Regional Water Commission, the Halifax-Dartmouth Bridge Commission, the Nova Scotia Power Corporation, and MTT and other telecommunication companies when those employees, contractors, or agents are acting in the reasonable execution of their duties, on condition that the employee, contractor or agent give 48 hours written notice prior to commencing the work, to the assessed owner or owners, as shown in the records of the Regional Assessment Office, of properties located within 100 feet of the property on which the work is to be carried out, provided however that such notice is not required in the event of an emergency;
 - (d) a person or a corporation, or an employee of such person or corporation, reasonably performing work at the request of any party enumerated in clause (c);
 - (e) noises in connection with athletic or recreational activities in municipal park areas, arenas or community centres until one o'clock in the forenoon;
 - (f) noises in relation to annual municipal festivals or municipal activities in municipal parks, municipal arenas or municipal community centres until one o'clock in the forenoon;
 - (g) noises in relation to municipal parades, street dances or other community activities until one o'clock in the forenoon;
 - (h) noises caused by motor vehicles being used for emergency purposes;
 - (I) noises emitted by municipal owned machinery or equipment when used in the normal course of providing municipal services;
 - (j) noises caused by motor vehicles or workmen engaged in the delivery of any type of fuel;
 - (k) noises emitted by audible pedestrian signals; and
 - (l) noises caused by air ambulances.

Local Exemptions

5. (1) The operation of any refrigeration unit which is attached to a refrigeration truck is exempt from the prohibitions in this By-Law if the refrigeration truck is parked directly in front of the Bedford Place Mall on the Bedford Highway side of the building, excluding parking at the sides and rear of the structure.

(2) The operation of any refrigeration unit which is attached to a refrigeration truck is also exempt from the prohibitions in this By-Law if the refrigeration truck is parked in the parking lot area which is bounded on the west by an imaginary line running along the portion of the Sobey's Warehouse Mall which forms the back walls of the Sobey's store and Wacky Wheatley's Carpet T.V. and Stereo outlet as of March, 1988, and bounded on the east by the western boundary of the Canadian National Railway right-of-way.

Grant Of Exemptions By Council

6. (1) 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 emission of noise for which that person might be prosecuted; and Council, by resolution, 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 the time period, not in excess of six months, during which the exemption shall be effective and the exemption shall be in written form and shall include such terms and conditions as Council deems appropriate.

(2) In deciding whether or not to grant an exemption, Council shall give consideration to the social or commercial benefit of the proposed activity to the municipality, the views of any residents of the municipality which may be expressed to Council, the proposed hours of operation of the proposed noise-emitting activity and the proposed duration of the subject activity.

(3) In deciding whether or not to grant an exemption, Council shall give the applicant, and any person opposed to the application, an opportunity to be heard during a Council Session and may consider such other matters as it deems appropriate.

(4) Notice of the time, date and purpose of the Council Session at which the hearing is proposed to take place shall be mailed to the assessed owner or owners as shown in the records of the Regional Assessment Office, of property located within 100 feet of the property which will be the subject of the hearing;

(5) Any alleged breach by the applicant of any of the terms or conditions of any exemption granted by Council, shall be investigated by municipal staff, reported to Council in writing and Council shall determine whether or not a breach has taken place. If a breach has taken place, Council may pass a resolution revoking the exemption, without the necessity of giving notice of rescinding motion, and such exemption shall be null and void as of the passing of such resolution.

Severability:

7. 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.

Offence and Penalty

8. Any person who violates any of the provisions of this By-law shall be guilty of an offence and shall, on summary conviction, be liable
1. for the first offence to a penalty of not less than Three Hundred Dollars (\$300.00) and of not more than ten thousand dollars (\$10,000.00) or imprisonment for a period of not more than one year or both, including the imposition of the minimum fine;
 2. for the second offence to a penalty of not less than Seven Hundred Dollars (\$700.00) and of not more than ten thousand dollars (\$10,000.00) or imprisonment for a period of not more than one year or both, including the imposition of a minimum fine;
 3. for the third offence or any subsequent offence to a penalty of not less than One Thousand Dollars (\$1,000.00) and of not more than ten thousand dollars (\$10,000.00) or imprisonment for a period of not more than one year or both, including the imposition of a minimum fine.

