

## PUBLISHED BY AUTHORITY

Pursuant to the authority conferred by the *Municipalities Act, 1999*, S.N.L. 1999, c. M-24, as amended, Section 414(2)(ee), the following Regulations have been made by the Town Council of the Town of Happy Valley-Goose Bay and were approved on the 24<sup>th</sup> day of September, 2019.

  
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Mayor

  
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Town Clerk

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## NOISE AND NUISANCE REGULATIONS

### 1. Title

These Regulations shall be known and cited as the *Town of Happy Valley-Goose Bay Noise and Nuisance Regulations*

### 2. In these Regulations, unless the context otherwise requires:

- (a) “**Act**” means the *Municipalities Act, 1999*, S.N.L. 1999, c. M-24, as amended;
  - (b) “**Air Gun**” includes those guns commonly referred to as B.B or Pellet guns and all guns operated by pump or spring mechanisms and compressed gas cylinders regardless of muzzle velocity;
  - (c) “**Community Constable**” means a person appointed by Council as a municipal enforcement officer pursuant to Section 179 of the Act;
  - (d) “**Council**” means the council of the Town of Happy Valley-Goose Bay;
  - (e) “**Noise**” means any sound which, in the opinion of a Community Constable or Peace Officer, and having regard for all circumstances, including the time of day and the nature of the activity generating the sound, is likely to unreasonably annoy or disturb persons or to injure, endanger or detract from the comfort, repose, health, peace, or safety of persons within the Town;
  - (f) “**Nuisance**” means anything or any condition of things which is or may become injurious or dangerous or presents an obstruction to pedestrians or vehicular traffic or anything or any condition of things that, in the opinion of Council, has an unpleasant effect on the senses or adversely affects the amenities of the surrounding property and, for greater certainty and without limitation, can include a Noise, public intoxication, committing lewd activities, fighting in public, urinating in public, defecating in public, loitering in a public place, and disturbing the peace;
  - (g) “**Peace Officer**” means a member of the Royal Newfoundland Constabulary, a member of the Royal Canadian Mounted Police, or a Community Constable;
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- (h) **“Person”** includes any individual, corporation, partnership, association, organization, trustee, or society;
  - (i) **“Town”** means the Town of Happy Valley-Goose Bay.
3. No person shall make, continue, or cause to be made or continued, or suffer or permit to be made or continued a Nuisance.
- 4.
- (a) For the purpose of these Regulations, a Noise will be considered to be unreasonably loud or excessive if, in the opinion of a Community Constable or Peace Officer, it unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity in the vicinity.
  - (b) Factors for determining whether a sound is a Noise is unreasonably loud or excessive include, but are not limited to, the following:
    - (i) the proximity of the sound to sleeping facilities, whether residential or commercial;
    - (ii) the land use, nature and zoning of the area from which the sound emanates and the area where it is received or perceived;
    - (iii) the time of day or night the sound occurs;
    - (iv) the duration of the sound;
    - (v) the volume of the sound;
    - (vi) the nature of the sound;
    - (vii) whether the sound is recurrent, intermittent or constant; and,
    - (viii) the nature of the event or activity from which the sound emanates.
  - (c) A Community Constable or Peace Officer may direct any person who has caused or made a Noise, or any person who owns property from which Noise has originated, to abate or eliminate the Noise. Such a direction may be either verbal or written.
5. The following acts are deemed to be violations of the Regulations *per se* and are prohibited. This enumeration does not constitute an exclusive list. No person shall:
- (a) Create a Noise within the Town through the usage of firearms or other noise making devices, except as may be approved by Council and subject to the approval of law enforcement or other regulatory agencies;
  - (b) Create a Noise within the Town through the usage of shouting or noise-making devices for the purpose of selling wares, soliciting business or attracting attention; and,
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- (c) Create a Noise within the Town through the use of motor vehicle horns except as may be reasonably necessary in the opinion of Council for the safety and warning of traffic and pedestrians.
6. Where a use of land or activity otherwise lawfully permitted at a location within the Town necessarily involves the creation of Noise, as defined by these Regulations, the person owning, operating, or controlling the activity; and the person owning or controlling the property upon or within which the activity is allowed to take place shall take all reasonable steps to ensure that the Noise created by the said activity is minimized as much as practicable, in all circumstances.
