



**DISTRICT OF PORT EDWARD
NOISE CONTROL BYLAW NO. 520, 2011**

**A BYLAW TO REPEAL THE NOISE CONTROL BYLAW #245, 1987; and Amended
Bylaw #300 and Bylaw # 344**

**A BYLAW TO REGULATE OR PROHIBIT THE MAKING OR CAUSING OF NOISES,
NUISANCES OR SOUNDS WITHIN THE DISTRICT OF PORT EDWARD**

WHEREAS under the provisions of Section 64 of the Community Charter, Council of the District of Port Edward is authorized to enact a bylaw in relation to nuisances, disturbances and other objectionable situations.

NOW THEREFORE, the Municipal Council of the District of Port Edward, in open meeting assembled, enacts as follows:

1. DEFINITIONS

Animal - shall include any form of life endowed with voluntary motion.

Authorized Person - shall include the following;

- (a) a member of the R.C.M.P.
- (b) a special constable
- (c) the Superintendent of Public Works
- (d) An Animal Control Officer
- (e) The District Clerk
- (d) Bylaw Officer

District - means the District of Port Edward.

Council - means the Municipal Council of the District of Port Edward.

Noise -includes any sound, continuous sound or non-continuous sound which disturbs or tends to disturb the peace, quiet, rest, enjoyment, comfort or convenience of the neighbourhood in which such sound is received, or, of any reasonable person in the vicinity of the source of such sound who receives such sound.

Permit Application -shall be as in Schedule "A"

Permit - shall be a permit as in Schedule "B"

Person- shall include any corporation, partnership or party and the heirs, executors, administrators or other legal representatives of such person, to whom the context can apply according to law and also includes the owner, his agent or the occupier of or the holder of a purchaser's interest in any agreement for sale of any real or personal property or premises within the District.

Property- shall include real property and includes land together with all improvements which have been so affixed to the land to make them in fact and in law a part thereof, and shall include highway as determined in the Motor Vehicle Act.

Utility- shall include water, sewer, electrical, telephone, cable service, etc.

2. GENERAL REGULATIONS

- (i) No person shall make or cause, or allow or permit to be made or caused, any noise in or on any property which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of any person or persons in the neighbourhood or vicinity.
- (ii) No person who is the owner or occupier or tenant of property shall use such property or any part thereof or allow or permit such property or any part thereof to be used in such a manner that noise or sound which occurs thereon or emanates there from, disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons on the same piece of property or in the neighbourhood or vicinity.
- (iii) No person shall play or operate any radio, tape recorder, audio playback machine, stereophonic equipment or other instrument or any apparatus for the production or amplification of sound in or on private premises, or in or on any public place in such a manner as to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons on the same piece of property or in the neighbourhood or vicinity.
- (iv) No person shall own, possess, keep, or harbour any dog which by its repeated barking disturbs or tends to disturb the quiet, peace, rest enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity.
- (v) No person shall own, possess, keep or harbour any animal or bird which by its cries disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity.
- (vi) No hawker, huckster, pedlar, news vendor or other person shall, by his intermittent or reiterated cries, disturb or tend to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of any person or persons in the vicinity.
- (vii) No person shall use or operate a public address system or megaphone or other thing or device emitting or amplifying noise in the District without first having obtained a permit from the District.
- (viii) No person shall operate a motor vehicle, snow vehicle, motorcycle, motor boat, an all terrain vehicle or dune buggy which makes or causes noise which disturbs or

tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity.

- (ix) No person shall allow or permit or take part in or be part of any charivari or other similar disturbances of the peace.
- (x) No person shall commit or abet the committing of any nuisance.
- (xi) No person being the owner, occupier or tenant of property shall allow or permit any nuisance on that property or emanating from that property to remain unabated.
- (xii) No person being the owner, occupier or tenant of property shall allow or permit or be a party to vice, drunkenness, profane swearing or indecent, obscene, blasphemous or grossly insulting language or other immorality or indecency which disturbs or tends to disturb the quiet, peace, rest, enjoyment comfort or convenience of the neighbourhood or of persons in the vicinity.

3. EXCEPTIONS

(1) GENERAL

Nothing in this bylaw shall preclude;

- (i) The operation of emergency equipment or any emergency vehicle by an authorized person; or
- (ii) Any act of maintenance or repair being carried out by employees or contractors of the District, the Ministry of Highways or any public or private utility; or
- (iii) Any repairs to property of an emergency nature; or
- (iv) Snow removal or washing/cleaning operations, provided that in the case of private parking lots, such actions are commenced as soon as is practicable after the close of business for the day; or
- (v) Any maintenance or repairs or construction to property by the owner, occupier or agent of said property between the hours of 7:00 a.m. and 9:00 p.m. of the same day; or
- (vi) The operation of a public transportation system; or

- (vi) The operation or use of any public address system required under a building or fire code; or
- (vii) Any person from functioning within the limits of a permit issued under the Fire or Traffic Bylaws of the District; or
- (viii) Construction or industrial work between the hours of 7:00 a.m. and 9:00 p.m. of the same day; or
- (x) The lawful aviation activities carried on within the jurisdiction of, and in compliance with, enactments of, or authorized by, the Parliament of Canada, the Legislature of the Province of British Columbia, or the District.

