



Town of Antigonish Noise Control By-law

Amendment to Noise Control By-law

The Noise By-law of the Town of Antigonish is hereby amended as follows:

- Remove Section 5(10) or activities associated with the Antigonish Truck and Tractor Pull as an exemption.
 - Revision to "Form A – Noise By-law Exemption Application: Under the "The Activity Itself" Section, insert the following below the question "What type of sound system is expected to be used?" – "Will the decibel reading of the indoor/outdoor event be a maximum of 92 dBA at the mixing board?"
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This By-law shall be known as the Noise Control By-law.

1. In this By-law:

- 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) a) "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.

b) "Dwelling Unit" also includes the real property upon which the dwelling unit is located as well as the lawns, yards and surrounding area.
- 3) "Occupant(s)" shall mean anyone who resides at a 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) "Town" means the Town of Antigonish.

6) "Police Officer" means an RCMP Member and also includes the Town's Special Constable.

2. The following acts, among others, are hereby declared to be noises which disturb or tend to disturb the peace and tranquility of any person located within the boundaries of the Town of Antigonish:

Making any noise or combination of noises which, when measured on any property on which the noise is heard or the noises are heard, exceeds the applicable A-Weighted continuous noise level as follows:

Time:

7:00 a.m. - 10:00 p.m.	65 dBA
10:00 p.m. - 7:00 a.m.	55 dBA

3. 1) No person in the Town shall make, cause or allow any noise which disturbs or tends to disturb the tranquility of any person located within the boundaries of the Town of Antigonish;
- 2) No person who owns, or has under their supervision or control, a dog, shall permit the dog to make any noise which disturbs or tends to disturb the tranquility of any person located within the boundaries of the Town of Antigonish;
- 3) No person in the Town 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.
- 4) Subject to the other provisions of this By-law
- a) a person must not make or cause a noise or sound in a street, park, plaza or similar public place which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of persons in the neighborhood or vicinity;
 - b) a person who is the owner or occupier of, or is in possession or control of, real property must not make, suffer, or permit any other person to make, a noise or sound, on that real property, which can be easily heard by a person not on the same premises and which disturbs or tends to disturb the quiet, peace, rest enjoyment, comfort or convenience of persons in the neighborhood or vicinity.
 - c) motor vehicles must only use muffler and muffler components that are in keeping with muffler equipment initially installed on new vehicles.

4. Without limiting the generality of Section 3, the following conduct is specifically prohibited:

- a) shouting, using a megaphone or sound amplification device or making other noise in, at or on streets, parks, wharves, docks, piers, boat landings ferry landings, railway or bus stations or other public places;
- b) the playing of any radio, phonograph, cassette or CD player, television, musical instrument or sound amplification device whether in or upon private premises or in any public place at such a volume (loudness) as to disturb or tend to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public;
- c) the keeping or harboring of any dog, bird or other animal, which barks or emits cries or other noises in a persistent manner that may easily be heard by a person not on the same premises and which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public;
- d) the operation of any automobile, truck, motorcycle, bus or other motorized vehicle which by reason of disrepair, the use of a muffler that fails to cool and expel exhaust gases from the engine without excessive noise, mode of operation of the vehicle (squealing of tires except during emergency braking to avoid accidents, over-revving of engine or excessive acceleration of vehicle) or any other cause, creates noise or sound which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public;
- e) the production of amplified sound from a radio, cassette tape or CD player or other playback device or amplification equipment, or the sound of a musical instrument, that emanates from a motor vehicle and can easily be heard by a person of normal hearing acuity at a distance of 5 m (16.4 ft.) or more from the vehicle;
- f) the idling or other continuous running of the engine of a truck or bus for more than three minutes at the same location, except where the truck or bus is located within a garage or depot intended to be used for the long term parking of that vehicle.

5. This By-law does not apply to the following:

- 1) Employees of the Town, the Province of Nova Scotia, the Government of Canada, Cape Breton and Central Railway, Nova Scotia Power Incorporated, Aliant Ltd. and Eastlink Cablevision when these 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 person 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.

- 5) Noises in connection with athletic, recreational or school activities in arenas, playing fields, courts, school grounds or in Town 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 7 of this By-law.
 - 8) Any activities in connection with the Antigonish Highland Games and the Eastern Nova Scotia Exhibition between the hours of 8 a.m. and 2 a.m.
 - 9) Noises in connection with "Frosh Week" which are held on the main campus of St. Francis Xavier University said campus being that area colored in yellow on the attached sketch of the University. This exception shall only apply between 8 a.m. and 11 p.m. and Frosh Week shall only include that week as determined annually in accordance with the University Calendar.
 - 10) Removed.
6. Notwithstanding any other provision of this By-law, it is lawful to emit or cause or permit the emission of noise in conjunction with:
- 1) Emergency services undertaken for the immediate health, safety and welfare of any person.
 - 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 Town;
 - 4) Agricultural activities carried on by a farm operation.
7. An exemption from the application of this By-law may be considered or may not be considered by the Town Council as it deems appropriate upon receiving an application for said exemption at least thirty (30) days prior to the contemplated activity commencing. In those cases where an exemption is to be considered the following terms shall apply:
- 1) An application for exemption under this By-law must be presented on a Form "A" attached to this By-law.

- 2) Notwithstanding anything contained in this By-law any person may make application to the 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. The Council may refuse to grant any exemption applied for or may grant the exemption applied for or any exemption of lesser affect. 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.
- 3) In deciding whether or not to grant an exemption, the Council shall give consideration to the social or commercial benefit of the proposed activity to the Town, the views of any residents of the Town which may be expressed to the Council, 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.
- 4) In those cases where an exemption is granted, the Town Council may revoke the exemption if it believes that a breach of same has occurred.
- 5) Any alleged breach by the applicant of any of the terms or conditions of any exemption granted by the Council shall be investigated by Town 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.
8. Any police officer of the Town may enter upon or into private property for the purpose of inspection, maintenance and enforcement of this By-law.
9. Every person who contravenes or fails to comply with any of the provisions of the By-law shall be liable to a penalty of \$387.50 per occurrence payable to the Town of Antigonish.
10. Any police officer of the Town may choose to issue a Summary Offense Ticket to enforce this By-law.
11. In a prosecution for a violation of this By-law, evidence that one person is disturbed is prima facie evidence that the peace and tranquility of the Town or any portion of it is disturbed.
12. Any person, upon conviction or upon a guilty plea, who does not pay his or her penalty within the time specified by the Court, shall be liable to imprisonment for a period to be determined by the Court.
13. The Town of Antigonish By-law entitled "Anti-Noise Bylaw" and previous versions of this By-law are hereby repealed effective January 15, 2008, and replaced by the By-law.

Date of First Reading:	<u>March 15, 2010</u>
Date of Advertisement of Notice of Intent to Consider:	<u>March 29, 2010</u>
Date of Second Reading:	<u>April 19, 2010</u>
Date of Advertisement of By-law Passage and Approval:	<u>May 17, 2010</u>
Date of Mailing Certified Copy to SNS & MR:	<u>August 9, 2010</u>

I certify that this Noise By-law was adopted by Council and published as indicated above.

D. Kamper
Chief Administrative Officer

August 9, 2010
Date

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 (pitches) 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.

