



TOWN OF KENTVILLE BY-LAW

CHAPTER 107

NOISE BY-LAW

1. SHORT TITLE

- 1.1. This By-Law shall be known as By-Law Chapter 107 and may be cited as the “Noise By-Law”.

2. DEFINITIONS

As used in this By-Law, the following terms shall have the meanings indicated:

- 2.1. “Ambient Sound Level” means the sound level that is present in the environment, produced by sound sources other than the source under assessment.
- 2.2. “By-Law Enforcement Officer” means any person empowered by legislation or appointed by the CAO to enforce this By-Law.
- 2.3. “CAO” means the Chief Administrative Officer of the Town of Kentville.
- 2.4. “Construction” includes erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth-moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and highway building, application of concrete, equipment installation and alteration and the structural installation of construction components and materials in any form or for any purpose, and includes any work in connection with these activities.
- 2.5. “Construction Equipment” means any equipment or device designed and intended for use in Construction or material handling, including hand tools, power tools, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, and any other material-handling equipment.
- 2.6. “Continuous Concrete Pouring” means slip-forming, deck pour or pre-pour operations that cannot be interrupted once the operations have started.

- 2.7. "Conveyance" includes a vehicle and any other device employed to transport a person or persons or goods from place to place, but does not include any such device or vehicle if operated within the premises of a person.
- 2.8. "dB(A)" means the sound level in decibels obtained when using a Sound Level Meter with the A-weighting.
- 2.9. "Government Work" means Construction, rehabilitation, or maintenance work conducted by employees, agents, or contractors of the Town, the Province of Nova Scotia, the Government of Canada, or Nova Scotia Power Incorporated, when these employees are acting in the ordinary course of their duties.
- 2.10. Highway includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines of a highway.
- 2.11. "Large Crane Work" means the erection and dismantling of a crane or any other crane work that requires a road closure for the work to be started and finished.
- 2.12. "Leq" means the energy equivalent sound level or the continuous sound level that would result in the same total sound energy being produced over a given period of time.
- 2.13. "Noise Mitigation Plan" means a plan as required and approved by the CAO that addresses the mitigation of sound not in compliance with the requirements of this By-Law from planned events or activities.
- 2.14. "Persistent Noise" means any sound that is audible at a Point of Reception for a duration of ten minutes, or occurring continually, sporadically or erratically but totalling more than ten minutes in any 60-minute period of time.
- 2.15. "Place of Worship" means a building dedicated to religious worship, including a church, synagogue, temple, mosque, monastery or convent.
- 2.16. "Point of Reception" means a location on the premises of a person where sound originating from other than those premises is received and more particularly is:
- 2.16.1. within the Property occupied by the recipient of the sound, and
 - 2.16.2. located at least 1.2 m above the surface of the ground or floor.
- 2.17. "Power Device" means any equipment driven otherwise than by muscular power used in the servicing, maintenance or repair of lawns, including chainsaws, lawn mowers, leaf blowers, grass trimmers or any other similar equipment. A Power Device does not include equipment used to remove snow or ice.

- 2.18. "Property" means a building or structure or part of a building or structure, including the lands appurtenant thereto, and all mobile homes, mobile buildings or mobile structures and vacant land.
- 2.19. "Sound Level Meter" means an instrument that measures levels of sound as approved for use by the CAO.
- 2.20. "Stationary Source" means a source of sound which does not normally move from place to place, including the premises of a person as one stationary source, unless the dominant source of sound on those premises is Construction or a Conveyance. Stationary Sources include, but are not limited to, air conditioners, heat pumps, and swimming pool pumps.
- 2.21. "Town" means Town of Kentville.

3. PROHIBITIONS

3.1. Decibel level prohibitions.

3.1.1. No person shall emit or cause or permit the emission of sound measured with a Sound Level Meter at a Point of Reception that is outdoors:

3.1.1.1. that has a sound level (expressed in terms of Leq for a ten-minute period) exceeding 55 dB(A) from 10:00 p.m. to 6:59 a.m. the next day or 70 dB(A) from 7:00 a.m. to 9:59 p.m. the same day; or

3.1.1.2. where the Ambient Sound Level at a Point of Reception exceeds the maximum sound level permitted under Subsection 3.1.1.1, that has a sound level (expressed in terms of Leq for a ten-minute period) equal to or exceeding the Ambient Sound Level.

