

**Town of Montague
Bylaw Number 2014-02**

Nuisance and Noise Control Bylaw

BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF MONTAGUE PURSUANT TO THE MUNICIPALITIES ACT, R.S.P.E.I.

PART 1: TITLE

1. 1.1 This bylaw shall be referred to as the “Town of Montague Nuisance and Noise Control Bylaw” and may be cited as the “Nuisance and Noise Control Bylaw” from time to time.

PART 11: SCOPE

2. 2.1 This Bylaw shall apply to the Town of Montague.

PART 111: DEFINITION

3. In this Bylaw
- 3.1 “**Ambient Sound Level**” means the Sound Level measured at a point of Reception, which includes the Noise generated by an activity with respect to which a complaint about noise has been made.
- 3.2 “**Enforcement Officer**” means a duly appointed Bylaw Enforcement Officer for the Town of Montague, or a member of the Royal Canadian Mounted Police;
- 3.3 “**Chief Administrative Officer**” means the Chief Administrative Officer for the Town of Montague or his duly appointed designates.
- 3.4 “**Common Area**” means any entrances, halls, corridors, washrooms, parking areas, driveways, roads, streets, sidewalks, or alleys of any shopping centre, shopping mall, or other shopping complex.
- 3.5 “**Council**” means the Town Council of the Town of Montague.
- 3.6 “**Construction**” means the temporary process of demolishing or building any structure, or repairing or improving a building that already exists, including landscaping, home repair, property improvement and any work in connection with that process.
- 3.7 “**Continuous Sound**” means any Sound Level that occurs:
- (i) for a continuous duration of more than three (3) minutes; or
 - (ii) sporadically for a total of more than three (3) minutes in any continuous fifteen (15) minute time period.
- 3.8 “**Daytime**” means the period:
- (i) beginning at 7:00 AM and ending at 10:00 PM of the same day on Weekdays and;
 - (ii) beginning at 9:00 AM and ending at 10:00 PM of the same day on a Weekend or Holiday.

- 3.9 “**Emergency Vehicle**” has the same meaning as found in the Highway Traffic Act.
- 3.10 “**Field Calibrator**” means an instrument as established by the American National Standards Institute (ANSI) to be used for the calibration of a Sound Level Meter. The Field Calibrator must be approved by the manufacturer for use with a Sound Level Meter being used and must also be certified and calibrated by the manufacturer within the previous twelve (12) months prior to use.
- 3.11 “**Firearm**” means a rifle, shotgun, air rifle, air pistol, pistol or other mechanical device capable of firing a loaded shell, cartridge, or projectile.
- 3.12 “**Hunting**” means any chasing, pursuing, worrying, following after on the trail of, or any searching for, shooting at, stalking, lying in wait for, any wildlife, domestic animal, whether or not the animal is then subsequently captured, killed or injured.
- 3.13 “**Leg**” means the equivalent continuous Sound Level during periods of time as specified in this Bylaw as measured by a Sound Level Meter.
- 3.14 “**Litter**” means trash (paper or otherwise), dirt, filth, or other nuisance matter
- 3.15 “**Mayor**” means the Mayor of the Town of Montague.
- 3.16 “**Motorized Machinery**” means any tool used for horticulture that is powered by an electric or internal combustion engine of any kind. and includes all machinery powered by any means other than muscular power with the exception of snow removal equipment.
- 3.17 “**Motor Vehicle**” has the same meaning as found in the Highway Traffic Act.
- 3.18 “**Night-time**” means the period beginning at 10:00 PM and ending the following day at;
- (i) 7:00 AM if the following day is a Weekday; or
 - (ii) 9:00 AM if the following day is a Weekend or Holiday.
- 3.19 “**Noise**” means any sound that annoys or disturbs humans, or that endangers or injures the health and safety of humans including any loud outcry, clamor, shouting, or movement, or any sound that is harsh or undesirable.
- 3.20 “**Non-Continuous Sound**” means any Sound Level that is not a continuous sound measured by a Sound Meter.
- 3.21 “**Nuisance**” means any person, odor, sound, or substance which unreasonably interferes with the enjoyment of life by a person or persons in the Town of Montague.
- 3.22 “**Owner**” includes:
- (i) A person managing the subject property for the registered Owner;
 - (ii) A tenant, lessee, or other person in possession or occupancy of the subject property;
 - (iii) An executor, administrator, trustee, agent, or other person managing the subject property for the registered owner;

