

## TOWN OF PICTOU

### NOISE CONTROL BY-LAW

**BE IT RESOLVED** that this By-Law, known as the Noise Control By-Law for the Town of Pictou be enacted effective this 5<sup>th</sup> day of June 2013.

#### TITLE

1. This By-Law may be cited as the "Noise Control By-Law".

#### DEFINITIONS AND INTERPRETATION

2. In this By-Law, where abbreviation or technical standard is used but not defined specifically or by a context, it shall be interpreted by reference to the definitions and Technical Standards last published by the Canadian Standards Association (CSA), or the American National Standards Institute (ANSI), as applicable.
3. In this By-Law:
  - a) **"An Approved Sound Meter"** means an instrument to measure levels of sound pressure and includes sound meter Type 2;
  - b) **"CAO"** has the same meaning as in the *Municipal Government Act*, S.N.S. 1998 c. 18, of the Province of Nova Scotia or successor legislation as may be enacted from time to time;
  - c) **"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 related work, but does not include blasting;
  - d) **"Council"** means the Council of the Town of Pictou;
  - e) **"Daytime"** means, unless otherwise provided in this By-Law, from seven o'clock in the morning (07:00 hours) to ten o'clock in the evening (22:00 hours) any day of the week;
  - f) **"dBA"** means the sound pressure level and decibels measured using the A Weighting Network Setting of An Approved Sound Meter;

- g) **"Emergency Response Personnel"** includes police, fire departments or brigades, registered emergency service providers, search and rescue personnel, provincial, regional or municipal Emergency Measures Organizations, ambulance or emergency health service providers, and includes volunteer or military personnel responding to an apparent condition of emergency;
- h) **"Industry"** means any existing industrial body corporate that is located in an Industrial Zone as defined by the Town of Pictou Land Use By-Law, or as of the effective date of this By-Law, until such time as a change of use occurs in the current manufacturing activity on land identified as PID 00974899;
- i) **"Nighttime"** means any time not included in the definition of Daytime;
- j) **"Peace Officer"** means a member of the Provincial Police as defined in the *Police Act*, SNS 2004, c. 31;
- k) **"Person"** includes a body corporate or politic, or party, including a citizen, owner or Occupier of property;
- l) **"Policy Officer"** means any employee of the Town or other employee in connection with the Town charged with enforcement of the policies and/or By-Laws of the Town, including, without limitation, a By-Law enforcement officer;
- m) **"Proscribed Industry Emissions"** are sustained and steady emissions of noise from faulty equipment that can reasonably be expected to be improved;
- n) **"Town"** means the Town of Pictou; and
- o) **"Vehicle"** includes a vehicle and/or a motor vehicle as defined in the *Motor Vehicle Act*, R.S. c. 293 of the Province of Nova Scotia or successor legislation as may be enacted from time to time, an Off-Highway Vehicle as defined in the Off-Highway Vehicles By-Law of the Town of Pictou and/or the *Off-Highway Vehicles Act*, R.S.N.S., 1989, c.323.

#### **APPLICATION**

4. This By-Law is enacted pursuant to Section 172 of the *Municipal Government Act*, S.N.S. 1998, c. 18.
5. This By-Law applies to sound or noise reproduced, amplified, emitted or transmitted within the Town.

6. This By-Law is intended to add to, and not to conflict with or subtract from, the requirements contained in valid provincial or federal legislation and regulations in force from time to time and shall be interpreted accordingly.

## **GENERAL**

### **Specific Prohibitions**

7. Subject to other provision herein, no Person shall:
- a) operate 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;
  - b) being the owner of or having the care of a dog or other animal, allow persistent barking, howling or other persistent noise-making by a dog or other animal;
  - c) operate an engine or motor in, or on, any motor Vehicle or item of attached auxiliary equipment for a continuous period exceeding five minutes unless:
    - i. the original equipment manufacturer specifically recommends a longer idling period for normal and efficient operation of the motor in which case such recommended period shall not be exceeded;
    - ii. 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;
    - iii. 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;
    - iv. prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine;
    - v. 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;
  - d) operate any item of Construction equipment in a residential area without effective muffling devices in good working order and in constant operation.