3.1.2. No person shall emit or cause or permit the emission of sound measured with a Sound Level Meter at a Point of Reception that is indoors with all exterior doors and windows closed into the room where the Point of Reception is located:

3.1.2.1. that has a sound level (expressed in terms of Leq for a ten-minute period) exceeding 50 dB(A) from 10:00 p.m. to 6:59 a.m. the next day or 60 dB(A) from 7:00 a.m. to 9:59 p.m. the same day; or

3.1.2.2. where the Ambient Sound Level at a Point of Reception exceeds the maximum sound level permitted under Subsection 3.1.2.1, that has a sound level (expressed in terms of Leq for a ten-minute period) equal to or exceeding the Ambient Sound Level.

3.2. Animals.

3.2.1. No person shall cause or permit Persistent Noise, including barking, calling or whining or other similar noise, to be made by any animal kept or used by that person for any purpose.

3.3. Construction.

3.3.1. No person shall emit or cause or permit the emission of sound resulting from any operation of Construction Equipment or any Construction that is audible at a Point of Reception from 8:00 p.m. to 7:00 a.m. the next day, except until 9 a.m. on Saturdays and all day on Sundays and statutory holidays.

3.4. Loading and unloading.

3.4.1. No person shall emit or cause or permit the emission of sound resulting from loading, unloading, delivering, packing, unpacking, and otherwise handling any containers, products or materials that is audible at a Point of Reception from 11:00 p.m. to 7:00 a.m. the next day, except until 9 a.m. on Saturdays, Sundays, and statutory holidays.

3.5. Power devices.

3.5.1. Subsection 3.1 shall not apply to the emission of sound from a Power Device equipped with a properly maintained muffler device.

3.5.2. No person shall emit or cause or permit the emission of sound from a Power Device that is audible at a Point of Reception from 9:00 p.m. to 7:00 a.m. the next day, except until 9 a.m. on Saturdays, Sundays, and statutory holidays.

3.6. Religious ceremony in a Place of Worship.

3.6.1. No person shall emit, cause, or permit the emission of sound that disturbs a religious ceremony in a Place of Worship.

3.7. Stationary Sources.

3.7.1. No person shall emit or cause or permit the emission of sound from a Stationary Source that, when measured with a Sound Level Meter at a Point of Reception, has a sound level (expressed in terms of Leq for a one-hour period) exceeding 55 dB(A).

3.8. Most restrictive provision applies.

3.8.1. Where a source of sound is subject to more than one provision of this By-Law, the most restrictive provision applies.

4. EXEMPTIONS

4.1. Safety and government work, recreation and special events.

- 4.1.1. Despite any other provision of this By-Law, it shall be lawful to emit or cause or permit the emission of sound from:
- 4.1.1.1. Bells or sirens required for the purposes of public safety including sirens when operated by police services, fire and paramedic services;
 - 4.1.1.2. Measures undertaken for the immediate health, safety or welfare of persons under emergency circumstances;
 - 4.1.1.3. Measures undertaken as a result of an emergency requiring immediate action for the construction, preservation, restoration or demolition of any Highway;
 - 4.1.1.4. Government Work;
 - 4.1.1.5. Athletic, recreational, or school activities in arenas, playing fields, courts, school grounds, or Town park areas between the hours of 7:00 a.m. and 11:00 p.m.;
 - 4.1.1.6. Annapolis Valley Apple Blossom Festival events organized and hosted by the Annapolis Valley Apple Blossom Festival that occur between 7:00 a.m. and 11:00 p.m. during the Festival;
 - 4.1.1.7. Any event organized and hosted by the Town that occurs between 7:00 a.m. and 11:00 p.m.;
 - 4.1.1.8. Construction and Construction Equipment between the hours of 7:00 a.m. and 8:00 p.m.;
 - 4.1.1.9. Sound generated as part of normal industrial and commercial operations within the Kentville Industrial Park (Shiloh Drive to Town limits) and the lands zoned Highway Commercial on the west end of Kentville; or

4.2. Exemption permits.

- 4.2.1. Any person may apply for an exemption permit from a prohibition or limitation provision in this By-Law in connection with one or more events or activities by filing with the CAO the following:
- 4.2.1.1. An application in the form prescribed by the CAO;
 - 4.2.1.2. Any application fee adopted by Town council; and
 - 4.2.1.3. Any information relevant to the application as requested by and to the satisfaction of the CAO including:

