



BY-LAW RESPECTING NOISE IN THE CAPE BRETON REGIONAL MUNICIPALITY

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BE IT ENACTED by the Council of the Cape Breton Regional Municipality as follows:

Short Title

1. This By-law shall be known and cited as the "Noise By-law".

Interpretation

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 work in connection therewith; 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) "Continuous Noise" means

- (i) uninterrupted noise for a period of time exceeding five minutes; or
- (ii) recurring noise having periods of interruption up to one hour in duration.

(d) "Council" means the Cape Breton Regional Council;

(e) "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;

(f) "Point of reception" means any point on the premises of a person where sound, originating from other than those premises, 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;

(h) "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, dirt bikes, moto-cross bikes and snowmobiles but does not include a motor home or travel trailer for the purposes of this By-Law;

(i) "resident" means a person residing in the Cape Breton Regional Municipality.

General Prohibitions

3. (1) No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace, comfort and tranquillity of a resident of the municipality.
- (2) Without limiting the generality of subsection (1), the activities listed in Schedule "A" during the prohibited times and places as set out therein are deemed to be activities that unreasonably disturb the peace, comfort and tranquillity of a resident.
- (3) For the purpose of a prosecution pursuant to subsection (1) or (2), evidence that one neighbor is unreasonably disturbed by a noise is *prima facie* evidence that the neighborhood is unreasonably disturbed by the noise.

Prescribed Exemptions

4. (1) Notwithstanding any other provisions of this By-law, it shall be lawful to emit or cause or permit the emission of sound in connection with emergency measures taken
 - (a) for the immediate health, safety or welfare of the inhabitants or any of them;
 - (b) for the preservation or restoration of propertyunless such sound is clearly of a longer duration or more disturbing than is reasonable necessary for the accomplishment of such emergency purposes.
- (2) Notwithstanding any other provisions of this By-law, this By-law shall not apply to:
 - (a) the days listed in Schedule "B", the emission of sound in connection with any of the traditional, festive, religious or other activities listed therein; or
 - (b) the emission of sound in connection with any of the activities listed in Schedule "C";
 - (c) employees of the Municipality, the Government of Canada, the Province of Nova Scotia, the Nova Scotia Power Corporation, MTT and other telecommunication companies when those employees are acting in the reasonable execution of their duties;
 - (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;

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- (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 fuel type
- (k) noises emitted by audible pedestrian signals; and
- (l) noises caused by air ambulances.

Grant Of Exemptions By Council

5. (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 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) 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 shall be mailed to the assessed owner or owners as shown in the records of the Regional Assessment Office, of property located within 1000 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 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.

Steering Committee:

6. A steering committee will be formed to review this by-law from time to time. Membership shall include 3 members of council and others appointed by the manager responsible for the by-law.

Severability:

7. 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 full force and effect.

Offence and Penalty

8. (1) Any person who violates any section of this By-law is guilty of an offence and shall, on summary conviction be liable to a fine of not less than one hundred dollars (\$100.00) and not more than five thousand dollars (\$5,000.00) and in default of payment, to imprisonment for a period not exceeding sixty (60) days.

(2) If a person violates the same provision of this By-law twice within one six month period, the minimum penalty for the second such violation is \$200.00.

Every Day A Fresh Offence

9. (1) In the case of an alleged contravention of the provisions of this By-Law, and in addition to any other legal remedy available, Council may direct the clerk to prepare a written Notice which identifies the contravention and directs what must be done to remedy the contravention and to serve such Notice on the alleged contravenor requiring that person or persons to remedy the contravention of the By-Law within ten (10) days after the Notice has been served.

(2) In default of the remedying of the contravention described in the Notice within the ten (10) day time period, it is deemed to be a fresh offence.

Repeal of By-laws, Regulations and Ordinances

10. Sections 3 and 4 of the Cape Breton Regional Municipality Orderly Conduct By-law Number S-5 and any amendments thereto are hereby repealed. Any Noise By-laws or any provisions thereof passed and adopted by any of the eight (8) former municipalities of Cape Breton County prior to July 31, 1995 which conflict with or acts contrary to the provisions of this By-law are hereby repealed with this By-law becoming law and any other provisions of such By-laws are hereby ratified and confirmed insofar as they are not in conflict with this By-law.

By-law Respecting Noise
in the Cape Breton Regional Municipality

PASSED AND ADOPTED by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipal Council held on the 15th day May, A.D., 2001, and amended on the 2nd day of July, 2014.

CECIL P. CLARKE, MAYOR

DEBORAH CAMPBELL
MUNICIPAL CLERK

I, **Deborah Campbell**, Clerk of the Cape Breton Regional Municipality, do hereby certify that the attached is a true and correct copy of the Noise By-Law of the Cape Breton Regional Municipality as amended at a meeting of the Cape Breton Regional Municipal Council held on the 2nd day of July , A.D., 2014.

Deborah Campbell - Municipal Clerk

EFFECTIVE DATE: July 8, 2014

Schedule "A"

Part 1

Activities that unreasonably disturb the peace, comfort and tranquility of a resident, and at all times, where the sound resulting therefrom is audible at a point of reception.

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; so as to create a continuous noise;
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 operation or use of a recreational vehicle or a group of recreational vehicles within 1000' of a residence in such a manner so as to create a continuous noise.
6. 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, while such vehicle is stationary in a residential area 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.
7. The operation of any item of construction equipment without effective prescribed muffling devices in good working order and in constant operation;

Part 2

Activities that unreasonably disturb the peace, comfort and tranquility of a resident at the specified times, where the sound resulting therefrom is audible at a point of reception.

12. The operation of any refrigeration unit, which is stationary or attached to refrigeration, trailer unless the refrigeration trailer is in motion;	C
13. The operation of a garborator, solid waste bulk lift, refuse compacting equipment or hydraulic dumpster associated with a commercial enterprise;	B
14. The operation in the outdoors of any power tool or pump for domestic purposes other than snow removal, or when located within a building.	A
15. Yelling, shouting, hooting, whistling or singing;	A
16. The operation of a commercial car wash;	C
17. All selling or advertising by shouting or outcry or amplified sound;	B
18. The use or operation of any commercial vacuuming equipment such as rug cleaning equipment;	A
19. 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;	A
20. Music on the Sydney Boardwalk;	E
21. The operation of any motorized conveyance other than on a street or other place intended for its operation;	A
22. The use or operation of construction equipment, except where such equipment is used or operated on any highways;	C
23. The operation of a power assisted hang glider or parafoil;	A
24. The operation or use of a combustion engine which (i) is, or (ii) is used in, or (iii) is 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; within 500 feet of a residence.	A
25. The operation of any circus, fair, carnival or other such outdoor entrainment activity	C

PROHIBITED TIMES:

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

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

C – twelve o'clock in the forenoon (12:00 a.m.) to six o'clock (6:00 a.m.) in the forenoon of the same day.

D - All Day Sunday, Statutory and Civic Holidays and Remembrance Day.

E. – Between June 1st and October 1st until eight o'clock in the forenoon (8:00 a.m.) and after nine thirty o'clock in the afternoon (9:30 p.m.) on the Sydney Boardwalk in accordance with the CBRM Policy Respecting Music on the Sydney Boardwalk.

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.

Schedule "B"

Canada Day
New Year' Eve
Recognized Civic Holidays
Recognized Religious Holidays

Schedule "C"

Ringing of Bells at Places of Worship

Calls to Worship

Activities at Pits, Quarries or Mining Operations for which a permit has been issued by the Department of Environment, which expressly regulates sound levels.