

MUNICIPALITY OF THE COUNTY OF ANNAPOLIS

S5 ORDERLY AND PEACEFUL CONDUCT BYLAW

BE IT ENACTED by the Council of the Municipality of the County of Annapolis as follows:

Short Title

1. This Bylaw shall be known as *S5 Orderly and Peaceful Conduct Bylaw* and may be cited as the "*Orderly Conduct Bylaw*".

Interpretation

2. In this Bylaw,
 - (a) **"begging"** means soliciting or requesting a donation and includes providing a service without receiving prior consent in the expectation or hope of obtaining a donation or payment for that service; however, passive begging activities (such as busker-type activities) and fundraising activities for non-profit organizations, sports associations and community groups are exempted.
 - (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, 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 County of Annapolis.
 - (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 County of Annapolis.
- (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) **"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 motor home or travel trailer for the purposes of this Bylaw.
- (k) **“unruly”** means offensive or anti-social behaviour including *inter alia*, yelling or shouting or causing loud noises in other manners, use of profane language, verbal or physical aggression or spitting.

General Prohibition

- 3. (1) No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood.
- (2) 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.
- (3) 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.

- (4) 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.
- (5) Without limiting the generality of subsection (1), 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 tranquillity of a neighbourhood.
- (6) For the purpose of a prosecution pursuant to subsections (1) or (4), evidence that one neighbour is unreasonably disturbed is prima facie evidence that the neighbourhood is unreasonably disturbed.

Prescribed Exemptions

- 4. (1) 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) 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.
- (2) 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 Canada Day, Natal Day, New Year's Eve or 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.
 - (iv) Activities at pits, quarries or mining operations for which a permit has been issued by the Department of Environment which expressly regulates sound levels and provided that the activity does not exceed the regulated levels specified in the permit.
 - (v) Approved activities at the Annapolis County Exhibition Grounds in Lawrencetown.
 - (vi) Approved activities at the Upper Clements Park in Upper Clements.
 - (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 until one o'clock in the forenoon.
- (f) Noises in relation to annual municipal festivals or municipal activities in municipal parks, municipal arenas or municipal community centres until one o'clock in the forenoon.
- (g) Noises in relation to municipal parades, street dances or other community activities until one o'clock in the forenoon.
- (h) Noises caused by motor vehicles being used for emergency purposes.
- (i) Noises emitted by municipal owned machinery or equipment when used in the normal course of providing municipal services.
- (j) Noises caused by motor vehicles or workmen engaged in the delivery of any type of fuel.
- (k) Noises emitted by audible pedestrian signals.
- (l) Noises caused by air ambulances.

Local Exemptions

- 5. (1) 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.
- (2) 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

- 6. (1) 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 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 municipality, the views of any residents of the municipality 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) 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.
- (4) 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.
- (5) 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.
- (6) 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.

Severability:

7. 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

8. 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.

Payment in Lieu of Prosecution

9. (1) A person who is alleged to have violated this bylaw 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, which official and place of payment shall be designated on the notice, provided that said payment is made within a period of fourteen (14) days following the day on which the alleged violation was committed and where the said notice so provides for payment in this manner, and such payment shall be in full satisfaction, releasing and discharging all penalties and imprisonments incurred by the person for said violation.
- (2) If a person violates the same provision of this Bylaw twice within one six month period, the minimum penalty for the second such violation is \$200.00.

Amendments to Schedule “A”

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

Repeal of Bylaws, Regulations and Ordinances

11. S5 Orderly Conduct Bylaw and any amendments thereto are hereby repealed.

Interpretation and Enforcement

12. The Chief Administrative Officer is designated as the person to enforce the bylaw. The Chief Administrative Officer can delegate enforcement authority to a Staff person or the Royal Canadian Mounted Police.

Amended by Council this **20th** day of **October** A.D., **2009**.

Jacquie Farrow-Lawrence

Jacquie Z. Farrow-Lawrence, CMC
Municipal Clerk

BYLAW S5

First Reading: February 19, 2002
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Amendments

First Reading: September 15, 2009
Final Reading: October 20, 2009
Publication Date: October 29, 2009

SCHEDULE A TO S5 ORDERLY & PEACEFUL CONDUCT BYLAW

Part 1

Where the sound resulting therefrom is audible at a point of reception, the following are activities that are deemed to unreasonably disturb the peace and tranquility of the neighbourhood at any time:

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
5. The discharge of firearms (except for signaling purposes in a sporting competition) within 100 metres of someone else's residence;
6. The operation of a recreational vehicle within 30 metres of a residence except for the purpose of parking or storage on one's own property, including but not limited to snowmobiles, all terrain vehicles, skidoos and seadoos;
7. 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
8. The operation of any mobile disc player, tape deck, phonograph, or radio in a manner such that the sound from the equipment being operated is audible beyond 30 metres from the device or apparatus.
9. The operation of any machinery, equipment or device that unreasonably disturbs the peace and tranquility of the neighbourhood.

SCHEDULE A TO S5 ORDERLY & PEACEFUL CONDUCT BYLAW

Part 2

Where the sound resulting therefrom is audible at a point of reception, activities that unreasonably disturb the peace and tranquility at specified times are as follows:

Activities	Prohibited Times
1. The operation of any refrigeration unit which is attached to a refrigeration trailer unless the refrigeration trailer is in motion;	Monday to Saturday: before 7:00 a.m. & after 9:30 p.m. Sunday/Statutory Holidays/Remembrance Day: At All Times
2. The operation of a garborator, solid waste bulk lift, refuse compacting equipment or hydraulic dumpster associated with a commercial enterprise;	Monday to Saturday: before 7:00 a.m. & after 9:30 p.m. Sunday/Statutory Holidays/Remembrance Day: At All Times
3. The operation in the outdoors of any power tool for domestic purposes other than snow removal unless consent is received from all owners at point of reception;	Monday to Saturday: before 7:00 a.m. & after 9:30 p.m. Sunday/Statutory Holidays/Remembrance Day: Before 9:00 a.m. and after 7:00 p.m.
4. The operation of tree harvesters unless consent is received from all owners residing at the point of reception.	Monday to Saturday: before 7:00 a.m. & after 9:30 p.m. Sunday/Statutory Holidays/Remembrance Day: Before 9:00 a.m. and after 7:00 p.m.
5. The use or operation of any commercial vacuuming equipment such as rug cleaning equipment;	Monday to Saturday before 7:00 a.m. & after 9:30 p.m. Sunday/Statutory Holidays/Remembrance Day: Before 9:00 a.m. and after 7:00 p.m.
6. Construction and the operation of any equipment in connection with construction unless consent is received from all owners at point of reception	Monday to Saturday: before 7:00 a.m. & after 9:30 p.m. Sunday/Statutory Holidays/Remembrance Day: Before 9:00 a.m. and after 7:00 p.m.
7. The operation of a commercial car wash;	Any Day: before 7:00 a.m. and after 9:30 p.m.

NOTE:

Any time specified in this Section shall mean Standard Time for the Municipality or Daylight Savings Time during the period of time for which the same is declared to be in force in the Municipality.