- 4.2.1.3.1. explanation as to why the applicant cannot reasonably comply with section 3.1;
 - 4.2.1.3.2. a Noise Mitigation Plan; and
 - 4.2.1.3.3. a statement certified by a professional engineer or acoustical consultant for any sounds that are not technically or operationally feasible to control.
- 4.2.2. Upon receipt of an application under Subsection 4.2.1, the CAO shall issue an exemption permit within 5 business days of receipt of a complete application if all the following conditions have been met:
- 4.2.2.1. The applicant has complied, to the satisfaction of the CAO, with the last exemption permit, if any, issued to them;
 - 4.2.2.2. The applicant has provided the following:
 - 4.2.2.2.1. The applicant's name, address, and telephone number;
 - 4.2.2.2.2. The date, time and location of each event or activity for which the exemption permit is sought and, where applicable, the number of people expected to attend;
 - 4.2.2.2.3. The purpose for which the exemption permit is required;
 - 4.2.2.2.4. The description of any sound equipment or Construction Equipment to be used;
 - 4.2.2.2.5. The name, address and telephone number of at least one contact person who will supervise each event or activity; and
 - 4.2.2.2.6. A written undertaking that one or more contact persons responsible for supervising each event or activity will be on-site during the entire event or activity to ensure compliance with the terms and conditions of the exemption permit.
 - 4.2.2.3. The applicant has paid all required fees.
 - 4.2.2.4. When applicable, the CAO is satisfied with the Noise Mitigation Plan and statement from a professional engineer or acoustical consultant.
 - 4.2.2.5. The CAO is satisfied that it is unreasonable for the applicant to comply with the relevant prohibition or limitation in this By-Law and all reasonable measures will be taken by the applicant to mitigate any negative affects of the sound to be generated by the event or activity.
- 4.2.3. An exemption permit shall be subject to the following conditions:

- 4.2.3.1. When reasonably possible, a notice of the exemption permit shall be posted in a visible location where each event or activity will occur seven days prior to the event or activity;
 - 4.2.3.2. If required by the CAO, the event or activity shall comply with a Noise Mitigation Plan;
 - 4.2.3.3. If required by the CAO, the sound levels resulting from each event or activity shall be monitored by Town staff with the applicant paying any charges for this monitoring as adopted by Town council;
 - 4.2.3.4. The sound emitted from any equipment shall not exceed a sound level (expressed in terms of Leq for a ten-minute period) of 90 dB(A) when measured 20 metres from the source;
 - 4.2.3.5. Where the sound level exceeds 90 dB(A), the applicant shall comply with any request made by a police officer or a By-Law Enforcement Officer with respect to the volume of sound from the equipment to ensure compliance with Subsection 4.2.3.2;
 - 4.2.3.6. No sound equipment or Construction Equipment other than the equipment approved under the exemption permit shall be used by the applicant;
 - 4.2.3.7. Each event or activity shall be restricted to the approved location; and
 - 4.2.3.8. The permission granted shall be for the date and times for each event or activity as set out in the exemption permit.
- 4.2.4. **Appeal.**
- 4.2.4.1. Where the CAO refuses to grant an exemption permit under this subsection, the applicant shall be notified in writing and advised that they may appeal the CAO's decision to Town council by filing an appeal within five business days of the date of the notice at the address shown on the notice.
 - 4.2.4.2. Town council shall hear the appeal at its next regular Council meeting and may issue or refuse an application for an exemption permit.
 - 4.2.4.3. If Town council issues an exemption permit, the exemption permit is subject to the conditions set out in Subsection 4.2.3, unless Town council provides otherwise, and to any other conditions respecting health, safety and nuisance as Town council considers advisable.
- 4.2.5. Where an application for an exemption permit is made for continuous concrete pouring or large crane work, only Subsections 4.2.1, 4.2.2, and
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4.2.6 apply and the CAO may issue the exemption permit subject to the conditions in Subsections 4.2.3.1, 4.2.3.2, 4.2.3.7 and the conditions that:

- 4.2.5.1. The permission granted shall be for the date and times for each event or activity as set out in the exemption permit with overnight events or activities discouraged; and
 - 4.2.5.2. Notice for Continuous Concrete Pouring and Large Crane Work shall be distributed to all residents and building owners located within a 120 metre radius of the activity at least seven days prior to such event or activity.
- 4.2.6. The CAO may revoke an exemption permit, with or without notice, if there is non-compliance with any of the conditions of the exemption permit.

