

BE IT RESOLVED that the following be and the same is hereby adopted and enacted as a By-Law of the Town of Shelburne under the authority of Bill of the Acts of Nova Scotia Provincial Legislation, when and if the same received the approval of the Minister of Municipal Affairs, and that the Town Clerk be, and is hereby, instructed to forward this By-Law to the Minister and request his approval hereof.

CHAPTER 160
NOISE BY-LAW

A By-Law respecting the prohibition and regulation of certain noises in the Town of Shelburne.

1. This By- Law shall be known as, and may be cited as, the “NOISE BY-LAW”.

Definitions

2. In this By-Law, words take their ordinary dictionary meaning other than those defined below:
 - 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, alternation 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;
 - 2) “Council” means the Town Council of the Town of Shelburne;
 - 3) “heavy construction equipment” means all items of equipment used in excavating or earth moving aspects of construction and, without limiting the generality of the foregoing, shall include compressors, air tracks, hydraulic breakers, excavators, dozers, front end loaders, back hoes and compactors, rock drilling equipment or rock breaking equipment;
 - 4) “light construction equipment” means equipment normally used in construction and being other than heavy construction equipment as defined herein;
 - 5) “motor vehicle” includes an automobile, a motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include a motorized wheelchair;
 - 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;

- 7) “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 motorhome or travel trailer for the purposes of this By-Law;
- 8) “Town” means the Town of Shelburne.

Prohibitions

3.
 - 1) No person shall, within the Town boundaries, make, cause or permit noise from activities listed in Schedule “A” during the prohibited times as set out in that Schedule;
 - 2) No owner or occupier of real property, within the Town boundaries, shall allow such real property to be used in a manner, which makes, causes, or permits noise from activities listed in Schedule “A” during the prohibited times as set out in that Schedule.
4. Any time specified in this section shall mean Standard Time for the Town or Daylight Savings Time during the period of time for which the same is declared to be in force in the Town.

Exemptions

5. This By-Law does not apply to the following:
 - 1) employees of the Town, Municipality of the District of Shelburne, Government of Canada, Province of Nova Scotia, Shelburne Public Service Commission, the Nova Scotia Power or Maritime Tel and Tel, when those employees are acting in the reasonable execution of their duties;
 - 2) a person or a corporation, or an employee of such person or corporation, reasonably performing work at the request of any party enumerated in 5(1) above;
 - 3) noises in connection with athletic or recreational activities in municipal park area, arenas or community centers until one o’clock in the forenoon (1am);
 - 4) noises in relation to parades, street dances, or other community activities until one o’clock in the forenoon (1am);
 - 5) noises caused by motor vehicles being used for emergency purposes;
 - 6) noises emitted by Town-owned machinery or equipment when used in the normal course of providing Town services;

- 7) noises emitted from any business, if such noise is one of the following classes of noise:
 - a) a refrigeration unit which is attached to a refrigeration trailer; or
 - b) a garburator, solid waste bulk lift, refuse compacting equipment or hydraulic dumpster; or
 - c) any noise arising from the normal operation of the business.
 - 8) noises caused by motor vehicles or workmen engaged in the delivery of any type of fuel.
6. Notwithstanding any other provision of this By-Law, it shall be lawful to emit or cause or permit the emission of noise in connection with emergency measures undertaken:
- 1) for the immediate health, safety or welfare of the inhabitants or any of them; or
 - 2) for the preservation of property.

Criminal Code

7. Notwithstanding anything else in this By-Law, any noise which is deemed by the police force of the Town as causing a disturbance, or otherwise violating the Criminal Code of Canada, will be handled as the police force deems appropriate under that federal legislation.
8.
 - 1) In addition to the controls in this By-Law, unnecessary or unreasonably loud or harsh sounds by means of a horn or other warning device on a motor vehicle are controlled by means of Section 165 of the Motor Vehicle Act of Nova Scotia.
 - 2) In addition to controls in this By-Law, every motor vehicle must, at all times, be equipped with a muffler in good working order and constant operation according to Section 169 of the Motor Vehicle Act of Nova Scotia.

Grant of Exemption by Council

9. 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 from 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 Town, the views of any residents of the Town, 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 be mailed to the assessed owner or owners as shown in the records of the Regional assessment Office, of property located within One Hundred (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 Town staff, reported to Council, in writing, and Council shall determine whether or not a breach has taken place, and if a breach has taken place, Council may pass a resolution revoking the exemption without the necessity of giving notice of a rescinding motion, and such exemption shall be null and void as of the passing of such resolution.

