

WHEREAS the Municipal Government Act authorizes Council under Section 172 (1) (d) of the Act to make Bylaws respecting nuisances, including noise;

AND WHEREAS the Council of the Town of Yarmouth has deemed it expedient that such a Bylaw be now enacted.

1.0 This Bylaw shall be known as the Noise Control Bylaw.

2.0 In this Bylaw:

- a. "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.
- b. "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.

"Dwelling unit" also includes the real property upon which the dwelling unit is located as well as the lawns, yards and surrounding area.

- c. "Occupant(s)" shall mean anyone who resides at or in a dwelling unit as well as any other person whom is present in, or on, the premises.
- d. "Sound system" shall include a public address system, phonograph, gramophone, radio, cassette tape player, digital music 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.
- e. "Town" means the Town of Yarmouth.
- f. "Peace Officer" means a member of the Royal Canadian Mounted Police, any Bylaw Enforcement Officer or Constable employed by the Town, or any sworn member of a municipal police service in the Province of Nova Scotia.

g. "Council" means the Council of the Town of Yarmouth.

3.0 The following acts, among others, are hereby deemed and declared to be noises which disturb or tend to disturb the peace and tranquility of the residents of the Town or any portion thereof:

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 measured no less than 30 meters from the source as follows:

TIME	NOISE LEVEL
6:00 am – 11:00 pm	65 dBA
11:00 pm – 6:00 am	55 dBA

4.0 No person in the Town shall make, cause or allow any noise, be it deliberate or unintentional, which disturbs or tends to disturb the peace and tranquility of any person located within the Town.

4.1 No person who owns, or has under their supervision or control, a dog or other animal, shall permit the dog or other animal to make any noise which disturbs or tends to disturb the peace and tranquility of any person located within the Town.

4.2 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.

4.3 Subject to the other provisions in this Bylaw:

- a. A person must not make or cause a noise or sound in a street, park, plaza, wharf or similar public place which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of persons in the neighbourhood or vicinity.
- b. A person who is the owner or occupant 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 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 neighbourhood or vicinity.
- c. Motor vehicles must only use muffler and muffler components that are in keeping with muffler equipment initially installed on new vehicles.

5.0 This Bylaw does not apply to the following:

- a. Employees of the Town, the Province of Nova Scotia, the Government of Canada, Nova Scotia Power Inc., Aliant Inc., Seaside Communications, Eastlink Cablevision, or any contractors when employed and working for the Town, when these employees are acting in the reasonable execution of their duties.

- b. Noises emitted by machinery or equipment when used under the provisions of (a) above.
- c. A person or a corporation, or an employee of such person or corporation, reasonably performing work at the request of any party described in (a) above.
- d. Noise emitted by machinery or equipment used in snow removal and snow clearing operations.
- e. Noises in connection with athletic, recreational or school activities in arenas, playing fields, courts, school grounds or in municipal park areas between the hours of 6:00 a.m. and 11:00 p.m.
- f. Noises in relation to religious activities between the hours of 6:00 a.m. and 11:00 p.m.
- g. Noises in relation to parades, streets dances or any other community activities between the hours of 6:00 a.m. and 11:00 p.m.
- h. The regulation of any loud and unnecessary noise in or from the engine, exhaust system, braking system, or from the contact of the tires with the roadway, by a motor vehicle from starting, driving, turning, stopping or accelerating all of which is within the jurisdiction of the Motor Vehicle Act.

6.0 Notwithstanding any other provisions of this Bylaw, it is lawful to emit or cause or permit the emission of noise in conjunction with:

- a. Emergency services undertaken for the immediate health, safety and welfare of any person.
- b. Emergency measures undertaken for the preservation of property.
- c. Construction activities between the hours of 7:00 am and 9:00 pm for which a Building Permit has been issued by the Town.
- d. Agricultural activities carried on by a commercial farm operation.

7.0 An exemption from the application of this Bylaw may be considered by the Chief Administrative Officer (CAO) as he/she 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:

- a. An application for exemption under this bylaw must be presented on Form "A" attached to this Bylaw.
- b. Notwithstanding anything contained in this Bylaw any person may make application to the CAO to be granted an exemption from any of the provisions of this Bylaw with respect to any emission of noise for which that person may be prosecuted. The CAO may refuse to grant any exemption applied for or may grant the exemption applied for or any exemption of lesser effect. 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 CAO deems appropriate.
- c. In deciding whether or not to grant an exemption, the CAO 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 the CAO, 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

- d. In those cases where an exemption is granted, the CAO may revoke the exemption if he/she believes that a breach of the terms and conditions has occurred.
- e. Any alleged breach by the applicant of any of the terms or conditions of any exemption granted by the CAO shall be investigated by the municipal staff and reported to the CAO in writing. The CAO shall determine whether or not a breach has taken place and where he/she determines that a breach has taken place then Council may revoke the exemption and as many as five (5) days may be allowed for ceasing the activity.
- f. The decision may be appealed to Council:
 - i. a refusal by the CAO to grant an exemption; or
 - ii. the terms or conditions of an exemption granted by the CAO.

8.0 Any peace officer may enter upon or into private property for the purpose of inspection, maintenance and enforcement of this Bylaw.

9.0 Every person who contravenes or fails to comply with any of the provisions of this bylaw shall be liable to a penalty of \$250.00 per occurrence.

10.0 Any police officer may choose to issue a Summary Offense Ticket to enforce this bylaw.

11.0 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.

12.0 The Town of Yarmouth’s Bylaw entitled ‘Bylaw No. 22 Noise Bylaw’ is hereby repealed and replaced by this Bylaw.

Clerk’s Annotation for Official Bylaw Book	
Date of Adoption: October 14 th , 2021	
I certify that this ‘Noise Bylaw’ was adopted by Council as indicated above.	
Town Clerk:	Date:

Adopted

Date of First Reading	September 9 th , 2021
Notice of Intent to Consider	September 22 nd & 29 th , 2021
Date of Second Reading	October 14 th , 2021
Date of Publication	October 27 th , 2021

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.