- (iv) When used in reference to real property, includes a person assessed for the property pursuant to the Real Property Assessment Act, R.S.P.E.I. 1988, CAP. R-4.
- 3.23 **“Point of Reception”** means any point on the premises of a person where sound, originating from other than those premises, is received.
- 3.24 **“Sound Level”** means the sound pressure measured by a Town approved and adequate Sound Level Meter Instrument.
- 3.25 **“Sound Level meter”** means an instrument (as established by the standards of the American National Standards Institute, ANSI) that measures Sound Levels.
- 3.26 **“Sound System”** means any system of loud speakers, amplifiers, microphones, or reproducers, or any combination of such equipment, used in the reproduction or amplification of music, speech, or other sounds, when used for communications to, or otherwise addressing or entertaining, whether the same is mounted upon a vehicle or upon a building or other structure or upon the ground.

PART IV: NUISANCE

4. 4.1 **Disturbances:**

Any person who, willfully or wantonly rings any doorbell or knocks at any door, building or fence, by fighting, singing, using obscene language, insulting language, so as to disturb or annoy any person in his dwelling, place of business, or meeting place is guilty of an offense.

4.2 **Disorderly Premises:**

- (a) Any person who permits or engages in shouting, fighting, screaming, or making of any loud noise or any other improper or disorderly conduct in the house or premises occupied by such persons, that is, reasonably capable of disturbing the neighbors or passer-by is guilty of an offence.
- (b) Any person who permits or engages in any activity that unreasonably disturbs or tends to disturb the peace and tranquility or enjoyment of a neighborhood, is guilty of an offence.
- (c) For the purpose of a prosecution pursuant to section 4.2 (a) and (b), evidence that one neighbor is unreasonably disturbed by a noise is prima facie evidence that the neighborhood is unreasonably disturbed by the noise.

4.3 **Disorderly Conduct:**

- (a) No person shall while on any street, lane, sidewalk, bridge, wharf, public or private parking lot, nor any public meeting or gathering, or in any store, shop, mall corridors, house, building, or in any other place in the Town of Montague;
 - (i) use profane or obscene language, lewd or lascivious conduct, or behaviour;
 - (ii) be on a street, lane, thoroughfare, sidewalk, bridge, or wharf, or in any public place, or at any public gathering or meeting in a drunken or

intoxicated condition or act thereon or thereat in a drunken or intoxicated manner;

- (b) No person within the Town of Montague shall:
- (i) throw any fire ball, fire cracker, or fire works onto or near any street, highway, thoroughfares, passage or other public place or into or near any building or at or near to any person;
 - (ii) crowd or jostle other pedestrians upon any sidewalk or street in the Town so as to create discomfort, injury, or confusion;
 - (iii) ride or drive any bicycle or other vehicle other than children's conveyances on any sidewalk or public footwalk so as to endanger any person(s);
 - (iv) loiter on any street, sidewalk, lane, crossing or footwalk or in or around the entrance or steps of any church, place of worship, hall, public building, store, shop or dwelling in the Town after being requested by the any policeman or constable of the Town or a person in charge of such place, to move away;
 - (v) coast, skate, roller blade, skate board, play games, or throw stones, snowballs, balls or other things to molest, harass or obstruct persons on the sidewalks, crossings or public footwalks in the Town or delay or impede traffic on the streets;
 - (vi) cast any missile or use any bow and arrow, catapult, airgun or other such object on any street, square, or public place within the Town;
 - (vii) place or permit to stand on or across a sidewalk or footwalk of the Town any vehicle, cart, or mode of conveyance;
 - (viii) allow any gate to open outwardly over any part of any street or sidewalk;
 - (ix) put any quantity of snow or ice on the streets, lanes, wharves, or thoroughfares to the river or harbor so as to form any obstruction or nuisance to any person(s);
 - (x) unless in the performance of some duty sanctioned by proper authority, no person(s) shall discharge any firearm within the Town;
 - (xi) place any object on or projecting over any sidewalk or street of the Town except as provided in sub-section (xiv) hereof;
 - (xii) leave any object owned by him or in his possession on any street or sidewalk, or public place after being requested by an enforcement officer to remove the object;
 - (xiii) deface, alter, destroy any public notice in the Town erected or placed under the authority of the Town or the Federal or Provincial Government;