Severability

10. 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.

Penalty

11. Every person who contravenes any provision of this By-Law is guilty of an offense, and shall, upon conviction, be liable to a fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00) and, in default of payment, to imprisonment for a period of not less than fifteen (15) days and not more than ninety (90) days.

Effects

12. This By-Law shall have effect with respect to those noises emitted from within the Town boundaries only.

Repeal

13. Chapter ____ of the By-Laws of the Town entitled the “Noise By-Law” approved _____ is hereby repealed.

THIS IS TO CERTIFY that the By-Law, of which the foregoing is a true copy, was duly passed at a duly called meeting of the Council of the Town of Shelburne duly held on the 6th day of August, A.D., 1996.

GIVEN under the hand of the Mayor and Town Clerk, and under the corporate seal of the Town of Shelburne this 24th day of September, A.D., 1996.

Mayor

Town Clerk

THIS IS TO CERTIFY that the By-Law, Amendment of which the foregoing is a true copy was passed at a duly called meeting of the Town Council of the Town of Shelburne held on the 7th day of April, A.D., 1999.

GIVEN under the hand of the Town Clerk, and under the corporate seal of the said Town this 13th day of April, A.D., 1999.

Town Clerk

SCHEDULE "A"

	TYPE OF ACTIVITY	PROHIBITED TIMES
1.	The operation of a recreational vehicle within 100' of a residence except for reasonable operation for the purposes of parking or storage on one's own property.	All
2.	The acceleration of a motor vehicle, which results in the squealing of the tires of that vehicle.	All
3.	The unnecessary idling of any internal combustion engine.	All
4.	The operation of any internal combustion engine, other than in a motor vehicle as defined in the Motor vehicle Act of Nova Scotia, without effective muffling devices in good working order and in constant operation, provided the engine when new, was designed and equipped for such device (refer to subsection 10(2) of this By-Law regarding motor vehicle mufflers)	All
5.	The operation of any public address system, television set, compact disc player, tape deck, or radio, in a manner such that the sound from the equipment being operated is audible beyond the boundaries of the property from which the noise is emitted.	All
6.	Persistent barking, whining, or the making of any similar noise by any domestic pet.	All
7.	The operation of any refrigeration unit which is attached to a refrigeration trailer unless the refrigeration trailer is in motion.	A
8.	The operation of any garburator, solid waste bulk lift, refuse compacting equipment or hydraulic dumpster associated with a commercial enterprises.	A
9.	The loading or unloading of any containers, products, materials or refuse with the exception of private household effects.	A
10.	The operation in the outdoors of any power tool for domestic purposes other than snow removal.	A
11.	The operation of any internal combustion engine which is used in, or is intended for use in, a toy or model or replica of any device and which toy, model or replica is not a conveyance.	A
12.	The use or operation of light construction equipment, except when such equipment is used or operated on any of highway numbered 103,3	A
13.	The use or operation of any commercial vacuuming equipment such as rug cleaning equipment.	A
14.	The use or operation of a skateboard within 100' of a residence.	A
15.	The use or operation of heavy construction equipment, except when such equipment is used or operated on highway number 103, 3.	B
16.	The operation, or the causing to be operated, of any public address system, television, compact disc player, tape deck, radio, or other device or apparatus, whether operating electrically, mechanically or in any other way whatsoever, whether moveable or stationary, which reproduces, amplifies, emits or transmits sounds which are capable of being heard in any street or public place or in any building used wholly or in part as a dwelling, other than the place in which such public address system,	All

	television, compact disc player, tape deck, radio, or other device or apparatus is located, irrespective of whether such public address system, television, compact disc player, tape deck, radio or other device or apparatus is located in a motor vehicle.	
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Prohibited Times

- All - At all times of the day or night on any day.

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

- B - On a Monday, Tuesday, Wednesday, Thursday, or Friday until seven o'clock in the forenoon (7:00am). And after nine thirty o'clock in the afternoon (9:30pm). On a Saturday until eight o'clock in the forenoon (8:00 am) and after seven o'clock in the afternoon (7:00pm). On a Sunday, Statutory Holiday or Remembrance Day at all time during any such day.