- 7.
- (a) No Person shall fire or discharge an Air Gun within 300 meters of a house or 1000 meters of a school, playground, or athletic field within the Town.
  - (b) No Person shall fire or discharge an Air Gun in a manner creating a Nuisance.
  - (c) A Peace Officer may seize an Air Gun where there are reasonable and probable grounds to believe that an offense has been committed pursuant to these Regulations.
  - (d) Where a charge is not laid pursuant to Regulation 6(a) and/or (b) within a period of thirty (30) days from the date of the offense, an Air Gun seized pursuant to Regulation 6(c) shall be returned.
8. No Person shall, between 9:00 pm of any day and 8:00 am the following day, use or operate a lawnmower, chainsaw, snowmobile, radio, musical instrument, machinery, truck or any other equipment in such a manner that is likely to disturb the peace and quiet of a neighborhood.
9. No Person shall create a Noise within the Town through the use of a motor vehicle that has no muffler or a defective muffler/modified muffler, except as may be necessary to move such vehicle to a location for associated repairs.
10. No Person shall create a Noise within the Town through the squealing of tires of a motor vehicle which is caused by unnecessary braking, turning or settling in motion of such motor vehicle.
11. No Person shall permit a dog owned by that person, or under the care and control of a person, to bark when it is likely to disturb the peace of a neighborhood.
12. The use of fireworks within the Town, at any time whatsoever, is prohibited except if carried out further to, and in accordance with, these Regulations.
13. Notwithstanding section 11, the Town may, in its sole discretion and upon application, issue a fireworks permit to an individual over the age of 18 allowing for the use of fireworks between 4:00 p.m. and 11:00 p.m. Any such permit shall include the conditions that Council considers appropriate but shall, at a minimum, prescribe the place and time where the fireworks are permitted.
14. Notwithstanding any other provision of these Regulations, and provided the Town has not issued a ban on fireworks for safety, fire risk or other reasons, fireworks are permitted within the Town without a permit at the following times:
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- (a) Between 4:00 p.m. and 11:00 p.m. on Canada Day; and,
  - (b) Between 4:00 p.m. on New Year's Eve and 1:00 a.m. on New Year's Day.
15. Nothing in these Regulations shall be deemed to prohibit:
- (i) The sounding of any bell, horn, siren or other warning device of any vehicle the law requires, or when responding to an emergency;
  - (ii) The ringing of church bells or church chimes;
  - (iii) The sounding of whistles;
  - (iv) The sounding of motor vehicle horns in a wedding, procession, or in parades permitted by Council; or,
  - (v) The removal of snow by heavy equipment immediately following a snow storm.
16. The provisions of these Regulations shall not apply to any Community Constable, Peace Officer, member of an Ambulance service, member of a Fire Department or to work carried on by the Town or its agents, contractors, servants or employees, while any such person, member or employee is employed in the execution of his or her duties as a member of such force or is otherwise acting within the scope of their agency, contract, or employment, as the case may be.
17. These Regulations may be enforced by a Community Constable, a Peace Officer, or any other Person appointed by Council.
18. Every person requested by a Community Constable or Peace Officer shall, on request, forthwith give his/her proper name and address.
19. Every person who acts in contravention of or fails to comply with any provision of these Regulations, or neglects or refuses to do so:
- (a) shall be liable to penalties as stipulated under the schedule of fines and penalties in these Regulations in accordance with section 414(2)(q) of the Act; or,
  - (b) shall be liable on summary conviction to a fine in accordance with Section 420 of the Act, which such fine shall not exceed \$500.00, and in default of payment of such penalty to imprisonment for a period not exceeding ninety days.
20. A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any provision of these Regulations shall not affect the validity of the remaining parts of these Regulations.
21. No action lies against any person acting in good faith for anything done or proposing to be done under these Regulations.
22. These Regulations shall come into effect on the 27th day of August, 2019.
23. All previous Town of Happy Valley-Goose Bay Noise and Nuisance Regulations and amendments are repealed.
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