

Town of Portugal Cove-St. Philip's

Noise and Nuisance By-Law

Pursuant to the authority conferred in sections 7 and 8 of the *Towns and Local Service Districts Act*, the Town Council of the Town of Portugal Cove-St. Philip's has adopted the following By-Laws on the 23rd day of September 2025.

1. TITLE

1.1. This document shall be known as the "Noise and Nuisance By-Law".

2. PURPOSE

- 2.1. The purpose of this By-Law is to regulate and manage noise levels within the Municipality.
- 2.2. This By-Law seeks to establish clear and enforceable standards for acceptable noise levels by specifying prohibitive noise sources, times and locations.

3. INTERPRETATION/DEFINITION

In this By-Law, unless the context otherwise requires:

- 3.1. "**Act**" shall mean the Towns and Local Service Districts Act.
- 3.2. "**dB (A)**" means the sound level in decibels obtained when using a sound level meter with the "A" weighting.
- 3.3. "**Fireworks**" means the firing, igniting, exploding, using, and setting off of aerial fireworks, family fireworks, and pyrotechnics:
- 3.3.1. "**Aerial Fireworks**" means high hazard fireworks as described in Class 7, Division 2, Subsection 2 of the Explosives Regulations under the *Explosives Act, RCS 1985, c E-17*, as amended;
- 3.3.2. "**Family Fireworks**" means low hazard fireworks for recreation commonly referred to as consumer fireworks, and as described in Class 7, Division 2, Subsection 1 of the Explosives Regulations under the *Explosives Act, RCS 1985, c E-17*, as amended;
- 3.3.3. "**Pyrotechnics**" means theatrical explosives as described in Class 7, Division 2, Subsection 5 of the Explosives Regulations under the *Explosives Act, RCS 1985, c E-17*, as amended.
- 3.4. "**Justice**" shall mean a judge of the Provincial Court of Newfoundland and Labrador or a presiding justice of the peace.
- 3.5. "**Licensed Premises**" means licensed premises within the meaning of The Liquor Control Act, 1990, RSNL1990 c. L-18.
- 3.6. "**Peace Officer**" refers to an officer of the Royal Newfoundland Constabulary, Royal Canadian Mounted Police or a By-Law Officer.
- 3.7. "**Measurement Point**" means a point where noise is measured at the property boundary of the property from which the source of the noise is emanating.
- 3.8. "**Public Address System**" means any system of loudspeakers, 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 communication or to

otherwise address or entertain groups of people whether the same is mounted upon a vehicle or upon a building or other structure or upon the ground.

- 3.9. **"Sound"** means the oscillation in pressure, stress, particle displacement or particle velocity, in a medium with internal forces (i.e., elastic, viscous) or the super position of such propagated oscillations, which oscillations are capable of causing an auditory sensation.
- 3.10. **"Sound Level Meter"** means a device used to measure sound pressure, which meets the applicable American National Standards Institute, S1.4-1983(R2006), the International Electro-Technical Council Standard No. 123 or the British Standard No. 3539 Part 1 or the U.S.A. Standard S1.4-1961.
- 3.11. **"Statutory Holiday"** shall mean a holiday identified in the Shops Closing Act, RSNL 1990, S-15, as amended.
- 3.12. **"Town"** shall mean the Town Council of the Town of Portugal Cove-St. Philip's as incorporated under the Act.
- 3.13. **"Weekday"** shall mean Monday through Friday, exclusive of any Statutory Holiday.

4. APPLICATION

- 4.1. This Noise and Nuisance By-Law applies to all individuals, businesses, organizations, and activities within the jurisdiction of the Town of Portugal Cove-St. Philip's, includes (but not limited to residential), commercial, and industrial areas. This By-Law governs all sources of noise and includes (but is not limited to), sounds generated by construction, transportation, entertainment, machinery, vehicles and domestic activities.
- 4.2. Noises not prohibited by this By-Law shall not constitute a nuisance.
- 4.3. This By-Law shall not apply to any other activity considered to be a nuisance by Council or any other member of the public.

5. PROCEDURE

5.1. GENERAL PROHIBITION

- 5.1.1. No person shall make, cause to be made or permit to be made any sound measuring 80 dB (A) or greater as measured from the Measurement Point except in accordance with this By-Law.
- 5.1.2. In the absence of other evidence or by way of corroboration of other evidence, a Justice may infer from the evidence of a Peace Officer relating to the conduct of a person or persons that a sound is unreasonably loud or excessive.