(2) **PERMIT**

- 2.1 A permit may be issued by the District Clerk, or Superintendent of Public Works.
- 2.2 Any permit issued pursuant to Section 2.1 shall be in the form prescribed by this bylaw in Schedule "B"
- 2.3 A permit shall not be issued unless;
 - 2.3.1. It is applied for in writing using the form of application prescribed by Schedule "A"; and
 - 2.3.2. any fee prescribed by this bylaw for the issuance of a permit has been paid; and
 - 2.3.3. it is signed by the person who intends to create or make noise which is otherwise prohibited by this bylaw; and
 - 2.3.4. the creation of noise is necessarily incidental to legal activity on land within the District; and
 - 2.3.5. the creation of noise, whether intermittently or continuously created, is limited to, in total, 48 hours or less duration; and
 - 2.3.6. the noise cannot be muffled by the person creating it at reasonable expenses, or, such noise is created for the purpose of displaying wares, fireworks, celebrations or other similar activities; and
 - 2.3.7. the creation of noise cannot be limited to the time span of between 7:00 a.m. and 9:00 p.m. on the same day that it is created.
- 2.4 Any permit issued pursuant to this bylaw may be revoked by the person who issued it if the information supplied by the applicant to such person for the purpose of seeking the permit is inaccurate or untrue.

- 2.5 A person who operates a business, which is duly licensed to operate within the District, may apply to the Council of the District for a permit to create noise which is necessarily incidental to the business activity of such person.
- 2.6 The applicant for a permit described in Section 2.5 shall file with the Clerk of the District an application for such permit duly completed and signed by such person in the form prescribed by Schedule "B" to this bylaw, and the Clerk shall place such application form before Council of the District as soon as reasonably possible for the purpose of allowing the applicant to have Council determine if such a permit shall be issued.
- 2.7 A permit issued by Council of the District may be revoked by the Council of the District if the information supplied by the applicant to Council is untrue or inaccurate, or, if the Council should subsequently determine that the permit authorizing the creation of noise should be revoked because it unduly disturbs the neighbourhood in which such business of the applicant is carried on.

4. RIGHT OF ENTRY

Any Inspector *or other authorized person* enter at all reasonable times upon any real property in order to ascertain whether the provisions of this bylaw are being obeyed.

5. NOTICES

Where any notice is required to be given pursuant to this bylaw, such notice shall be sufficiently delivered if;

- (a) orally; or
- (b) in writing.

Such notice shall be sufficiently delivered if;

- (a) Personally served upon a person apparently aged 16 years or more and apparently occupying the property affected by such notice; or
- (b) Sent to the owner of real property by Double Registered mail to his address appearing on the last revised assessment roll; or
- (c) Deposited in a place normally used for the reception of mail; or
- (d) If affixed to the property in a prominent place.

6. PENALTY SECTION

Any person who breached any provision of this bylaw is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not less than \$100 or more than \$10,000 for a first offence, and not less than \$300 or more than \$10,000 for second and subsequent offences.

7. **REPEAL**

This bylaw will repeal the District of Port Edward Noise Control Bylaw # 245, 1987 and Amendment District of Port Edward Noise Control Amendment Bylaw No. 300, 1992, and District of Port Edward Noise Control Amendment Bylaw No. 344, 1994 is hereby repealed but not so as to revive any provision not contained therein.

8. **CITATION**

This bylaw may be cited as District of Port Edward Noise Control bylaw No. 520, 2011.

READ for the first time this 11th day of October , 2011

READ for the second time this 11th day of October , 2011

READ for the third time this 11th day of October , 2011

GIVEN FOURTH AND FINAL READING AND ADOPTED this 25th day of October, 2011

Mayor

Director of Corporate Services

**Certified a true copy of Bylaw No. 520, 2011
cited as "District of Port Edward Noise
Control Bylaw No. 520, 2011".**

Director of Corporate Services

SCHEDULE "A"

APPLICATION FOR NOISE PERMIT

Name: _____ Signature: _____

Address: _____ Phone: _____

Business Name: _____ Phone: _____

Address: _____ City _____ PC _____

Will Noise Be: Continuous _____ Intermittent _____ Occasional _____

Describe Noise Source: _____

Reason for Permit: _____

Why Can Noise Generated Not Be Contained To 7:00 A.M. To 9:00 P.M.

What Is Located On Adjacent Property: _____

What Date(S) Is/Are Requested For Permit? _____

Will Someone Be On Site At All Times? _____

If No, Who Is To Be Contacted And Where Might Problems Be Encountered? _____

SCHEDULE "B"

PERMIT

Pursuant To Section 3.2 Of Bylaw No. 520, 2011 Permission Is Granted To:

NAME: _____

ADDRESS _____ CITY: _____

POSTAL CODE _____

PHONE: _____

To Make or Cause Noise Pursuant To Bylaw No. 520, 2011

PLACE: _____

DATES: _____ TIMES: _____

REASONS: _____

APPROVED BY: _____

DATE: _____