

Noise By-Law

Whereas section 172(1)(d) of the Municipal Government Act empowers Municipalities to make by-laws respecting “nuisances, activities and things that, in the opinion of the council, may be or may cause nuisances including noise...”

And whereas it is the wish of Council to use that power to protect people and individuals from being unreasonably disturbed by noise:

1. This By-Law is entitled the “Noise By-Law”.
2. In this By-Law:
 - (1) “emergency response personnel” includes police, fire departments or brigades, registered emergency services providers, search and rescue personnel, provincial, regional or municipal Emergency Measures Organizations, ambulance or emergency health services providers and includes volunteer or military personnel responding to an apparent condition of emergency;
 - (2) “fireworks” means any article containing a combustible or explosive composition or any substance or combination of substances prepared for, capable of, or discharged for the purpose of producing pyrotechnical display which may or may not be preceded by, accompanied with, or followed by an explosion, or an explosion without any pyrotechnical display, and includes (but is not limited to) roman candles, sky rockets, pinwheels, batteries, barrages, bottle rockets, cannon crackers, mines, squibs, torpedoes and firecrackers;
 - (3) “Municipality” means the Municipality of the County of Cumberland;
 - (4) “point of reception” means any point on premises containing a dwelling unit where sound, originating from other premises, including other dwelling units, is received; and
 - (5) “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.

Municipality of Cumberland By-Law 09-01

Prohibitions and Interpretations

3. No person shall engage in any activity which is likely to generate noise or sound that unreasonably disturbs the peace and tranquility of a neighborhood. For the purpose of this section, evidence that one person is unreasonably disturbed by a noise is prima facie evidence that the neighborhood is unreasonably disturbed by the noise.
4. Without limiting the generality of section 3, the activities or noises listed in Schedule "A" during the prohibited times as set out therein are deemed to be activities which are likely to generate noise or sound that unreasonably disturbs the peace and tranquility of a neighborhood if the sound resulting from the activity is audible at a point of reception.

Fixed Exemptions

5. This By-Law does not apply to:
 - (1) emergency response personnel engaged in the execution of their emergency response duties; or
 - (2) persons acting at the request of emergency response personnel during an actual or apparent emergency condition;
 - (3) persons involved in the repair of essential services such as electrical power, sewer systems, water distribution, and telephone services.and, without limiting the generality of the foregoing, noises caused by emergency response vehicles and air ambulances are specifically exempt from prosecution.
6. Notwithstanding any other provisions of this By-Law, this By-law shall not apply to or prohibit:
 - (1) the emission of sound in connection with any organized traditional, festive or religious activity celebrating:
 - (a) Canada Day;
 - (b) New Year's Eve; or
 - (c) recognized religious holidays;
 - (2) the emission of sound in connection with calls to worship, ringing of bells at places of religious worship;
 - (3) noise caused by the Municipality, the Government of Canada, the Province of Nova Scotia, Nova Scotia Power Incorporated, and telecommunication companies and their contractors and employees when acting in the reasonable execution of their duties between 6:00am and 11:00pm in the day;

Municipality of Cumberland By-Law 09-01

- (4) noise caused by lawfully operating commercial, power generating, forestry, fishing or agricultural activity, or construction activity pursuant to a valid building permit;
- (5) noises in connection with organized athletic or recreational activities in municipal or public park areas, arenas or community centres except between 1:00am and 6:00am;
- (6) noises from the organized and scheduled activities and events of festivals, parades, street dances, rallies, or other community activities funded, sponsored or sanctioned by the Federal or Provincial government or the Municipality.

Grant Of Exemptions By Council

7. 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 the 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 or any exemption of lesser effect. Any exemption so granted shall:
 - (1) specify a time period of not greater than two years during which the exemption shall be effective;
 - (2) shall be confirmed in writing by the CAO before becoming effective; and
 - (3) shall include such terms and conditions as Council deems appropriate.
8. In deciding whether or not to grant an exemption under section 7 or in determining terms or conditions of the exemption, Council shall give consideration to:
 - (1) the social or economic benefit of the proposed activity to the Municipality;
 - (2) the volume, nature, duration and consistency of noise emission from the proposed activity;
 - (3) the proximity and nature of abutting or adjacent land uses;
 - (4) the hours of operation of the proposed activity; and
 - (5) 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.
9. Applications for an exemption for an activity of less than 14 days duration do not require a public hearing pursuant to this section 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 other person interested in the application an opportunity to be heard.

Municipality of Cumberland By-Law 09-01

10. Applications for an exemption for an activity of less than 48 hours duration may be approved by the Municipality's Chief Administrative Officer on behalf of the Municipality following the same conditions and considerations set out in the preceding sections.
11. Advance notice of the time, date and purpose of a public hearing pursuant to section 9, shall be mailed by the applicant to the assessed owner or owners, as shown in the records of the Municipality, of each property which contains a building located within 150 meters 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 advisement in a local news paper of general circulation. Notices or advertisements required by this section shall be mailed or published, respectively, not less than 10 days before the hearing.
12. Any contravention of the terms or conditions of an exemption pursuant to section 7 shall constitute a contravention of this By-Law. In addition to any other available remedies for such contravention, the CAO 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 7 shall be reviewable by Council at any time upon 7 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 8, without giving notice to adjacent owners in accordance with section 11.

Penalty

14. Any person who contravenes any provision of this By-Law is punishable on summary conviction by a fine of not less than \$200.00 and no more than \$2,000.00 and to imprisonment of not more than 14 days in default of payment thereof.
15. Any person who contravenes sections 3, 4 or 12 of this By-Law and who is given notice of the contravention pursuant to the Municipality's Payment in Lieu of Prosecution Policy may pay to the Municipality at the place specified in the notice, the sum of \$100.00 within 14 days of the date of the notice and shall thereby avoid prosecution for that contravention.

Municipality of Cumberland By-Law 09-01

Schedule "A"

Part 1: Activities prohibited 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 that has not been altered 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 detonation of explosive devices not used in construction or quarrying.
4. The operation of any item of construction equipment in a residential area without effective muffling devices in good working order and in constant operation
5. The operation of any public address system, television set, radio, disc player, tape deck, phonograph or other electronic sound reproduction or amplification system, if the resulting sound is audible beyond the bounds of the property where it is being created.

Part 2: Activities prohibited between ½ hour after sunset and ½ hour before sunrise:

1. The discharge of firearms except while legally destroying nuisance wildlife under the authority of a valid permit issued by the Nova Scotia Department of Natural Resources pursuant to section 28 of the Wildlife Act, or within a firing range designated under the Canadian Firearms Act.

Part 3: Activities prohibited any day before 6:00 pm and after Midnight:

1. The detonation or use of fireworks.

Part 4: Activities prohibited any day before 6:00 am and after 10:00 pm:

1. The operation in the outdoors of any power tool for domestic purposes other than snow removal.
2. The operation of a chainsaw for any domestic purpose.
3. Yelling, shouting or screaming.

Municipality of Cumberland By-Law 09-01

Clerk's Annotation For Official By-Law Book

Date of first reading: May 20, 2009

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Date of second reading: June 24, 2009

*Date of advertisement of Passage of By-Law: June 26, 2009

Date of mailing to Minister a certified copy of By-Law: July 14, 2009

I certify that this NOISE BY-LAW was adopted by Council and published as indicated above.

Clerk

Date

*Effective Date of the By-Law unless otherwise specified in the text of the By-Law