

ORDERLY AND PEACEFUL CONDUCT BYLAW

BE IT ENACTED by the Council of the Municipality of the District of Digby is as follows:

Short Title

1. This Bylaw shall be known as ***Orderly and Peaceful Conduct Bylaw*** and may be cited as the "*Orderly Conduct Bylaw*" or "*Noise Bylaw*".

Interpretation

2. In this Bylaw,

- (b) "**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, laying of pipe or conduit whether above or below ground level, working with concrete, alteration or installation of any equipment, 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.
- (c) "**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, jack hammers and rotary drills, rock crushers and grinders, tractors, excavators, trenchers, cranes, derricks, loaders, backhoes, scrapers, pavers, generators, off-highway haulers or trucks, tree harvesters, ditchers, compactors and rollers, pumps, concrete mixers, graders and other material handling equipment.
- (d) "**Council**" means the Council of the Municipality of the District of Digby.
- (e) "**Loiter**" means to stand idly around or move slowly about or to linger or spend time idly or to impede the passage of other persons so as to create a nuisance to the general public and/or to the owner or operator of the property.
- (f) "**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.

- (g) **“Municipality”** means the Municipality of the District of Digby.
- (h) **"Point of reception"** means any point on the premises of a person where sound, originating from other than those premises, is received.
- (i) **"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.
- (j) **“Unruly”** means offensive or anti-social behaviour including yelling or shouting or causing loud noises in other manners, use of profane language, verbal or physical aggression or spitting.

General Prohibition

- 3. No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of the municipality or any portion of it.
- 4. Without limiting the generality of section 3, the activities or noises listed in schedule “A” during the prescribed times as set out therein are deemed to be activities which are likely to generate noise or sound that unreasonably disturbs the peace and tranquillity of a neighbourhood if the sound resulting from the activity is audible at the point of reception.
- 5. No person shall generate, or cause or permit to be generated, a noise or sound that is measurable in A-weighted sound pressure level at a point of reception.
 - a. In excess of 55 dBA, before 7:00 am or after 10:00 pm.;
 - b. In excess of 65 dBA, at all other times.
- 6. No person shall loiter in the Municipality as described as follows:
 - a. No person shall loiter on or around the steps or entrances of any buildings in the Municipality.
 - b. No person shall loiter on or around any roads, streets or sidewalks in the Municipality.
- 7. No person shall engage in any unruly conduct that unreasonably interferes with the lawful use and enjoyment of a public place by other persons, and in addition:

- a. No person shall light or have a fire in a public place unless authorized by the owner or operator of the property.
 - b. No person shall camp or tent in a public place unless authorized by the owner or operator of the property.
 - c. No person shall sleep in a public place after dark unless authorized by the owner or operator of the property.
 - d. No person shall engage in begging in a public place.
 - e. No person shall litter or deposit or leave waste in a public place except in a designate waste receptacle.
 - f. No person shall deface damage or destroy municipal property in a public place, and in addition, to any penalty levied after prosecution for contravention of this provision, the Municipality may recover the expense incurred in repairing the damage, together with costs and pre-judgement interest, by action in any court of competent jurisdiction.
8. For the purposes of this bylaw, the following locations are designated as public places:
- a. Property owned or operated by the Municipality.
 - b. Property owned or operated by a community or not-for-profit organization.
 - c. Property owned or operated by a municipal, provincial or federal agency or department and associated organizations.
9. For the purpose of a prosecution pursuant to subsections (3) 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

10. Notwithstanding any other provisions of this Bylaw, it shall be lawful to emit or cause or permit the emission of sound in connection with emergency measures undertaken:
- a. For the immediate health, safety and/or welfare of the inhabitants of the Municipality.
 - b. Emergency response personnel engaged in the execution of their emergency response duties.
 - c. Persons acting at the request of emergency response personnel during an actual or apparent emergency condition.
 - d. For the preservation or restoration of property unless such sound is clearly of a longer duration or more disturbing than is reasonably necessary for the accomplishment of such emergency purposes.

And, without limiting the generality of the foregoing, noises caused by emergency response vehicles and air ambulances are specifically exempt from prosecution.

11. Notwithstanding any other provisions of this Bylaw, this Bylaw shall not apply to:
 - a. The emission of sound in connection with any of the traditional, festive, religious or other activities normally associated with the celebration of:
 - i. Canada Day
 - ii. Natal Day
 - iii. New Year's Eve or
 - iv. Recognized religious holidays, including parades permitted by law.
 - b. The emission of sound in connection with any of the following activities:
 - i. Ringing of bells at places of worship.
 - ii. Calls to worship.
 - iii. Ringing of bells at schools and education centers.
 - c. Activities of employees of the Municipality or any public utility or public telecommunications company including Nova Scotia Power Inc. and Maritime Tel & Tel, when acting in the reasonable execution of their duties to maintain, repair or restore services normally provided by them.
 - 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 between 7:00 a.m. and 1:00 a.m.
 - f. Noises in relation to annual municipal festivals or municipal activities in municipal parks, municipal arenas or municipal community centres until 1:00 a.m.
 - g. Noises in relation to municipal parades, street dances or other community activities until 1:00 a.m.
 - h. Noises emitted by municipal owned machinery or equipment when used in the normal course of providing municipal services.
 - i. Noises caused by motor vehicles or workmen engaged in the delivery of any type of fuel.
 - j. Noises emitted by audible pedestrian signals.
 - k. Detonation of personal fireworks not exceeding 55 dBA until 11:00 p.m.

