

Municipality of the County of Antigonish

A BY-LAW RESPECTING THE CONTROL OF NOISE

Title

1. This by-law shall be entitled the “Noise By-Law”.

Definition

2. 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) “**emergency response personnel**” includes police, fire departments or brigades, registered emergency services providers, search and rescue personnel, provincial, regional or municipal Emergency Management Organizations, ambulance or emergency health services providers and includes volunteer or military personnel responding to an apparent condition of emergency.
 - d) “**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*;
 - e) “**point of reception**” means any point on premises containing a dwelling unit or an institutional use as defined in the Land Use By-Law where sound, originating from other premises, including other dwelling units, is received;
 - f) “**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;
 - g) “**recreational vehicle or boat**” means an off-highway vehicle as defined in the *Off-Highway Vehicle Act* and any motorized water-craft except a commercial fishing boat or a boat used as a ferry or in a commercial enterprise.

Territorial Application

3. (1) This by-law applies in the Antigonish County Planning Area, as defined in the Municipal Planning Strategy adopted on March 26, 1996, and which is shown on the map annexed hereto as Schedule "A".
 - (2) For greater certainty:
 - a) noise generated within the said Planning Area that is audible beyond its limits is subject to this by-law; and
 - b) noise generated outside the said Planning Area that is audible within its limits is subject to this by-law.

Prohibition

- 4 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) at or in excess of 70 dBA, before 7:00 am or after 10:00 pm;
 - b) at or in excess of 90 dBA, at any other time.
- 5 (1) Notwithstanding section 4, no person shall engage in any activity which is likely to generate noise or sound that unreasonably disturbs the peace and tranquillity of a neighborhood, and, for the purpose of this section, evidence that one neighbor is unreasonably disturbed by noise is prima facie evidence that the neighborhood is unreasonably disturbed by the noise.
 - (2) Without limiting the generality of subsection (1), 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 neighborhood if the sound resulting from the activity is audible at a point of reception.

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 or proscribe:
 - 1) the emission of sound in connection with any organized traditional, festive or religious activity celebrating:
 - i Canada Day;
 - ii New Year's Eve; or
 - iii religious holidays.

- 2) the emission of sound in connection with calls to worship, ringing of bells at places of religious worship, or services of religious worship;
- 3) noise caused by the Municipality, 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 am and 10:00 pm in the day;
- 4) noises in connection with organized athletic or recreational activities in municipal or public park areas, arenas or community centres between 5:00 am and midnight;
- 5) 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 or Provincial government or the Municipality;
- 6) noises emitted by audible pedestrian signals.

Grant of Exemptions By Council

8. Any person may make application to Council to be granted an exemption 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 any exemption of lesser effect. Any exemption so granted shall:
 - a) specify a time period of not greater than 5 years during which the exemption shall be effective;
 - b) shall be confirmed in writing by the Clerk before becoming effective; and
 - c) shall include such terms and conditions as Council deems appropriate.
9. In deciding whether or not to grant an exemption under section 8 or in determining terms or conditions of the exemption, Council shall give consideration to:
 - a) the social or economic benefit of the proposed activity to the municipality;
 - b) the volume, nature, duration and consistency of noise emission from the proposed activity;
 - c) the proximity and nature of abutting or adjacent land uses;
 - d) the hours of operation of the proposed activity;
 - e) any other factor relevant to balancing the interests of the applicant in the proposed activity against the interests of those persons who might be disturbed by the proposed activity.
10. 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 11, 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 Council shall give the applicant and any person interested in the application an opportunity to be heard.
11. Seven days notice of the time, date and purpose of a public hearing pursuant to section 10 shall be mailed by the applicant to the assessed owner or owners, as shown in the records of the Assessment Office, of each property which contains a building located within 15 metres of the property which will be the subject of the hearing, except that where the exemption is sought for an outdoor event not conducted at a fixed location, notice may be given by advertisement, of not less than 25 square centimetres in size, in a local newspaper of mass circulation.

12. Any contravention of the terms or conditions of an exemption pursuant to section 8 shall constitute a contravention of this By-Law. In addition to any other available remedies for such contravention, the Clerk may on reasonable and probable grounds, without a hearing, suspend an exemption for a period of up to 30 days pending Council review of the exemption.
13. Any exemption pursuant to section 8 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 9 without giving notice to adjacent owners in accordance with section 11.

Penalty & Enforcement

14. Any person who contravenes any provision of this By-Law is punishable on summary conviction by a fine of not less than Five Hundred Dollars (**\$500.00**) and not more than Ten Thousand Dollars (**\$10,000.00**) and to imprisonment of not more than 30 days in default of payment thereof.
15. Any person who contravenes this By-Law and who is given notice of the contravention allowing payment in lieu of prosecution may pay to the Municipality at the place specified in the notice, the sum of Two Hundred & Fifty Dollars (**\$250.00**) within 14 days of the date of the notice and shall thereby avoid prosecution for the contravention.

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 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 combustion engine which is used in or intended for use in a toy or a model or replica of any device, which model or replica has no function other than amusement or which is not a conveyance;
- 7) The operation of a recreational vehicle or boat within 5 metres of a dwelling unit without the consent of an adult occupant of the dwelling unit;
- 8) Persistent barking, howling or other persistent noise-making by a dog or other animal owned or possessed by the occupant of premises;
- 9) 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:
 - 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.
- 10) 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 am or after 9:30 pm; on a Saturday before 8:00 am and after 7:00 pm; and on a Sunday, Statutory Holiday or Remembrance Day before 9:00 am and after 7:00 pm:

- 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, 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.

Part 3: Activities proscribed on a Monday, Tuesday, Wednesday, Thursday, or Friday before 7:00 am or after 9:30 pm; on a Saturday before 8:00 am and after 7:00 pm; and on a Sunday, Statutory Holiday or Remembrance Day at all times during any such day:

- 1) The operation of any refrigeration unit which is attached to a refrigeration trailer unless the refrigeration trailer is in motion;
- 2) The operation of a garborator, solid waste bulk lift, refuse compacting equipment or hydraulic dumpster associated with a commercial enterprise;
- 3) The operation of a commercial car wash;
- 4) All selling or advertising by shouting or outcry or amplified sound;
- 5) The venting, release or pressure relief of air, steam or other gaseous material, product or compound from any autoclave, boiler pressure vessel, pipe, valve, machine, device or system;

I CERTIFY this to be a true copy of “A By-Law Respecting the Control of Noise” as adopted on second reading by Council of the Municipality of the County of Antigonish at a meeting held on the 17th day of January, 2006.

Alan J. Bond
Clerk/Treasurer