

# Noise

## By-Law # 023



Town of Quispamsis



**BY-LAW NO. 23**  
**A BY-LAW OF THE TOWN OF QUISPAMISIS RESPECTING**  
**DISTURBANCE BY NOISE**

Pursuant to the authority of Section 11(1)(l) of the Municipalities Act of New Brunswick, BE IT ENACTED BY the Council of the town of Quispamsis as follows:

**1. TITLE**

- A) This By-law may be cited as the Noise By-law.

**1.1 DEFINITIONS**

- A) In this By-law:
- i. **“Consumer Firework”** means an outdoor, low hazard, recreational firework that is dealt with in Part 16, Sections 354 to 359 of the Explosive Regulations, 2013 (SOR/2013-211) of the *Federal Explosives Act*, and includes fireworks showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, volcanoes and sprinklers;
  - ii. **“Display Firework”** means an outdoor, high hazard, recreational firework that is dealt with in Part 18, Sections 410 to 449 of the Explosive Regulations, 2013 (SOR/2013-211) of the *Federal Explosives Act*, and includes rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons.

**2. PROHIBITION OF NOISE CAUSING NUISANCE OR DISTURBANCE**

- A) No person shall make or permit to be made any noise within the town of Quispamsis likely to cause a public nuisance or otherwise disturb the inhabitants of the town of Quispamsis. For the purposes of this Section, evidence that one person is unreasonably disturbed by a noise is prima facie evidence that a noise is disturbing the inhabitants of the town of Quispamsis.
- B) Without restricting the generality of Section 2(a), a noise, whether generated on private property or a public place, likely to cause a public nuisance or otherwise disturb the inhabitants shall be deemed to be any

noise or sounds of such volume or of such nature as to cause annoyance to residents of the town of Quispamsis.

### **3. SPECIAL CASE EXCEPTIONS**

- A) Without restricting the generality of Section 2, this by-law shall not apply to:
- i. The detonation of Display fireworks or explosive devices not used in construction, when so authorized by the town of Quispamsis;
  - ii. Noises in connection with athletic and recreational activities, when taking place on recognized sportsfields between the hours of eight o'clock in the forenoon (8 a.m.) and eleven o'clock in the afternoon (11p.m.);
  - iii. Noises in relation to organized and scheduled traditional, festive and religious activities;
  - iv. Noises in relation to organized and scheduled activities and events such as parades, street dances, and other community celebrations, when so authorized or sponsored by the town of Quispamsis;
  - v. Pneumatic hammers, construction equipment and machinery, vehicles of business and trade between the hours of seven o'clock in the forenoon (7 a.m.) and nine o'clock in the afternoon (9 p.m.) from Monday to Saturday inclusive;
  - vi. Snow removal and emergency response equipment at any time;
  - vii. Farming equipment and machinery;
  - viii. Property owners doing maintenance and/or repairs to their property between the hours of eight o'clock in the forenoon (8 a.m.) and nine o'clock in the afternoon (9 p.m.).
  - ix. The detonation of consumer fireworks between the hours of dusk and 11:00 PM if detonated under the parameters outlined in Section 3.B.
- B) When detonating consumer fireworks, all the following conditions must be followed:

- i) No parent or guardian of any person under the age of eighteen (18) years shall allow or permit that person to set off consumer fireworks, except under the direct supervision and control of a natural person eighteen years of age or older, who shall, at all times, remain physically present in the immediate area where the Consumer Fireworks are being set off.
- ii) No person shall set off or hold a display of consumer fireworks on any land that is not owned by him or her, unless written permission for the setting off or the holding of a display of consumer fireworks on a date to be clearly specified in the written permission, has been obtained from the owner, lessee or person in charge of the land.
- iii) No person shall set off consumer fireworks into, inside of, or on any building, accessory building, structure or vehicle.
- iv) No person shall set off consumer fireworks into, in or on any highway, road, street, lane, square, park or other public place where the public or any member thereof has access to, or may have access to, uses or may use.
- v) No person shall set off consumer fireworks in a manner or at a location that causes the discharge, smoke, residue or fallout of the fireworks on the land of another person or to encroach on the property of another person, or that which creates a nuisance, or that creates or may create an unsafe condition, danger from fire or risk of accident, injury or damage at or in respect of any place, location or site, or in respect of any person, property or thing.
- vi) No person shall set off consumer fireworks when there is a burning ban issued by the Province of New Brunswick for Kings County.
- vii) Every person who sets off consumer fireworks shall:
  - a) Provide and maintain fully operational fire extinguishing equipment ready for immediate use, and present at all times for a reasonable period thereafter, at the location or site of the setting off of the consumer fireworks. This includes having knowledge of the operational procedures associated with said fire extinguisher equipment;
  - b) Follow the manufacturer's requirements for the discharge of the fireworks; and

- c) Permit the inspection of any site where consumer fireworks may be stored, set off or displayed, and the consumer fireworks themselves, together with all associated equipment, by anyone authorized to enforce this by-law, forthwith upon demand.

#### **4. OFFENCES**

- A) Any person who violates or breaches any provision of this by-law is guilty of an offence.

#### **4.1 ENFORCEMENT**

- A) This by-law may be enforced by:
  - i) A Town of Quispamsis By-law Enforcement Officer;
  - ii) A Member of the Kennebecasis Regional Police Force; or
  - iii) A Member of the Kennebecasis Valley Regional Fire Department.

#### **5. PENALTY**

- A) Every person charged with an offence under this By law may, on or before the date a charge pertaining to the offence has been laid in Provincial Court, make a voluntary payment of seventy five dollars (\$75.00) to the Quispamsis Town Clerk as follows:
  - i. in person at the Quispamsis Town Hall, 12 Landing Court, Quispamsis, NB, in cash or by cheque or money order made payable to the Town of Quispamsis; or
  - ii) by mail to the Town of Quispamsis, P.O. Box 21085, Quispamsis, NB, E2E 4Z4, Attention Town Clerk, by cheque or money order only, payable to the Town of Quispamsis;

at which time the ticket or ticket number shall be surrendered and such payment shall be deemed payment in full.

- B) If the voluntary payment set out in Subsection 5(A) has not been received in accordance with the provisions of Section 5.(A), the person charged with the offence may make a voluntary payment of one hundred fifty dollars (\$150.00) to the Quispamsis Town Clerk as follows:

- i. in person at the Quispamsis Town Hall, 12 Landing Court, Quispamsis, NB, in cash or by cheque or money order made payable to the Town of Quispamsis;
- ii) by mail to the Town of Quispamsis, P.O. Box 21085, Quispamsis, NB, E2E 4Z4, Attention Town Clerk, by cheque or money order only, payable to the Town of Quispamsis;

at which time the ticket or ticket number shall be surrendered and such payment shall be deemed payment in full.

- C) If the voluntary payments set out in Subsection 5(A) and Subsection 5(B) have not been received before a plea is entered in Provincial Court, the person charged with the offence is liable, on summary conviction, to a fine not less than two hundred fifty dollars (\$250.00) and not more than the maximum fine which may be imposed for commission of an offence punishable under PART II of the Provincial Offences Procedure Act as a Category D Offence.

**6. BY-LAWS REPEALED**

- A) By-law No. 39 of the former Town of Quispamsis respecting Disturbance by Noise and By-law No. 34 of the former Village of Gondola Point respecting Peace, Order and Decorum and the Protection of Property Rights are hereby repealed.

**READ FIRST TIME: July 17, 2001**

**READ SECOND TIME: July 17, 2001**

**READ THIRD TIME AND ENACTED: September 18, 2001**

**AMENDMENT NO. 1 READ THIRD TIME AND ENACTED: August 18, 2015**

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MAYOR

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CLERK

SEAL