5. OFFENCES, ENTRY TO INSPECT, ORDERS, REMEDIAL ACTION AND TRANSITION

5.1. Offences.

- 5.1.1. Every person who contravenes any provision of this By-Law is guilty of an offence and on conviction is liable to a penalty of:
 - 5.1.1.1. not less than two hundred dollars (\$200.00) for a first offence;
 - 5.1.1.2. not less than four hundred dollars (\$400.00) for a second offence; and
 - 5.1.1.3. not less than nine hundred dollars (\$900.00) for a third and subsequent offence.
- 5.1.2. Every person who fails to comply with an exemption permit issued or an order made under this By-Law is guilty of an offence and on conviction is liable to a penalty of:
 - 5.1.2.1. not less than two hundred dollars (\$200.00) for a first offence;
 - 5.1.2.2. not less than four hundred dollars (\$400.00) for a second offence; and
 - 5.1.2.3. not less than nine hundred dollars (\$900.00) for a third and subsequent offence.
- 5.1.3. In addition to a fine or fines provided for in this subsection, every person who gains an economic advantage from contravening this By-Law shall be liable to a special fine in an amount equal to the fair market value of the economic advantage obtained from the noncompliance.
- 5.1.4. In addition to offences referred to in Subsections 5.1.1, 5.1.2, and 5.1.3, every person is guilty of an offence under this By-Law who:

- 5.1.4.1. Hinders or obstructs or attempts to hinder or obstruct any person exercising a power or performing a duty under this By-Law; or
- 5.1.4.2. Knowingly makes, participates in, assents to or acquiesces in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this By-Law.
- 5.1.5. Where a corporation contravenes any provision of this By-Law, every director or officer who concurs in such contravention is guilty of an offence and on conviction is liable to a penalty of:
 - 5.1.5.1. not less than two hundred dollars (\$200.00) for a first offence;
 - 5.1.5.2. not less than four hundred dollars (\$400.00) for a second offence; and
 - 5.1.5.3. not less than nine hundred dollars (\$900.00) for a third and subsequent offence.
- 5.1.6. Where a corporation fails to comply with an exemption permit issued or an order made under this By-Law, every director or officer who concurs in such contravention is guilty of an offence and on conviction is liable to a penalty of:
 - 5.1.6.1. not less than two hundred dollars (\$200.00) for a first offence;
 - 5.1.6.2. not less than four hundred dollars (\$400.00) for a second offence; and
 - 5.1.6.3. not less than nine hundred dollars (\$900.00) for a third and subsequent offence.
- 5.1.7. Every day during which an offence pursuant to this By-Law continues is a separate offence.

5.2. Orders to comply.

- 5.2.1. A By-Law Enforcement Officer who finds a contravention of this By-Law may make one or more orders requiring discontinuance of the contravening activity or to do work to correct the contravention.
- 5.2.2. The order may be served personally on the person to whom it is directed or by registered mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed.
- 5.2.3. If there is evidence that the occupant of the land is not the Property owner, the notice shall be served on both the Property owner and the occupant of the land.

5.2.4. If the address of the Property owner is unknown, the Town is unable to effect service on the Property owner or occupant of the land under Subsection 5.2.2, or the delay necessary to give an order would result in circumstances that endanger the health or safety of any person or similarly serious consequences, a placard stating the terms of the order and placed in a conspicuous place upon land on or near the Property shall be deemed to be sufficient notice to the Property owner or the occupant of the land.

5.3. Remedial action.

5.3.1. If a person fails to comply with an order to do work to correct a contravention under this By-Law, the CAO, or persons acting upon their instructions, may enter the lands at any reasonable time for the purposes of doing the things described in the order at the expense of the person responsible for the contravention, and such expense shall be a first lien on the lands.

6. REPEAL

6.1. Chapter 107 Noise By-Law, including any amendments thereto, is repealed.

CLERK'S ANNOTATION FOR OFFICIAL BY-LAW BOOK

Date of first reading:	July 25, 2022
Date of advertisement of Notice of Intent to Consider:	August 16, 2022
Date of second reading:	September 26, 2022
*Date of advertisement of Passage of By-Law:	October 4, 2022
Date of mailing to Minister a certified copy of By-Law:	September 27, 2022

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 By-law