- (xiv) use or be in any public park within the Municipality on any day between the hours of 12:00 Midnight and 7:00 AM without first obtaining written permission from the proper Park or Municipality authority.
- (c) Any object which is seized by a bylaw enforcement officer or police officer may be returned to its owner on payment of any costs for the removal of the object from its offending place.
- (d) Any object not claimed within seven (7) days may be sold or otherwise disposed of on order from the Town and the proceeds of such sale shall form part of the general revenue of the Town.
- (e) If no serious obstruction is caused, any object may be permitted to be placed on or projecting over any sidewalk, or street of the town for a reasonable time when being received or shipped.
- (f) Any enforcement officer may remove or seize any object he/she deems is in violation of this bylaw, after the owner is sought and found not to be readily available.

4.4 **"Littering"**

- (a) It shall be unlawful for pedestrians, drivers and/or passengers of motor vehicles, boaters, property owners, business owners to discard or allow being discarded any litter as defined in this Bylaw on any street, square, lane, alley, sidewalk, private parking lot which the public has access too, public parking lot which the public has access too, wharf, bridge or any property within the Town.
- (b) It shall be unlawful for pedestrians, operators or passengers of motor vehicles to discard litter on any private property within the Town.

4.5 **"Burning"**

- (a) Except as allowed in subsection b), no person shall light any exterior fire or burn rubbish, leaves or other vegetation in the town.
- (b) Notwithstanding any other provisions of this bylaw, the following shall be permitted:
 - i. the burning of wood in enclosed outdoor fireplaces with built in chimneys and spark arresters;
 - ii. gas, propane and charcoal barbeques;
 - iii. controlled burns by the Montague Volunteer Fire Brigade for the purpose of training; and
 - iv. open burning for outdoor cooking with the prior written consent of the fire chief.

PART V: NOISE

- 5. 5.1 No person shall cause or permit to be caused a Continuous Sound within the Town that exceeds the greater of the following Sound Levels.
 - (a) 75 decibels Leg measured during the Daytime; or

- (b) 50 decibels Leq during the Night-time.

Sound levels may exceed the above decibel levels on approved construction sites at any Point of Reception.

5.2 The provisions of this Bylaw do not apply to:

- (a) emergency vehicles;
- (b) motorized garden tools;
- (c) work on Town streets or on a public utility carried out by the owner or operator of the public utility, or its contractors;
- (d) any activity within the sole jurisdiction of the Government of Canada or the Province of Prince Edward Island.

5.3 A person may apply at the Town Hall for a temporary permit, as per Schedule "A" allowing for noise or Sound Levels that would otherwise violate this Bylaw.

- 5.4 (a) No person(s) shall, within the municipality, disturb the peace and quiet of person(s) therein by:
- (i) shouting, screaming, blowing a horn or other noisemaker, or amplifying speech or music or any other noise;
 - (ii) operating a motor vehicle or motorized vehicle which does not have the standard approved muffler equipment, or by squealing tires;
 - (iii) operating a motor vehicle or motorized vehicle in a manner which causes excessive noise;
- (b) No person(s) shall, within the Municipality, disturb the peace and quiet of person(s) therein by operating motorized machinery contrary to the provisions of this Bylaw.
- (c) The use of Engine Exhaust Brakes, commonly known as **Jake brakes**, as a slowing mechanism for trucks within the boundaries of the Municipality is strictly prohibited at any time.
- (d) Any person who operates or causes or permits to be operated any sound system within the Town that is causing a disturbance or interfering with any person is guilty of an offence.
- (e) For the purposes of prosecution pursuant to section 5.1 (d), evidence that one neighbour is unreasonably disturbed by a noise is prima facie evidence that the neighbourhood is unreasonably disturbed by the noise.

