

**MUNICIPALITY OF THE DISTRICT OF CLARE**

**NOISE BY-LAW**

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# MUNICIPALITY OF THE DISTRICT OF CLARE

## NOISE BY-LAW

This By-Law is enacted by the Municipality of the District of Clare, under authority vested in the *Municipal Government Act*, and is intended to establish acceptable standards for sound and noise so as to encourage respect for others' privacy and their right to enjoyment of property and life.

### 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, chainsaws, wood splitters and other material handling equipment;
- (3) "**Emergency response personnel**" includes police, fire departments 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, except a motorized wheelchair, a vehicle running only upon rails, a farm tractor and an off-highway vehicle as defined from time to time in the *Off-Highway Vehicles Act*;

- (5) **“Point of reception”** means any point on premises containing a dwelling unit, also any commercial and/or institution use 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, amplified telephone or other device, microphone, turntable, reproducer, receiver or turner, where such equipment is part of a system used to reproduce or amplify sound;
- (7) **“Recreational vehicle or boat”** means an off-highway vehicle as defined in the *Off-Highway Vehicles Act* and any motorized water-craft except a commercial fishing boat or a boat used as a ferry or in a commercial enterprise.

### **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. Evidence that one neighbour is unreasonably disturbed by a noise is enough evidence to prove that the neighbourhood is unreasonably disturbed by the noise, unless the person generating the noise can prove that the noise is not unreasonable.
4. Without limiting the generality of section 3, the activities or noises listed in Schedule “A” 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 can be heard 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 scheduled to be carried out for a specific period of time.

- (2) the emission of sound 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 Corporation, and telecommunication companies and their contractors and employees when acting in the reasonable execution of their duties between 7:00 a.m. and 9:00 p.m.
- (4) noises in connection with organized athletic or recreational activities in municipal or public park areas, arenas or community centres between 7:00 a.m. and 11:00 p.m.
- (5) noises from the organized and scheduled activities and events of festivals, parades, street dances, rallies, or other community activities funded, sponsored or licensed by the Federal or Provincial government or the Municipality of the District of Clare.
- (6) noises emitted by can be heard pedestrian signals.
- (7) noises resulting from the operation of any refrigeration unit which is attached to a refrigeration truck if the refrigeration truck is parked within **30 metres** of a dwelling and any commercial and/or institutional use.
- (8) noises from the operation of off-highway vehicles at sites designated for that purpose and;
- (9) fuel powered electric generators operated during power outages or emergencies.

### **Grant of Exemption 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 a residential, 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 any exemption of lesser effect. Any exemption so granted shall:
  - (1) specify a time period of not greater than 10 years during which the exemption shall be effective;
  - (2) shall be confirmed in writing by the CAO and/or the By-Law Enforcement Officer 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 7 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 a 7 day 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. 14 days notice of time, date and purpose of a public hearing pursuant to section 9, 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 in a local newspaper.
11. Any contravention of the terms or conditions of an exemption pursuant to section 7 shall constitute a contravention of this By-Law. In addition to any other available remedies for such contravention the CAO and/or By-Law Enforcement Officer may on reasonable and probable grounds, without a hearing, suspend an exemption for a period of up to 30 days pending Council review of the exemption.
12. Any exemption pursuant to section 7 shall be reviewable by Council at any time upon 7 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 8, without giving notice to adjacent owners in accordance with section 10.

## Penalties

13. Any person who contravenes any provision of this By-Law is punishable on summary conviction and is liable to a penalty as set out by Policy of Council in section 13(5) of this By-Law, and:

- (1) each event that constitutes a violation of this By-Law is a separate offense, and if a violation is a continuing one, each day during which the sound or noise continues constitutes a separate offence.
- (2) all penalties shall be paid to the office of the Municipality of the District of Clare.
- (3) if payment in full of the penalty is not received by the Municipality of the District of Clare within a period of fourteen (14) days from the date of the notice, the notice shall be filed with the court for enforcement.
- (4) the Municipality may, at its sole discretion, issue a verbal or written warning for a first offence rather than immediately imposing a fine.
- (5) Penalties:

<b>SECTION</b>	<b>OFFENCE</b>	<b>PENALTY</b>
3 or 4	FIRST OFFENCE	\$200
3 or 4	SECOND OFFENCE	\$350
3 or 4	THIRD OFFENCE OR ANY SUBSEQUENT OFFENCE	\$500

## Schedule "A"

PART 1: The activities or noises listed below 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 can be heard 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.
4. The detonation of fireworks or explosive devices not used in construction or quarrying within proximity to businesses or residences, when there has been a prior complaint or issue.
5. The discharge of firearms except when used:
  - (1) as a signaling device in a sporting competition;
  - (2) for lawful hunting purposes, away from residential and commercial areas.
6. 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 unless:
  - (1) 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;
  - (2) 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;
  - (3) 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;
  - (4) prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine;
7. The operation of any item of construction equipment in a residential area without effective muffling devices in a good working order and in constant operation.

PART 2: Activities prohibited before 7:00 a.m. and after 11:00 p.m., only if the sound resulting from the activity can be heard at a point of reception and disturbs the peace:

1. The operation in the outdoors of any power tool for domestic purposes other than snow removal or gardening.
2. Yelling, shouting, loud singing or playing musical instruments.
3. The loading or unloading of any containers, products materials or refuse with the exception of private household effects.
4. The use or operation of any commercial vacuuming equipment such as rug cleaning equipment.
5. The operation of any public-address system, amplified telephone, television set, disc player, tape deck, phonograph, or radio in a manner such that the sound from the equipment being operated can be heard beyond the bounds of the property from which the noise is emitted.
6. The operation of any motorized conveyance other than on a street or other place intended for its operation.
7. The use or operation of construction equipment, except where such equipment is used or operated on any highways.
8. Construction and the operation of any equipment in connection with construction.