Repeal of By-laws, Regulations and Ordinances

9. Sections 3 and 10 of the County of Halifax By-law Number 8, Respecting Mischiefs and Nuisances, Town of Bedford By-law 22106, Respecting the Prohibition and Regulation of Certain Noises in the Town of Bedford, By-law Number N-200 of the City of Dartmouth, the Control of Noise By-law and Ordinance Number 113 of the City of Halifax, the Noise Ordinance and any amendments thereto are hereby repealed.

Done and passed in Council this 14th day of September, A.D., 1999.

Mayor

Municipal Clerk

I, Vi Carmichael, Clerk of the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Halifax Regional Council held on September 14, 1999.

Vi Carmichael, Municipal Clerk

Schedule "A"

Part 1

Activities that unreasonably disturb the peace and tranquillity of a neighbourhood throughout the whole Municipality, and at all times, where the sound resulting therefrom is audible at a point of reception.

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.

Part 2

Activities that unreasonably disturb the peace and tranquillity of a residential area, at the specified times, where the sound resulting therefrom is audible at a point of reception.

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| 1. | The detonation of fireworks or explosive devices not used in construction or quarrying; | At All Times |
| 2. | The discharge of firearms except when used as a signalling device in a sporting competition; | At All Times |
| 3. | The operation of a combustion engine which (I) is, or (ii) is used 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 or which is not a conveyance; | At All Times |
| 4. | The operation of a recreational vehicle within 100' of a residence except for reason of operation for the purpose of parking or storage on one's own property; | At All Times |
| 5. | Persistent barking, calling, whining or the making of any similar persistent noise-making by any animal; | At All Times |
| 6. | The operation of any refrigeration unit which is attached to a refrigeration trailer unless the refrigeration trailer is in motion; | B |
| 7. | The operation of a garborator, solid waste bulk lift, refuse compacting equipment or hydraulic dumpster associated with a commercial enterprise; | B |
| 8. | The operation in the outdoors of any power tool for domestic purposes other than snow removal; | A |

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| 9. | Yelling, shouting, hooting, whistling or singing; | A |
| 10. | The operation of a commercial car wash; | C |
| 11. | All selling or advertising by shouting or outcry or amplified sound; | B |
| 12. | The use or operation of any commercial snow removal, sanding, or salting equipment at the Bedford Place Mall rear parking lot which abuts Union Street, except for the purpose of keeping emergency lanes clear. | A |
| 13. | The operation of Sea-doo's and Ski-doo's within 100' of a residence except for the purpose of parking or storage on one's own property. | A |
| 14. | The maintenance or other repair of commercial vehicles outdoors, or in a building which is not fully enclosed in such a way as to prevent the escape of noise, if said operation is within 250 feet of a residential property, excepting the maintenance and repair of vehicles used in agricultural, fishing, forestry or mining operations on property devoted to those uses. | C |

Part 3

Activities originating from within a residential area that unreasonably disturb the peace and tranquility of a resident, at the specified times, where the sound resulting therefrom is audible at a point of reception.

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| 1. | 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 vehicle is stationary in a residential area unless: | At All Times |
| | (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; | |

- (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 and refuse compactors;
 - (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 where the vehicle is stationary for purposes of delivery or loading;
 - (d) prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine;
 - (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.
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2. The operation of any item of construction equipment in a residential area without effective muffling devices in good working order and in constant operation; At All Times

 3. The loading or unloading of any containers, products, materials or refuse with the exception of private household effects; A

 4. The use or operation of any commercial vacuuming equipment such as rug cleaning equipment; A

 5. The operation of any public address system, television set, disc player, tape deck, phonograph, or radio 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; A