### **Decibel Quantification**

8. Subject to other provision herein, no Person shall reproduce, amplify, emit or transmit a sound or noise or cause a sound or noise to be reproduced, amplified, emitted or transmitted in the following instances:
  - a) during the Daytime, when measured at a distance of not less than one hundred (100) feet from the source of the sound or noise or one hundred (100) feet from the boundary of the property from which the sound or noise is emanating, a sound or noise greater than sixty-five decibels (65dBA);
  - b) during the Nighttime, when measured at a distance of not less than one hundred (100) feet from the source of the sound or noise or one hundred (100) feet from the boundary of the property from which the sound or noise is emanating, a sound or noise greater than fifty-five decibels (55dBA).

### **Nuisance**

9. Subject to sections 8 and 10 through 19 herein, no Person shall reproduce, amplify, emit or transmit a sound or noise or cause a sound or noise to be reproduced, amplified, emitted or transmitted that unreasonably disturbs a neighbour or neighbours or otherwise disturbs the peace and tranquility of a neighbourhood.

### **MUFFLERS**

10. No Person shall reproduce, amplify, emit or transmit a sound or noise from a Vehicle muffler or cause a sound or noise to be reproduced, amplified, emitted or transmitted from a Vehicle muffler in the following instances:
  - a) when measured at a distance of twenty (20) inches from the exhaust outlet, a sound or noise greater than ninety-two decibels (92dBA), while the engine is idling; and
  - b) when measured at a distance of twenty (20) inches from the exhaust outlet, a sound or noise greater than one hundred decibels (100dBA), while the engine is at any speed greater than idle.

### **INDUSTRY**

11. No Industry, or Person associated therewith, shall reproduce, amplify, emit or transmit Proscribed Industry Emissions, or cause to be reproduced, amplified, emitted or transmitted Proscribed Industry Emissions, and excepting such Proscribed Industry Emissions, Industry shall be exempt from noise control.

## **GENERAL EXEMPTIONS**

12. This By-Law does not apply to the following:

- a) Employees or agents of the Town, the Province of Nova Scotia, the Government of Canada, Nova Scotia Power Limited or public utilities as defined by the *Public Utilities Act*, R.S.N.S. 1989, c. 380 while performing their duties;
- b) Sound or noise emitted by machine or equipment when used under the provisions of 12(a);
- c) A Person or a corporation, or an agent or employee of such Person or corporation reasonably performing work at the request of any party described in 12(a);
- d) Sound or noise emitted by machine or equipment used in snow removal or snow clearing operations;
- e) Sound or noise emitted by Emergency Response Personnel;
- f) Sound or noise in relation to athletic, recreation, or school activities, in arenas, playing fields, courts, school grounds, which occur during the Daytime;
- g) Sound or noise in relation to religious activities which occur during the Daytime;
- h) Construction between the hours of 07:00 hours and 20:00 hours for which a building permit has been issued by the Town of Pictou or their agent;
- i) Agricultural activities carried out on a farm operation;
- j) Federally regulated road or marine transportation services; and
- k) Any events and/or services listed under the Town of Pictou Sound or Noise Exemptions – Noise Control By-Law Policy.

