

NOISE BYLAW

Be It Enacted by the Council of the Town of Middleton, under the authority of the Municipal Government Act, S.N.S. 1998, Chapter (18), as follows:

1. This Bylaw shall be known as, and may be cited as, the “NOISE BYLAW”.

DEFINITIONS

2. In this Bylaw, words take their ordinary dictionary meaning other than those defined below:
 - a) **“Council”** means the Town Council of the Town of Middleton;
 - b) **“Town”** means the Town of Middleton;
 - 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 work in connection therewith; but does not include blasting;
 - d) **“Construction equipment”** means any equipment or device designed and intended for use in construction or material handling including but not limited to air compressors, air tracks, hydraulic breakers, excavators, dozers, pile drivers, pneumatic or hydraulic tools, tractors, trenchers, cranes, derricks, loaders, backhoes, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, and other material handling equipment
 - e) **“Motor vehicle”** includes an automobile, a motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; gravitational or wind power except a motorized wheelchair; a vehicle running upon rails, a farm tractor or self-propelled implement of husbandry, and an off-highway vehicle as defined from time to time in the Off- Highway Vehicles Act

- f) **"Public address system"** means any system comprised of one or more of the following, and in any combination: loudspeaker, amplifier, microphone, turntable, reproducer, receiver or tuner, where such equipment is part of a system used to reproduce or amplify sound;
- g) **"Emergency response person"** includes police, fire departments or brigades, registered emergency services providers, search and rescue personnel, provincial, regional or municipal Emergency Measures Organizations, ambulance or emergency health services providers and includes volunteer or military personnel responding to an apparent condition of emergency;
- h) **"A-weighted"** means a unit of measure of decibels (dBA) using a weighted sound level meter;
- i) **"Point of reception"** means any point on premises or premises containing a dwelling unit where sound, originating from other premises, including other dwelling units, is received.

PROHIBITIONS AND INTERRUPTIONS

3. No person shall, within the Town boundaries, engage in any activity which is likely to generate noise or sound that unreasonably disturbs the peace and tranquility of a neighborhood. For this section, evidence that the noise generated can be heard within a dwelling unit located on a neighboring property is prima facie proof that an offence has been committed. Additionally, evidence that a person has operated a vehicle within the Town which produces a noise level higher than the level originally set by the manufacturer because of the removal of the muffler or other noise-dampening device or the modification of the muffler or other noise-dampening device so as to increase the noise level shall constitute prima facie proof that an offence has been committed.
4. Without limiting the generality of section 3, the activities or noises listed in Schedule A and Schedule B, during the proscribed times as set out therein, are deemed to be activities which are likely to generate noise or sound that unreasonably disturbs the peace and tranquility of a neighbourhood if the sound resulting from the activity is audible at a point of reception. Owners and occupiers who create excessive noise shall be liable to a penalty.
5. No person shall operate an off-highway vehicle snowmobile, or dirt bike within Town limits unless on private property or a portion of highway properly designated as a "Road Trial" pursuant to section 5 of the Road Trials Act . The use of these vehicles on private property or designated Road Trail should not cause a noise disturbance to neighboring residents between the hours of 10 p.m. to 7 a.m. No driver shall operate an off-highway vehicle within the Town if the noise level of the vehicle is higher than the level originally

set by the manufacturer because of the removal of the muffler or other noise-dampening device or the modification of the muffler or other noise-dampening device so as to increase the noise level.

6. No person shall generate, or cause or permit to be generated, a noise or sound that is measurable in A-weighted sound pressure level at a point of reception.
 - a) Greater than 70 dBA, before 7:00 am, or after 11:00 pm.
 - b) Greater than 90 dBA, at other times.

FIXED EXEMPTIONS

7. This Bylaw does not apply to:
 - a) emergency response personnel engaged in the execution of their emergency response duties: or
 - b) persons acting at the request of emergency response personnel during an actual or apparent emergency condition.
 - c) without limiting the generality of the foregoing, noises caused by emergency response vehicles and air ambulances are specifically exempt from prosecution.

NOTWITHSTANDING

8. Any other provisions of this Bylaw, this Bylaw shall not apply to or proscribe:
 - a) employees of the Town of Middleton, Government of Canada, Province of Nova Scotia, Middleton Public Service Commission, the Nova Scotia Power or and telecommunications companies and their contractors and employees when acting in the reasonable execution of their duties between 7:00 a.m. and 10:00 p.m. in the day;
 - b) noises in connection with organized athletic or recreational activities in a municipal park area, arenas or community centers between 5:00a.m. and 1:00 am;
 - c) noises from the organized and scheduled activities and events of festivals, parades, street dances, rallies, or other community activities, funded, sponsored or licensed by the Federal or Provincial government or the Town of Middleton until 1:00 am;
 - d) noises emitted by Town-owned machinery or equipment when used in the normal course of performing Town services;
 - e) noises resulting from the operation of any refrigeration unit which is attached to a refrigeration truck if refrigeration truck is parked;

