

**TOWN OF STEWIACKE  
BY-LAW NUMBER 2009 - 19**

**1. Short Title**

This by-law may be cited as the “**Noise By-law**”

**2. Definitions**

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 related work, 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 Town of Stewiacke Council;
- d) “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 or emergency;
- e) “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 or a self-propelled implement of husbandry, and an off-highway vehicle as defined from time to time in the *Off-Highway Vehicles Act*;

- f) “point of reception” means any point on the premises, where sound, originating from other than premises, including other dwelling units, is received;
- 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; and
- h) “recreational vehicle” means an off-highway vehicle as defined in the *Off-Highway Vehicles Act*.

### **General Prohibition**

- 3. No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood.
- 4. Without limiting the generality of section 3, the activities listed in Schedule “A” during the prohibited times as set out therein are deemed to be activities that unreasonably disturb the peace and tranquility of a neighbourhood.
- 5. For the purpose of a prosecution pursuant to subsections (3) or (4), evidence that one neighbour is unreasonably disturbed by a noise is prima facie evidence that the neighbourhood is unreasonably disturbed by the noise.

### **Fixed Exemptions**

- 6. This by-law does not apply to:
  - a) emergency response personnel engaged in the execution of their emergency response duties; or
  - b) 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.

- 7. Notwithstanding any other provisions of this By-law, this By-law shall not apply to:
  - a. the emission of sounds in connection with any organized traditional, festive

or religious activity celebrating:

- i. Canada Day
  - ii. New Year's Eve; or
  - iii. Religious holidays;
- b.** The emission of sound in connection with calls to worship, ringing of bells at places of religious worship, or services of religious worship;
  - c.** Noise caused by the Town, 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 10:00 p.m. in the day.
  - d.** Noises in connection with organized athletic or recreational activities in municipal or public park areas, arenas or community centre's between 5:00 a.m. and midnight;
  - e.** 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, Provincial government or the Town;
  - f.** Noises emitted by audible pedestrian signals;
  - g.** Noises resulting from the operation of any refrigeration unit which is attached to a refrigeration truck if the refrigeration truck is parked; and
  - h.** Noises from the operation of off-highway vehicles.

### **Grant of Exemptions by Council**

- 8.** Any person may make application to Council to be granted an exception 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 any exemption of lesser effect. Any exemption so granted shall:
  - a.** Specify a time period of not greater than 6 months during which the exemption shall be effective;
  - b.** shall be confirmed in writing before becoming effective; and



**Penalty**

- 14. Any person who contravenes any provision of this By-law is punishable on summary conviction to a fine of not more than \$5,000.00 or imprisonment of not more than one year in default of payment thereof.

**Payment in Lieu of Prosecution**

- 15. Any person who is alleged to have violated this by-law and is given notice of the alleged violation, may pay a penalty in the amount of \$125.00 to an official designated by the Chief Administrative Officer, provided the said payment is made within a period of fourteen (14) days of the date of the notice and shall thereby avoid prosecution for that contravention.

<b>Annotations for Official Bylaw Book</b>	
Date of first reading:	<u><b>June 25, 2009</b></u>
Date of advertisement of Notice of Intent to Consider:	<u><b>July 3, 2009</b></u>
Date of second reading:	<u><b>August 20, 2009</b></u>
Date of advertisement of Passage of By-law:	<u><b>September 19, 2009</b></u>
Date of mailing to Minister a certified copy of By-law:	<u><b>September 21, 2009</b></u>
<p>I certify that this <i><b>By-law to Repeal By-law</b></i> was adopted by Council and published as indicated above.</p>	
_____ CAO / Clerk	_____ Date

## **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, clanging, 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;
5. the discharge of firearms except when used as a signaling device in a sporting competition;
6. 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; and
7. 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 or Thursday before 6:00 a.m. or after 12:00 a.m.; on a Friday or Saturday before 7:00 a.m. and after 2:00 a.m. and on a Sunday, Statutory Holiday or Remembrance Day, before 8:00 a.m. and after 12:00 a.m..**

1. The operation, in the outdoors, of any power tool for domestic purposes other than snow removal or gardening;
2. yelling, shouting, hooting, whistling, singing or playing musical instruments;
3. the loading or unloading of any containers, products, material or refuse with the exception of private household effects; and
4. the operation of any public address system, television set, disc player, tape deck 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.