PART VI: HALLOWEEN CURFEW

6. 6.1 (a) Unless accompanied by a person over the age of eighteen (18) years, no person

under the age of sixteen (16) years shall be in a public place within the Town of Montague between the hours of 8:00 PM October 31st and 7:00 AM November 1st.

- (b) In a year that October 31st falls on a Sunday, the restrictions provided in section 6.1 (a) shall also apply from 8:00 PM October 30th to 7:00 AM on October 31st.

PART VII: GENERAL PROVISION

7. 7.1 (a) Any person who commits a nuisance or permits or causes any nuisance to be committed is guilty of an offence;
- (b) Any person who commits a noise or permits or causes any noise to be committed is guilty of an offence.

PART VIII: PENALTIES

8. 8.1 (a) Every person who commits an offence under this Bylaw is guilty of an offence, punishable on summary conviction and liable to:
- (i) a minimum fine of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollar (\$500.00) for first offence, and minimum fine of not less than Two-Hundred and Fifty Dollars (\$250.00) and not more than One Thousand Dollars (\$1,000.00) for any subsequent offence.
 - (ii) imprisonment for a term not exceeding Ninety (90) days; or
 - (iii) to both;
- and in default of payment of any fine imposed, to a further term of imprisonment not exceeding Ninety (90) days.
- (b) A copy of any writing, paper or document filed in Court or any statement containing any information from the records of the Department of the Minister appointed pursuant to the provisions of the Real property assessment Act, R.S.P.E.I. 1988, Cap. R-4 shall be received in evidence in Court without proof of signature and is prima facie evidence of the facts contained therein as to the name of the owner of the real property and the corresponding civic address.
- (c) An engraved, lithographed, printed or otherwise mechanically reproduced facsimile signature of the Minister or his representative is sufficient authentication of any such copy or statement.
- 8.2 The Town, its employees or its duly authorized agents are exempt from prosecution for any act done or performed in good faith while engaged in their course of duties as authorized by this Bylaw.

PART IX: INTERPRETATION

9. 9.1 In this Bylaw words importing the singular shall include the plural and words importing the masculine gender shall include the female gender and vice versa.

PART X: SEVERABILITY

10. 10.1 It is the intention of the Town Council that each separate provision of this bylaw shall be deemed independent from all other provisions of this bylaw, such that, if any provision of this bylaw is declared invalid, all other provisions of this bylaw shall remain valid and enforceable.

PART XI: REPEAL

- 11 11.1 All previous Bylaws of the Town of Montague pertaining to Nuisance and/or Noise are hereby repealed.

SCHEDULE "A"

Noise Exemption Permit Application

Applications must be received at least five (5) days prior to the start of planned events.
Applications must be complete and detailed as possible.

NAME: _____

ADDRESS: _____

TEL. NO. _____

BUILDING PERMIT NO. (If applicable): _____

Describe the
noise source(s)
including address

Exemption Length:
Date/Time

Reason for
exemption

What measures
will be taken to
minimize noise
levels?

Signature: _____ Date: _____

EFFECTIVE DATE

The effective date of the Dangerous, Nuisance and Noise Control Bylaw is the date on which the bylaw was adopted by Town Council.

FIRST READING

This Bylaw was read a first time by a majority of Councillors present at the Council meeting held on the 11th day of August, 2014.

This Bylaw was approved by a majority of the Councillors present at the Council meeting held on the 11th day of August, 2014.

SECOND READING

This Bylaw was read a second time by a majority of Councillors present at the Council meeting held on the 8th day of September, 2014.


This Bylaw was approved by a majority of the Councillors present at the Council meeting held on the 8th day of September, 2014.

ADOPTION AND APPROVAL

This Bylaw was adopted and approved by a majority of the Councillors present at the Council meeting held on the 8th day of September, 2014.

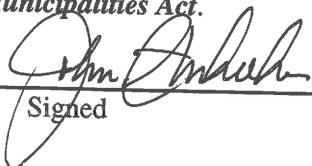


Richard Collins, Mayor



Andrew Daggett, CAO

Filed on behalf of the Minister of Finance, Energy and
Municipal Affairs in accordance with s. 60(c) of the
Municipalities Act.



Signed

22/09/14

Dated