5.2. SOUNDS PROHIBITED

Notwithstanding Section 5.3 of this By-Laws, the following acts, among others, are prohibited:

- 5.2.1. **Lawn Mowers, and Similar Devices:** In residential zones, the operation of power equipment or machinery used in lawn and garden care or property maintenance including any lawn mower, chain saw, leaf blower, hedge trimmer, power fan, edge trimmer, line trimmer, roto-tiller, shop vacuum, pressure washer, compressor, internal combustion engine or similar equipment, between the hours of 11:00 p.m. and 7:00 a.m. on a weekday, Saturday, Sunday or Statuary Holiday.
- 5.2.2. **Amplified Sound:** In all areas of the Town, the operation of a Public Address System which generates a sound measuring 55 dB (A) or greater from the

Measurement Point is prohibited between the hours of 11:00 p.m. and 7:00 a.m. on a Weekday and 11:00 p.m. and 9:00 a.m. on a Saturday, Sunday or Statutory Holiday except at an outdoor public event as identified in Section 5.3 of this By-Law.

- 5.2.3. Idling Vehicles: In residential zones, the idling of any vehicle for more than twenty (20) minutes.
- 5.2.4. Air Horns: The use of an air horn on any motor vehicle within the Town except during normal operation of the vehicle to give warning.
- 5.2.5. Construction, Demolition, Alteration or Repair of Buildings or Structures: In all areas of the Town, the construction, demolition, alteration or repair of any building or structure is prohibited between the hours of 11:00 p.m. and 7:00 a.m. on a Weekday and 11:00 p.m. and 9:00 a.m. on a Saturday, Sunday or Statutory Holiday.
- 5.2.6. Excavation, Earth Moving or Blasting: In all areas of the Town, the use of heavy equipment or machinery to place, remove or alter the topography of the land is prohibited between the hours of 7:00 p.m. and 7:00 a.m. on Weekdays, 7:00 p.m. and 9:00 a.m. on Saturdays and any time on a Sunday or Statutory Holiday. Rock hammering is prohibited between the hours of 4:00pm and 8:00am on Weekdays and Saturdays and any time on a Sunday or Statutory Holiday. For Developments that have had rock hammering ongoing for a period longer than twelve (12) weeks, rock hammering shall be restricted to only occur between the hours of 10:00am and 2:00pm with authority delegated to the Town's Chief Administrative Officer (CAO) to allow rock hammering between the hours of 8:00am and 10:00am or between the hours of 2:00pm and 4:00pm under such terms and conditions as set by the CAO on a case-by-case basis.
- 5.2.7. Licensed Premises: Any licensed premises or patio area which is part of the licensed premises shall not generate a sound measuring 55 dB (A) or greater from the Measurement Point between the hours of 11:00 p.m. and 7:00 a.m. on a Weekday and 11:00 p.m. and 9:00 a.m. on a Saturday, Sunday or Statutory Holiday.
- 5.2.8. Fireworks:
 - 5.2.8.1. The firing, igniting, exploding, using, and setting off family fireworks except:
 - (i) Between the hours of 7:30 pm July 1 (Canada Day) and 12:30 am of the following day;
 - (ii) Between the hours of December 31 (New Year's Eve) and 12:30 am of the following day;
 - (iii) Any other day and time as designated by Council through this By-Law;
 - (iv) Notwithstanding Sections 5.2.12.1 (i) and (ii), a person may discharge family fireworks outside July 1 and December 31 with written authorization from Council.
 - 5.2.8.2. No person shall discharge aerial fireworks or pyrotechnics within the boundaries of the Town without first obtaining written authorization from Council.
 - 5.2.8.3. Where a prohibition of the setting of fires in relation to the forest lands within or adjacent to the boundary of the Town has been proclaimed under the *Forestry Act, RSNL 1990 c F-23*, as amended, and remains in effect, no person shall discharge fireworks within the boundaries of the Town.
- 5.2.9. Air Conditioners, Heat Pumps, Compressors, Condensers, Chillers, Cooling Towers and Similar Devices: No person shall use or operate or cause to be used or operated any air conditioner, heat pump, compressor, condenser, chiller, cooling

tower or similar device which generates a sound measuring 55 dB (A) or greater when measured at the Measurement Point.

5.2.10. Exhaust Fan, Exhaust System, Intake Fan, Generators, Commercial Dryer or Similar Device: No person shall use or operate or cause to be used or operated any exhaust fan, exhaust system, intake fan, generators, dryer in a commercial car wash or similar device which includes combustion exhaust of a high efficiency furnace, which generates a sound measuring 55 dB (A) or greater when measured at the Measurement Point except for use or operating a generator as identified in Section 5.3 of this By-Law.

5.2.11. Pump Or Filtration Systems: No person shall use or operate or cause to be used or operated any pump, filtration system or similar device for an outdoor swimming pool, hot tub, spa, fountain or water feature which generates a sound measuring 55 dB(A) or greater when measured at the Measurement Point.

