

THE MUNICIPALITY OF THE COUNTY OF KINGS

BY-LAW NO. 84

NOISE CONTROL BY-LAW

The Council of the Municipality of the County of Kings under the authority vested in it by the Municipal Government Act, Section 172 (1) (d), does hereby enact as follows:

1. This Bylaw shall be known as the Noise Control By-law.
2. This By-law shall apply within the boundaries of the Village of New Minas.
3. In this Bylaw:
 - (1) "A-Weighted Continuous Noise Level" and "dBA" both have the meaning used in the Ontario Municipal Model Noise Code (1978) and are more specifically defined in Appendix "A".
 - (2) "Dwelling Unit" means living quarters that
 - (i) are accessible from a private entrance, either outside the building or in a common area within the building;
 - (ii) are occupied or, if unoccupied, are reasonably fit for occupancy;
 - (iii) contain kitchen facilities within the unit, and
 - (iv) have toilet facilities that are not shared with the occupants of other dwelling units.
 - (3) "Occupier" means:
 - (a) A person who is in possession of dwelling unit, or
 - (b) A person who has responsibility and control over the condition of dwelling unit or the activities there carried on.

notwithstanding that there is more than one occupier of the same dwelling unit
 - (4) "Sound System" shall include a public address system, phonograph, gramophone, radio, cassette tape player, compact disc player, computer or computer accessory, loud speaker, microphone, or any other device or apparatus, whether operated electrically, mechanically or in any other way whatsoever, whether movable or stationary, whether located inside or outside a dwelling unit or motor vehicle, that reproduces, amplifies, emits, or transmits sounds.
 - (5) "Municipality" means the Municipality of the County of Kings.

4. The following acts, among others are hereby declared to be noises which disturb or tend to disturb the peace and tranquility of the Village of New Minas or any portion of it;

(1) Making any noise or combination of noises which, when measured on the property or at a boundary line of the property on which the noise is heard or the noises are heard, exceeds the applicable A-weighted continuous noise level as follows:

Time	Residential Property	Commercial and Institutional Property
7:00 a.m. - 10:00 p.m.		55 dBA - 65 dBA
10:00 p.m. - 7:00 a.m.	45 dBA	55 dBA

(2) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor boat, except through a muffler or other device which will effectively prevent loud or explosive noises from it;

(3) The operation of any noise-creating blower power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operation gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to attenuate such noise and the device is operated between the hours of 8 a.m. and 8 p.m.

5. (1) No person shall engage in any activity which disturbs or tends to disturb the peace and tranquility of a neighbourhood to which this bylaw applies.

(2) Without limiting the generality of Subsection (1), no person shall operate or cause or permit to be operated any sound system at such a level that the resulting sound is heard in a dwelling unit, other than the dwelling unit in which the sound system in question is located.

(3) Without limiting the generality of Subsection (1), no person shall by

- (a) fighting
- (b) screaming
- (c) shouting, or
- (d) singing;

cause any loud and unnecessary noise, the sounds of which are heard on another property or at a boundary line of the other property, or in a dwelling unit other than the dwelling unit in which the noise is generated.

(4) In a prosecution for a violation of the Bylaw, evidence that one person is disturbed or offended is prima facie evidence that the public or the neighbourhood is disturbed or offended.

6. (1) No occupier shall allow or permit to occur in the dwelling unit of which that person is the occupier, any activity prohibited by Section 4 above.

- (2) It is a defense to a charge under this section that there was another occupier who had a greater right of possession or greater responsibility and control over the dwelling unit in question at the time of the prohibited activity.

7. This By-Law does not apply to the following:

- (1) Employees of the Village of New Minas or the Municipality, the Government of Canada, the Province of Nova Scotia, Nova Scotia Power or Maritime Tel and Tel when those employees are acting in the reasonable execution of their duties;
- (2) Noises emitted by machinery or equipment when used under the provisions of (1) above,
- (3) A person or a corporation, or an employee of such persons or corporation, reasonably performing work at the request of any party described in (1) above;
- (4) Noise emitted by machinery or equipment used in snow removal and snow clearing operations to provide safe and unimpeded access to and egress from health care and health service facilities, where the responsible health care provider has concluded that such operations must be carried out at that time.
- (5) Noises in connection with athletic, recreational or school activities in arenas, playing fields, courts, school grounds or in park areas between the hours of 7 a.m. and 11 p.m.;
- (6) Noises in relation to religious activities between the hours of 7 a.m. and 11 p.m.;
- (7) Noises in relation to parades, street dances, or other community activities between the hours of 7 a.m. and 11 p.m. subject to permission having been granted under Section 8 of this By-Law;
- (8) (a) The regulation of any loud and unnecessary noise in or from the engine, exhaust system, braking system, or from the contact of the tires with the roadway, by a motor vehicle from starting, driving, turning, stopping, or accelerating;
- (b) The regulation, registration, licensing or identification of vehicles, or the use of the highway by such vehicles,

both categories of which are within the jurisdiction of the Motor Vehicle Act.

8. Notwithstanding any other provision of this By-Law, it is lawful to emit or cause or permit the emission of noise in connection with:

- (1) Emergency measures undertaken for the immediate health, safety and welfare, or any of them, of the inhabitants of the Municipality or Village;
- (2) Emergency measures undertaken for the preservation of property;

- (3) Construction activities between the hours of 8 a.m. and 8 p.m. for which a Building Permit has been issued by the Municipality;
 - (4) Agricultural activities carried on by a farm operation.
9. An exemption from the application of this bylaw may be considered or may not be considered by the Municipal Council as it deems appropriate prior to the contemplated activity commencing. In those cases where an exemption is to be considered the following terms shall apply:
 - (1) Notwithstanding anything contained in this Bylaw, any person may make application to the 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. The Council may refuse to grant any exemption applied for or may grant the exemption applied for or any exemption of lesser effect. 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 the Council deems appropriate.
 - (2) In deciding whether or not to grant an exemption, the Council shall give consideration to the social or commercial benefit of the proposed activity, the views of any residents which may be expressed concerning the request, the proposed hours of operation of the proposed noise making activity, the proposed duration of the subject activity and the level of noise anticipated to be generated by the activity. Prior to making a decision concerning an exemption application, Council shall request a report and recommendation from the Village of New Minas.
 - (3) In those cases where an exemption is granted, the Council may revoke the exemption if it believes that a breach of same has occurred.
 - (4) Any alleged breach by the applicant of any of the terms or conditions of any exemption granted by the Council shall be investigated by staff and reported to the Council in writing. The Council shall determine whether or not a breach has taken place and where it determines that a breach has taken place as much as five (5) days may be allowed for ceasing the activity.
10. Every person who contravenes any of the provisions of the By-Law is guilty of an offence and shall, on summary conviction be liable to a fine of not less than fifty dollars (\$50.00) and not more than two hundred dollars (\$200.00), and in default of payment to imprisonment for a period not exceeding sixty (60) days.

Appendix "A"

"A-weighting" is the frequency weighting characteristic as specified in IEC 123 or IEC 179 and intended to approximate the relative sensitivity of the normal human ear to different frequencies (itches) of sound.

The "A-weighted sound pressure level" is the sound pressure level modified by application of the A-weighting. It is measured in A-weighted decibels, denoted dBA.