

Town of Souris By-laws

BY-LAW No. 2004-06

NUISANCE AND NOISE CONTROL

BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF SOURIS
PURSUANT TO THE MUNICIPALITIES ACT, R.S.P.E.I.

PART I: TITLE

1. 1.1 This by-law shall be referred to as the “Town of Souris Nuisance and Noise Control By-law” and may be cited as the “Nuisance and Noise Control By-law” from time to time.

PART II: SCOPE

2. 2.1 This By-law shall apply to the Town of Souris.

PART III: DEFINITION

3. In this By-law:

3.1 “Enforcement Officer” means a duly appointed By-law Enforcement Officer for the Town of Souris, or the Royal Canadian Mounted Police.

3.2 “Chief Administrative Officer” means the Chief Administrative Officer for the Town of Souris or his/her duly appointed designates.

3.3 “Common Area” means any entrances, halls, corridors, washrooms, parking areas, driveways, roads, streets, sidewalks, or alleys of any shopping centre, shopping mall, or other shopping complex.

3.5 “Construction” means the temporary process of demolishing or building any structure, or repairing or improving a building that already exists, including landscaping, home repair, property improvement and any work in connection with that process.

3.6 “Daytime” means the period:

(i) beginning at 7:00 a.m. and ending at 10:00 p.m. of the same day on weekdays and;

(ii) beginning at 9:00 a.m. and ending at 10:00 p.m. of the same day on a weekend.

3.7 “Emergency Vehicle” has the same meaning as found in the Highway Traffic Act.

3.8 “Firearm” means a rifle, shotgun, air rifle, air pistol, pistol or other mechanical device capable of firing a loaded shell, cartridge, or projectile.

3.9 “Hunting” means any chasing, pursuing, worrying, following after on the trail of, or any searching for, shooting at, stalking, lying in wait for, any wildlife, domestic animal, whether or not the animal is then subsequently captured, killed or injured.

3.10 “Litter” means trash (paper or otherwise), dirt, filth, or other nuisance matter.

3.11 “Mayor” means the Mayor of the Town of Souris.

3.12 “Motorized Machinery” means any tool used for horticulture that is powered by an electric or internal combustion engine of any kind, and includes all machinery powered by any means other than muscular power with the exception of snow removal equipment.

3.13 “Motor Vehicle” has the same meaning as found in the Highway Traffic Act.

3.14 “Night-time” means the period beginning at 10:00 p.m. and ending the following day at:

(i) 7:00 a.m. if the following day is a weekday; or

(ii) 9:00 a.m. if the following day is a weekend.

3.15 “Noise” means any sound that annoys or disturbs humans, or that endangers or injures the health and safety of humans including any loud outcry, clamour, shouting, or movement, or any sound that is harsh or undesirable.

3.16 “Nuisance” means any person, odour, sound, or substance which unreasonably interferes with the enjoyment of life by a person or persons in the Town of Souris.

3.17 “Owner” includes:

(i) a person managing the subject property for the registered owner;

(ii) a tenant, lessee, or other person in possession or occupancy of the subject property;

(iii) an executor, administrator, trustee, agent, or other person managing the subject property for the registered owner;

(iv) when used in reference to real property, includes a person assessed for the property pursuant to the Real Property Assessment Act, R.S.P.E.I. 1988, CAP. R-4.

3.18 “Point of Reception” means any point on the premises of a person where sound, originating from other than those premises, is received.

3.19 “Sound System” means any system or loud speakers, 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 communications to, or otherwise addressing or entertaining, whether the same is mounted upon a vehicle or upon a building or other structure or upon the ground.

PART IV: NUISANCE

4. 4.1 Disturbances:

Any person who, wilfully or wantonly, rings any doorbell or knocks at any door, building or fence, or performs any type of construction between the hours of 10:00 p.m. and 7:00 a.m. the following day if the following day is a weekday, and 10:00 p.m. and 9:00 a.m. the following day if the following day is a weekend, so as to disturb or annoy any person in his/her dwelling, place of business, or meeting place is guilty of an offence.