## **GRANT OF EXEMPTIONS BY COUNCIL**

13. Any Person may make application to Council, by written application to the CAO, to be granted exemption from any of the provisions of this By-Law with respect to the emission of sound or noise from an Industrial, institutional, commercial or community activity for which emission of such sound or noise would otherwise contravene the provisions of this By-Law;

14. Council, by resolution, may refuse to grant the exemption, or may grant the exemption to full effect, or may grant an exemption of lesser effect;
15. Any exemptions so granted shall:
  - a) specify a time period of not greater than five (5) years during which the exemption shall be effective:
    - i. be confirmed in writing by the CAO before becoming effective; and
    - ii. include terms and conditions as Council deems appropriate.
  - b) In relation to exemption applications pursuant to section 13 of this By-Law, Council shall consider:
    - i. any social or economic benefit of the proposed activity to the Town;
    - ii. the volume, nature, duration and consistency of sound or noise emission from the proposed activity;
    - iii. the proximity and nature of abutting or adjacent land uses;
    - iv. the hours of operation of the proposed activity; and
    - v. balancing of the applicant interests against any negative effect resulting from the proposed exemption.
16. Application for an exemption for an activity of less than seven (7) days duration does not require a public hearing pursuant to this section or notice pursuant to section 17, but all other renewals or 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 Person interested in the application an opportunity to be heard.
17. Ten (10) days notice of the time, date and purpose of the public hearing pursuant to section 16 shall be mailed to the applicant and to the assessed owner or owners as shown on the records of the Assessment Office of each property which contains a building located within one hundred (100) meters of the property which will be the subject of the hearing, excepting where the exemption is sought for an outdoor event not conducted at a fixed location, wherein notice may be given by advertisement in the local newspaper.
18. Any contravention of the terms and conditions of an exemption shall constitute a contravention of this By-Law. In addition to the application of the Offence Enforcement and Penalty provisions of this By-Law, the CAO may, upon a charge alleging contravention of this By-Law, and without a hearing, suspend an

exemption for a period of up to thirty (30) days pending a review by Council of the exemption.

19. An exemption shall be reviewable by Council at any time upon ten (10) days notice to the Person or entity exempted, and Council may revoke, suspend or restrict the exemption, with or without cause.

#### **OFFENCE ENFORCEMENT AND PENALTY**

20. No Person shall contravene or fail to comply with any provision of this By-Law.
21. This By-Law may be enforced, at the discretion of the Town, by any Peace Officer or Policy Officer, in accordance with the procedures set out in the *Municipal Government Act* or by means of a Summary Offence Ticket under the *Municipal Government Act* or *Summary Proceedings Act*.
22. The *Summary Proceedings Act*, where applicable, shall apply to proceedings under this By-Law.
23. Except as otherwise provided in this By-Law, any Person who violates any of the provisions of the By-Law or who suffers or permits any act or thing to be done in contravention of this By-Law, or who refuses, omits, fails to comply with or neglects to fulfill, observe, carry out or perform any duty or obligation imposed by this By-Law, shall be liable upon summary conviction:
  - a) for the first offence to a penalty of not less than One Hundred Dollars (\$100.00) and of not more than Ten Thousand Dollars (\$10,000.00) or imprisonment for a period of not more than six (6) months or both;
  - b) for the second offence to a penalty of not less than Three Hundred Dollars (\$300.00) and of not more than Ten Thousand Dollars (\$10,000.00) or imprisonment for a period of not more than six (6) months or both;
  - c) for the third or subsequent offence to a penalty of not less than Five Hundred Dollars (\$500.00) and of not more than Ten Thousand Dollars (\$10,000.00) or imprisonment for a period of not more than six (6) months or both.

#### **REPEAL**

24. The Town of Pictou Noise By-Law dated the 12th day of February 2001 and any amendments thereto is hereby repealed.

**CAO ANNOTATION**

Date of First Reading: Monday, March 25, 2013

Date of advertisement of Notice of Intent to Consider: Wednesday, March 20, 2013

Date of Second Reading: Monday, May 27, 2013

Date of advertisement of Passage of By-Law: Wednesday, June 5, 2013

Date of mailing to Minister a certified copy of By-Law: Wednesday, June 26, 2013

I certify that the above NOISE CONTROL BY-LAW was duly adopted by Pictou Town Council at duly called meetings and was published as indicated above.

  
Deputy Clerk