Local Exemptions

12. The operation of any refrigeration unit which is attached to a refrigeration truck is exempt from the prohibitions in this Bylaw if the refrigeration truck is parked in an approved area pursuant to one of the County's land-use bylaws.
13. The operation of any refrigeration unit which is attached to a refrigeration truck is also exempt from the prohibitions in this Bylaw if the refrigeration

truck is parked on private property, the owner of which has granted approval and does not disturb the peace and quiet of persons in any adjacent residence.

Grant of Exemptions by Council

14. Notwithstanding anything contained in this Bylaw, any person may make application to Council to be granted an exemption from any of the provisions of this Bylaw 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:
 - a. specify the time period, not in excess of six months, during which the exemption shall be effective; and
 - b. The exemption shall be in written form issued by the Chief Administrative Officer; and
 - c. Shall include such terms and conditions as Council deems appropriate.
15. In deciding whether or not to grant an exemption, or in determining terms and conditions of the exemption the Council shall give consideration to:
 - a. The social or commercial benefit of the proposed activity to the municipality.
 - b. The views of any residents of the municipality which may be expressed to Council.
 - c. The proposed hours of operation of the proposed noise-emitting activity and the proposed duration of the subject activity.
16. Before 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 designated Council Session and may consider such other matters as it deems appropriate.
17. 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 300 metres of the property which will be the subject of the hearing.
18. 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 17, 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 the Council shall give the applicant and any person interested in application an opportunity to be heard.
19. Any person(s), company or organization applying for an exemption under this Section, must pay an application fee of fifty dollars (\$50.00) which can be waived by Council.

20. 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.
21. Any exemption pursuant to section 14 shall be reviewable by Council at any time upon 14 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 15, without giving notice to adjacent owners in accordance with section 18.

Severability:

22. If a court of competent jurisdiction should declare any section or part of a section of this Bylaw 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 Bylaw and it is hereby declared that the remainder of the Bylaw shall be valid and shall remain in force. Each day is a separate and new offence.

Offence and Penalty

23. Any person who violates any section of this Bylaw is guilty of an offence and shall, on summary conviction be liable to a fine of not less than one hundred dollars (\$100) and not more than one thousand dollar (\$1,000) or imprisonment for a period of not more than ninety (90) days, including the imposition of a minimum fine. Each event that constitutes a violation of this Bylaw is a separate offence; and if a violation is a continuing one, each day during which it continues constitutes a separate offence.

Amendments to Schedule "A"

24. The Municipality may amend Schedule "A" from time to time by resolution of Council.

Repeal of Bylaws, Regulations and Ordinances

25. Chapter X Preservation of Property, XI Peace, Order, Mischief and Nuisances are hereby repealed.

Certification

This is to certify that the foregoing is a true copy of a Bylaw passed at a duly convened meeting of the Council of the Municipality of the District of Digby, held the 25th day of October, 2004.

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Given under the hands of the Warden and Chief Administrative Officer and the seal of the Municipality of the District of Digby this 28th day of October, 2004.

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James R. Thurber, Warden _____ Brian Cullen,
_____ C Brian _____ Cullen, _____ Chief
Administrative Officer

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FIRST READING APRIL
~~28~~SEPTEMBER 27, 2003
"NOTICE OF INTENT" PUBLICATION OCTOBER 9TH, 2004
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HERALD)MAY 7, 2003
—**SECOND ADVERTISEMENT** OCTOBER 20TH,
2004MAY 14, 2003

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SECOND READING OCTOBER 25TH,
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MINISTERIAL APPROVAL NOT
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FORWARDED TO MINISTER NOVEMBER 3,
2004JUNE 20, 2003
DATE OF PUBLISHING _____ NOVEMBER 3, 2004

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 detonation of explosive devices not used in construction or quarrying;
5. The discharge of firearms except when legally hunting or used as a signaling device in a sporting competition;
- ~~6. The operation of a recreational vehicle or boat within 150 meters of a dwelling unit without the consent of an adult occupant of the dwelling unit;~~
- ~~7.6.~~ Persistent barking, howling or other persistent noise-making by a dog or other animal owned or possessed by the occupant of premises;
- ~~8.7.~~ 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:

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- 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.

9-8. The operation of any item of construction equipment in a residential area without effective muffling devices in good working order and in constant operation;

Part 2: Activities proscribed on a Monday, Tuesday, Wednesday, Thursday, or Friday before 7:00 a.m. or after 10:00 p.m.; on a Saturday before 8:00 a.m. and after ~~10:00~~7:00 p.m.; and on a Sunday, Statutory Holiday or Remembrance Day before 9:00 a.m. and after ~~7:00~~9:00 p.m.:

- 1. The operation in the outdoors of any power tool for domestic purposes other than snow removal or gardening;
- 2. Unruly Behaviour., ~~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, 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;
6. The operation of any motorized conveyance other than on a street or other place intended for its operation;
7. The operation of snow or ice making equipment;
8. The use or operation of construction equipment, except where such equipment is used or operated on any highways;
9. The operation of a power assisted hang glider, parafoil or hot-air balloon;
10. Construction and the operation of any equipment in connection with construction;
11. 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.