4.2 Disorderly Premises:

(a) Any person who permits or engages in shouting, fighting, screaming, or making of any loud noise or any other improper or disorderly conduct in the house or premises occupied by such persons, that is, reasonably capable of disturbing the neighbours or passer-by, is guilty of an offence;

(b) Any person who permits or engages in any activity that unreasonably disturbs or tends to disturb the peace, tranquility or enjoyment of a neighbourhood, is guilty of an offence;

(c) For the purpose of a prosecution pursuant to section 4.2 (a) and (b), evidence that one neighbour is unreasonably disturbed by a noise is prima facie evidence that the neighbourhood is unreasonably disturbed by the noise.

4.3 Disorderly Conduct:

(a) No person shall, while on any street, lane, sidewalk, bridge, wharf, public or private parking lot, while attending any public meeting or gathering, or in any store, shop, mall corridors, house, building, or in any other place in the Town of Souris;

(i) use profane or obscene language, lewd or lascivious conduct, or behaviour;

(ii) be in a drunken or intoxicated condition or act thereon or thereat in a drunken or intoxicated manner;

(b) No person within the Town of Souris shall:

(i) throw any fire ball, fire cracker, or fireworks onto or near any street, highway, thoroughfares, passage or other public place or into or near any building or at or near any person;

- (ii) crowd or jostle other pedestrians upon any sidewalk or street in the Town so as to create discomfort, injury, or confusion;
- (iii) ride or drive any bicycle or other vehicle other than children's conveyances, on any sidewalk or public footwall so as to endanger any person(s);
- (iv) loiter on any street, sidewalk, lane, crossing or footwall or in or around the entrance or steps of any church, place of worship, hall, public building, store, shop or dwelling in the Town after being requested to vacate the area by any person in authority;
- (v) coast, skate, roller blade, skate board, play games, or throw stones snowballs, balls or other things to molest, harass or obstruct persons on the sidewalks, crossings or public footwalks in the Town or delay or impede traffic on the streets;
- (vi) cast any missile or use any bow and arrow, catapult, airgun or other such object on any street, square, or public place within the Town;
- (vii) place or permit to stand on or across a sidewalk or footwall of the Town any vehicle, cart, or mode of conveyance;
- (viii) allow any gate to open outwardly over any part of any street or sidewalk;
- (ix) put any quantity of snow or ice on the streets, lanes, wharves, or thoroughfares to the river or harbour so as to form any obstruction or nuisance to any person(s);
- (x) unless in the performance of some duty sanctioned by proper authority, discharge any firearm within the Town;
- (xi) place any object on or projecting over any sidewalk or street of the Town except as provided in sub-section (xii) hereof;
- (xii) leave any object owned by him/her or in his/her possession on any street or sidewalk, or public place after being requested by an enforcement officer to remove the object;
- (xiii) refuse an enforcement officer to remove the object from any street, sidewalk or public place;
- (xiv) without proper authority, deface, alter, destroy any public notice in the Town erected or placed under the authority of the Town, or the Federal or Provincial government;
- (xv) use or be in any public park within the Town on any day between the hours of 12:00 Midnight and 7:00 a.m. without first obtaining written permission from the proper Park or Town authority;

(c) Any object which is seized by an enforcement officer may be returned to its owner on payment of any costs for the removal of the object from its offending place;

(d) Any object not claimed within seven (7) days may be sold or otherwise disposed of on order from the Town and the proceeds of such sale shall form part of the general revenue of the Town;

(e) If no serious obstruction is caused, any object may be permitted to be placed on or projecting over any sidewalk, or street of the Town for a reasonable time when being received or shipped.

(f) An enforcement officer may remove or seize any object he/she deems is in violation of this By-law, after the owner is sought and found not to be readily available.

4.4 Littering:

(a) It shall be unlawful for pedestrians, drivers and/or passengers of motor vehicles, boaters, property owners, business owners to discard, or allow being discarded, any litter as defined in this By-law on any street, square, lane, alley, sidewalk, private parking lot which the public has access too, public parking lot which the public has access too, wharf, or bridge within the Town of Souris.