- f) noises emitted by audible pedestrian signals;
- g) the emission of sound in connection with calls to worship, ringing of bells at places of religious worship, or services of religious worship;
- h) the emission of sound in connection with any organized traditional, festive, or religious activity celebrating:
 - i. Canada Day
 - ii. New Year's Eve or
 - iii. Religious/cultural holidays
 - iv. Town sponsored and/or organized recreational activities and events including, but not limited to, Heart of the Valley Festival, Century Ride, Heart Run, Movies and Concerts in the Park
- (i) the emission of sound in connection with emergency measures that are undertaken for:
 - i. the immediate health, safety, or welfare of an individual
 - ii. the preservation of property

GRANT OF EXEMPTION BY COUNCIL

9. Notwithstanding anything contained in this Bylaw, any person may make application to Council to be granted an exemption from any of the provisions of this Bylaw with respect to any emission of noise from which that person might be prosecuted for a period of no more than six (6) months. Council, by resolution, may grant an exemption or refuse the request. Refer to Appendix C for more information.

PENALTIES

10. Any person who contravenes any provision of this Bylaw is guilty of an offence and is punishable on summary conviction by a fine(s) as defined in the Fees and Fines Policy. Subsequent offences are offences that take place after the first offence within the same calendar year.
11. This Bylaw shall only have effect with respect to noises emitted within the boundaries of the Town of Middleton.

REPEAL

12. A Bylaw known as the Orderly and Peaceful Conduct Bylaw dated October 8th, 2003, is



hereby repealed.

Mayor

Chief Administrative Officer

This is to certify that this Bylaw, of which the foregoing is a true copy, was duly passed at a duly called meeting of the Town Council of the Town of Middleton held on the 18th day of December, 2023.

Given under the hand of the Mayor and Chief Administrative Officer of the Town of Middleton this 19th day of December, 2023.

Bylaw Adoption	
Date of First Reading:	October 16, 2023
Publication of Notice of Intent:	November 2, 2023
Date of 2 nd Reading & Passing:	December 18, 2023
Date of Publication of Notice of Passing:	December 21, 2023
Description: Passing of Original Bylaw	
First Amendment	
Date of First Reading:	
Publication of Notice of Intent:	
Date of 2 nd Reading & Passing:	
Date of Publication of Notice of Passing:	
Description:	

Schedule "A"

ACTIVITIES PROSCRIBED AT ALL TIMES:

1. The operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device, in good working order and in constant operation. Modified or aftermarket mufflers that create excessive noise are subject to penalty under this bylaw;
2. The operation of 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;
3. The operation of a motor vehicle horn or other warning device except where required or authorized by law or in accordance with good safety practices;
4. The detonation of explosive devices not being used in construction or quarrying. Fireworks may be used for statutory holidays. Any other uses must be given a permit from the Town Clerk with approval from the CAO (See Appendix A);
5. The discharge of firearms except when used as a signaling device in a sporting competition. For other uses, individuals must receive a permit from the Town Clerk with approval from the CAO under such conditions as are set forth in the Provincial Firearms Regulations. (See Appendix A);
6. Persistent barking, howling or other persistent noise-making by a dog or other animal owned or possessed by the occupant of the premises;
7. Prolonged idling of an engine. Exemptions to this clause include: longer idling period per manufacturer's instructions, weather conditions, and not-for-profit vehicle maintenance.
8. The operation of any item of construction equipment in a residential area without effective muffling devices in good working order and in constant operation;



9. No person shall, within the limits of the Town of Middleton, do any blasting or cause any blasting to be done without first having obtained a written permit from the CAO / Town Planner. (See Appendix B)

Schedule "B"

ACTIVITIES PROSCRIBED BETWEEN THE HOURS OF 11 PM – 7 AM:

1. The operation in the outdoors of any power tool for domestic purposes other than snow removal or emergency repair situations.
2. The loading or unloading of any containers, products, materials or refuse with the exception of private household effects;
3. The operation of any public address system, sound system, or audio/visual equipment in a manner such that the sound from the equipment being operated is audible beyond the bounds of the property from which the noise is emitted;
4. The operation of any motorized conveyance other than on a street or other place intended for its operation;
5. The use or operation of construction equipment, except where such equipment is used or operated on any highways;
6. The use of Off-Highway Vehicles, Snowmobiles, or Dirt Bikes on private property, unless for loading or unloading purposes. This proscription also applies to mechanical work performed on such vehicles.
7. The operation of a garburator, solid waste bulk lift, refuse compacting equipment or hydraulic dumpster associated with a commercial enterprise;
8. Yelling, shouting, outcry, or other amplified sound;
9. Playing of amplified musical instruments and drums in a manner such that the sound from the instruments being played is audible beyond the bounds of the property from which the noise is emitted;
10. The venting, release or pressure relief of air, steam or other gaseous material, product or compound from autoclave, boiler pressure vessel, pipe, valve, machine, device, or system.