5.3. SOUND EXCEPTIONS

Sounds caused by the following are exempt from the prohibitions set out in this By-Law:

5.3.1. Acts by emergency response authorities or individuals under the direction of Emergency Response Authorities in responding to an emergency or performing assigned duties including (but not limited to) the Royal Newfoundland Constabulary, the Royal Canadian Mounted Police, St. John's Regional Fire Department, the Town of Portugal Cove-St. Philip's Volunteer Fire Department, NL Health Services, or any employee of the Town while such member is employed in the execution of his or her duties for such emergency response authority.

5.3.2. The operation of a generator as an alternate power source when electricity is not able to be distributed by Newfoundland Power Inc. due to a failure of the electrical power grid or other electrical power failures that are not associated with the electrical power grid.

5.3.3. Snow clearing, removal and ice control activities undertaken by or on behalf of the Town or the Department of Transportation and Infrastructure.

5.3.4. The operation of privately-owned snow blowers or other forms of privately-owned snow clearing equipment for the purpose of providing vehicle access to and from private property.

5.3.5. The use of any bell by a church or other religious organization.

5.3.6. The use of any bell, siren, whistle or similar device by a school or other educational institution.

5.3.7. The use of any bell, whistle, horn or similar device by an ocean-going vessel in accordance with maritime shipping laws that can be heard on the shores within the Town.

5.3.8. A parade staged by the Town for which approval has been obtained from the Town.

5.3.9. An outdoor political rally, public protest, demonstration, religious service, memorial service or other similar gathering.

5.3.10. Amplified sound and/or fireworks during events staged by or on behalf of the Town.

5.3.11. The construction, repair and maintenance of municipal infrastructure and the performance of any public works by or on behalf of the Town.

5.3.12. The annual Portugal Cove-St. Philip's Regatta or End of Season Regatta.

6. FIREWORKS

6.1. GENERAL

6.1.1. No person shall discharge or cause to be discharged fireworks in such a manner as may create danger to any person or property, or do or cause or allow any unsafe act or omission in the discharging of any fireworks.

6.1.2. Nothing in this By-Law shall or shall not be deemed to alter, amend, or abrogate in any way the requirements and responsibilities set out in the *Fire Protection Services Act, SNL 2008 c F-11.01* as amended, and its Regulations, or the *Explosives Act, RCS 1985, c E-17*, as amended, and its Regulations.

6.2. FAMILY FIREWORKS

6.2.1. The Town may, for weather-related or any other reason, declare that family fireworks shall not proceed in accordance with Sections 5.2.8.1 (i) or (ii), and may announce an alternate day and time when the discharge of family fireworks is permitted. Notice of the alternate day and time shall be given by posting to the Town website.

6.2.2. No person shall discharge family fireworks in, into, or on:

- (i) Any building, structure, doorway, or vehicle;
- (ii) Any highway, street, lane, square, road, or other public place;
- (iii) Any land that they do not own unless the owner thereof has given prior written permission.

6.2.3. No person under the age of 18 shall discharge family fireworks.

6.2.4. Every person who discharges family fireworks shall have access to a fire extinguisher and bucket of water ready for immediate use at the site where the family fireworks are discharged.

6.2.5. Every person who discharges family fireworks shall do so in accordance with the instructions printed on each item or package.

7. OFFENSES

7.1. A person who violates this By-Law commits an offense in accordance with s. 289 (f) of the Act.

7.2. A person who commits an offense under s. 289 of the Act is liable on Summary Conviction to penalties under s. 290 of the Act.

7.3. This By-Law shall not exclude the application of other penalties not expressly listed.

7.4. Prosecutions for offenses in this By-Law may be carried out by the Town under s. 291 (1) of the Act.

7.5. A Prosecution shall not be commenced by the Town with respect to an Offence under the Act until after an appeal period which may apply to the activity giving rise to the Offence has passed.

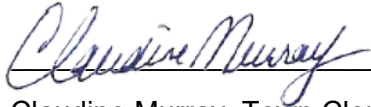
8. REPEAL OF PREVIOUS REGULATIONS AND BY-LAWS

All previous Town of Portugal Cove–St. Philip's Noise and Fireworks Regulations are repealed.

All previous Town of Portugal Cove–St. Philip's Noise and Nuisance By-Law revisions are repealed.

9. CAME INTO EFFECT

9.2. This By-Laws came into effect on February 11, 2025, through a resolution of Council,
#2025-054

A handwritten signature in blue ink, reading "Claudine Murray", written over a horizontal line.

Claudine Murray, Town Clerk

A handwritten signature in blue ink, reading "Carol McDonald", written over a horizontal line.

Carol McDonald, Mayor