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| 6. | The operation of any motorized conveyance other than on a street or other place intended for its operation; | A |
| 7. | The operation of any item of snow or ice making equipment; | A |
| 8. | The use or operation of construction equipment, except where such equipment is used or operated on any highways; | A |
| 9. | 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; | B |
| 10. | The operation of a power assisted hang glider or parafoil; | A |
| 11. | Construction and the operation of any equipment in connection with construction; | A |
| 12. | The operation of any powered rail car including but not limited to refrigeration cars, locomotives or self-propelled passenger cars, while stationery on property not owned or controlled by a railway governed by the Canada Railway Act. | A |

PROHIBITED TIMES:

- A - On a Monday, Tuesday, Wednesday, Thursday, or Friday until seven o'clock in the forenoon (7:00 a.m.) and after nine thirty o'clock in the afternoon (9:30 p.m.). On a Saturday until eight o'clock in the forenoon (8:00 a.m.) and after seven o'clock in the afternoon (7:00 p.m.). On a Sunday, Statutory Holiday or Remembrance Day until nine o'clock in the forenoon (9:00 a.m.) and after seven o'clock in the afternoon (7:00 p.m.).

- B - On a Monday, Tuesday, Wednesday, Thursday, or Friday until seven o'clock in the forenoon (7:00 a.m.) and after nine thirty o'clock in the afternoon (9:30 p.m.). On a Saturday until eight o'clock in the forenoon (8:00 a.m.) and after seven o'clock in the afternoon (7:00 p.m.). On a Sunday, Statutory Holiday or Remembrance Day at all times during any such day.
- C - eleven o'clock in the afternoon (11:00 p.m.) to seven o'clock (7:00 am) in the forenoon of the following day.
- D - All Day Sunday, Statutory and Civic Holidays and Remembrance Day.

NOTE: Any time specified in this Section shall mean Standard Time for the municipality or Daylight Savings Time during the period of time for which the same is declared to be in force in the municipality.

Schedule “B”

Canada Day

Natal Day

New Year’s Eve

Recognized Religious Holidays

Schedule “C”

Ringling of Bells at Places of Worship

Calls to Worship

Activities at Pits, Quarries or Mining Operations for which a permit has been issued by the Department of Environment which expressly regulates sound levels.

BY-LAW N-200

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| Notice of Motion: | June 22, 1999 |
| First Reading: | July 6, 1999 |
| “Notice of Intent” Publication: | July 31, 1999 |
| Second Reading: | September 14, 1999 |
| Approval of Minister of Housing and Municipal Affairs | N/A |
| Effective Date: | September 18, 1999 |

No. 1 - Amended by N-201

Clause (c) of subsection (2) of Section 4 of By-Law N-200 is repealed and replaced.

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| Notice of Motion: | March 27, 2001 |
| First Reading: | April 3, 2001 |
| “Notice of Intent” Publication: | April 7, 2001 |
| Second Reading: | April 24, 2001 |
| Approval of Minister of Housing and Municipal Affairs | N/A |
| Effective Date: | April 28, 2001 |

No. 2 - Amended by V-101

Amending Section 8

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| Notice of Motion: | August 19, 2003 |
| First Reading: | August 26, 2003 |
| “Notice of Public Hearing” Publication: | September 6, 2003 |
| Second Reading: | September 23, 2003 |
| Approval of Service Nova Scotia and Municipal Relations: | N/A |
| Effective Date: | September 27, 2003 |

No. 3 - Amended by N-203

Repeal of Section 8 and 9 and replace

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| Notice of Motion: | May 3, 2005 |
| First Reading: | May 10, 2005 |
| Notice of Public Hearing - Publication: | June 11, 2005 |
| Second Reading” | June 28, 2005 |
| Approval of Service Nova Scotia and Municipal Relations: | N/A |
| Effective Date: | July 2, 2005 |

No. 4 - Amended by N-204

Amendment to Part 2 of Schedule A

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| Notice of Motion: | May 17, 2005 |
| First Reading: | May 24, 2005 |
| Notice of Public Hearing - Publication: | June 11, 2005 |
| Second Reading: | June 28, 2005 |
| Approval of Service Nova Scotia and Municipal Relations: | N/A |
| Effective Date: | July 9, 2005 |