Appendix A

Application for a Special License to Discharge a Firearm

***This Special License is required to discharge a gun, air rifle, bow and arrow, or any other type of firearm within the Town of Middleton. It also applies to the release of fireworks outside of a statutory holiday.**

Name: _____

Civic Address: _____

Phone Number: _____

Email: _____

Location of Event: _____

Time of Event: _____

Category (check one):

Gun Club

Bow & Arrow

Air Rifle

Fireworks

Re-enactors

Film Industry

Requirements:

Gun Club

- Anyone who wishes to start a gun club must initially meet with the CAO / Town Planner to look at the location of the proposed club to get a letter of permission.
- Applicant must then apply for the proper license through the Department of Justice Provincial Firearms Office (Canadian Firearms Program).
- Applicant must present approved provincial license to the Town and agree to any conditions set by the CAO regarding Noise and hours of operation prior to consideration for a permit.

Bow & Arrow

- Any bow and arrow range application must be presented to the CAO / Town Planner. Drawings of the layout and measurements between buildings required.
- Proof of proper backdrop or netting
- Proof of insurance for recreation groups

Air Rifle

- For pellet guns or air rifles that fire at less than 500 feet per second.
- Permit for target practice and/or pellet gun events.
- Must present proposed location and safety measures to CAO / Town Planner.

Fireworks

- For a special display of fireworks, residents must first be granted permission by their adjacent neighbours and have, on their property, a wide and clear site that is away from all obstacles. Proof of neighbour permission is required.
- Fireworks must not be set off after 11 pm.
- Residents must discuss their fireworks display plan with the Town Clerk or CAO regarding containment and safety. Fireworks must have a base halfway in a container of earth or sand, unless the label indicates otherwise, and should be pointed away from people and structures.

Re-enactors / Museums

- Must present proof of Provincial licensing for weapons (Canadian Firearms Program)
- Must present proof of insurance.

Film Industry

- Replica firearms are prohibited devices in Canada and the proper protocols should be adhered to if using them in a Film. Refer to the Canadian Firearms Program for information about possessing, acquiring, borrowing, storing, and transporting replica firearms.
- If replica firearms or gun powder will be used in filming, a permit is required from the CAO prior to filming. Owners of properties in close proximity will be notified of potential noise. Any explosive noise after 10 pm should be noted in the application.

Appendix B
Blasting Permit

***This Special License is required to conduct any blasting within the Town of Middleton.**

Name: _____

Civic Address: _____

Phone Number: _____

Email: _____

Location of Event: _____

Time of Event: _____

Requirements:

- **Liability Insurance in the minimum amount of Three Hundred Thousand Dollars (\$300,000).**
- **“Blasting Certificate” proof of qualifications.**
- **Blasting Plan which includes a suitable mat to prevent debris from escaping the blasting area.**

All blasting done in the Town of Middleton will be performed in accordance with such standards as may from time to time be imposed by statute or regulation within the Province of Nova Scotia.

Approved by:

CAO

Date of Approval

This license will expire within 3 months of application. Any changes to the project Timeline **MUST** be expressed to the CAO.

Appendix C

Application for a Grant of Exemption by Council

***Town Council may grant an exemption to the Noise Bylaw with respect to any emission of noise from which that person might be prosecuted for a period of no more than six (6) months.**

Name: _____

Civic Address: _____

Phone Number: _____

Email: _____

Reason for Request: _____

Location of Event: _____

Time of Event: _____

Requirements:

- **Abide by any Terms and Conditions set forth by Town Council**
- **Background material for Council review**

Rights of Council:

In deciding whether or not to grant an exemption under section 9 or in determining terms or conditions of the exemption, Council shall give consideration to:

- a) the social or economic benefit of the proposed activity to the Town, the views of any residents of the Town;
- b) volume, nature and consistency of noise emission associated with the proposed activity;
- c) the proximity and nature of abutting or adjacent land uses;
- d) the hours of operation of the proposed activity;
- e) any other factor relevant to balancing the interests of the applicant in the proposed activity against the interests of those persons who might be disturbed by the proposed activity.

Any contravention of the terms or conditions of an exemption shall constitute a contravention of this Bylaw. In addition to any other available remedies for such contravention, the Bylaw Enforcement may on reasonable and probable grounds, without a hearing, suspend an exemption for a period of up to 30 days pending Council review of the exemption or issue a summary of offence ticket.

Any exemption pursuant shall be reviewable by Council at any time upon 10 days' notice to the person exempted, and Council is free to revoke, suspend or restrict the exemption with or without cause having regard to the criteria set forth in this application form.

Public Input:

Applications for an exemption for an activity of less than 14 days duration do not require a public hearing pursuant to this application or notice by the Town, but all other exemptions, renewals of 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. It is advisable that applicants speak to adjacent property owners prior to application.

For applications that are longer than 14 days, ten (10) days' notice of time, date and purpose of a public hearing shall be mailed by the applicant to the assessed owner or owners, as shown in the records of the Town Office, of each property which contains a building located within 150 meters (492 feet) of the property which will be the subject of the hearing, except that where the exemption is sought for an outdoor event not conducted at a fixed location.