(b) It shall be unlawful for pedestrians, operators or passengers of motor vehicles to discard litter on any private property within the Town of Souris.

PART V: NOISE

5. 5.1 (a) No person(s) shall, within the municipality, disturb the peace and quiet of person(s) therein by:

(i) shouting, screaming, blowing a horn or other noisemaker, or amplifying speech or music or any other noise;

(ii) operating a motor vehicle or motorized vehicle which does not have the standard approved muffler equipment, or by squealing tires;

(iii) operating a motor vehicle or motorized vehicle in a manner which causes excessive noise;

(b) No person(s) shall, within the Municipality, disturb the peace and quiet of person(s) therein by operating motorized machinery contrary to the provisions of this By-law.

(c) The use of Engine Exhaust Brakes, commonly known as Jake brakes, as a slowing mechanism for trucks within the boundaries of the Municipality is strictly prohibited between the hours of 9:00 p.m. and 7:00 a.m. daily.

(d) Any person who operates or causes or permits to be operated any sound system within the Town that is causing a disturbance or interfering with any person is guilty of an offence.

(e) For the purposes of prosecution pursuant to section 5.1 (d), evidence that one neighbour is unreasonably disturbed by a noise is prima facie evidence that the neighbourhood is unreasonably disturbed by the noise.

PART VI: HALLOWEEN CURFEW

6. 6.1 (a) Unless accompanied by a person over the age of eighteen (18) years, no person under the age of eighteen (18) years shall be in a public place within the Town of Souris between the hours of 9:00 p.m. October 31st and 7:00 a.m. November 1st.

(b) In a year that October 31st falls on a Sunday, the restrictions provided in section 6.1 (a) shall also apply from 9:00 p.m. October 30th to 7:00 a.m. on October 31st.

PART VII: GENERAL PROVISIONS

7. 7.1 (a) Any person who commits a nuisance, or permits or causes any nuisance to be committed, is guilty of an offence;

(b) Any person who commits a noise or permits or causes any noise to be committed, is guilty of an offence.

PART VIII: PENALTIES

8. 8.1 (a) Every person who commits an offence under this By-law is guilty of an offence, punishable on summary conviction and liable to:

(i) a minimum fine of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollar (\$500.00) for the first offence, and minimum fine of not less than Two-Hundred and Fifty Dollars (\$250.00) and not more than One Thousand Dollars (\$1,000.00) for any subsequent offence;

(ii) imprisonment for a term not exceeding Ninety (90) days; or

(iii) to both;

and in default of payment of any fine imposed, to a further term of imprisonment not exceeding Ninety (90) days.

(b) A copy of any writing, paper or document filed in Court or any statement containing any information from the records of the Department of the Minister appointed pursuant to the provisions of the Real Property Assessment Act, R.S.P.E.I. 1988, Cap. R-4 shall be received in evidence in Court without proof of signature and is prima facie evidence of

the facts contained therein as to the name of the owner of the real property and the corresponding civic address.

(c) An engraved, lithographed, printed or otherwise mechanically reproduced facsimile signature of the Minister or his/her representative is sufficient authentication of any such copy or statement.

8.2 The Town, its employees or its duly authorized agents are exempt from prosecution for any act done or performed in good faith while engaged in their course of duties as authorized by this By-law.

PART IX: INTERPRETATION

9. 9.1 In this By-law, words importing the singular shall include the plural and words importing the masculine gender shall include the female gender and vice versa.

PART X: SEVERABILITY

10. 10.1 It is the intention of the Town Council that each separate provision of this By-law shall be deemed independent from all other provisions of this By-law, such that, if any provisions of this By-law is declared invalid, all other provisions of this By-law shall remain valid and enforceable.

PART XI: REPEAL

11. 11.1 All previous By-laws of the Town of Souris pertaining to Nuisance or Noise are hereby repealed.

Read a first time on June 12, 2004, Town Council Meeting
Read a second time on June 29, 2004, Town Council Meeting

TOWN OF SOURIS

Joe O'Keefe, Mayor
Mildred Ehler, Administrator