

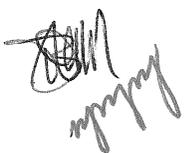
**BYLAW NO. 2023-18**  
**TOWN OF LUMSDEN**

**A BYLAW TO ESTABLISH REGULATIONS RELATED TO NOISE**

The Council of the Town of Lumsden, in the Province of Saskatchewan, under the provision of Subsection 8(1) of *The Municipalities Act* enacts as follows:

**1) DEFINITIONS**

1. In this Bylaw:
  - a. **“Approved Sound Meter”** An instrument calibrated to measure levels of sound pressure in decibels, S1.4-1983(R2006), the International Electro-Technical Council Standard No. 123, or the British Standard No. 3539 Part 1, or the USA Standard S1.4-1961.
  - b. **“Commercial Premises”** Any lands, buildings, or units which have been approved for use as a business or commercial operation in accordance with the Town’s Zoning Bylaw.
  - c. **“Council”** The Mayor and Councillors of the Town elected pursuant to the provisions of *The Local Government Election Act, 2015*.
  - d. **“dB(A)”** The sound pressure level in decibels measured using “A” weighting network setting of an approved sound meter and with slow response.
  - e. **“Dwelling Unit”** One or more habitable rooms used, or fully capable of being used as a residence, where each unit provides sleeping, cooking, and toilet facilities, but does not include rooming houses or rooming units.
  - f. **“Engine Brake”** A device commonly used in a truck, power unit, or semi-trailer unit to slow or brake the vehicle by means of closing the exhaust valves on the engine of the vehicle, or any similar device.
  - g. **“Holiday”** New Year’s Day, Family Day, Good Friday, Victoria Day, Canada Day, Saskatchewan Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day and Boxing Day, and when one of those dates falls on a Saturday or Sunday, it includes the following day; and any holiday proclaimed as such by Council.
  - h. **“Motor Vehicle”** As per the definition in *The Traffic Safety Act*, a vehicle propelled or driven by any means other than by muscular power.
  - i. **“Occupant”** The person, and includes corporate and legal representative, who is in charge of a dwelling unit or property either as a resident or property manager.
  - j. **“Owner”** The registered owner of a property as registered at Information Services Corporation (ISC).
  - k. **“Outdoor Public Event”** Concerts, sporting events, festivals, attractions, or similar events, whether on private or public property to which the public at large is invited or admitted.
  - l. **“Party Wall”** A wall jointly owned and jointly used by two (2) parties under easement agreement or by right in law and erected at or upon a line separating two (2) parcels of land each of which is, or is capable of being, a separate real-estate entity.
  - m. **“Peace Officer”** A Bylaw Enforcement Officer appointed by Council or members of the Royal Canadian Mounted Police.
  - n. **“Premises”** The area contained within the boundaries of any lot including any buildings situated within such boundaries, provided however, that when any building contains more than one dwelling unit, each dwelling unit or common area of the building and the land surrounding the buildings within the boundaries of the lot shall be deemed separate premises.
  - o. **“Residential District”** Those areas of the Town classified as residential districts as per the Town’s Zoning Bylaw.
  - p. **“Semi-Trailer”** As per the definition in *The Traffic Safety Act*, a vehicle that is at any time drawn on a street by a motor vehicle and that is designed for the conveyance of goods or as living quarters for a person and so that its weight and the weight of its load is carried partly on its own axles and partly on another vehicle, but does not include:
    - i. A farm implement;
    - ii. A timber or metal beam with wheels attached for the purpose of moving buildings;
    - iii. An asphalt distributor used for the construction or maintenance of bituminous surfaced highways; or
    - iv. An axle unit with a fifth wheel assembly used to convert a semi-trailer to a trailer.
  - q. **“Signaling Device”** A horn, bell, siren, or other device producing an audible sound for the purpose of drawing people’s attention to an approaching vehicle, including a bicycle.
  - r. **“Street”** Any road, street, road allowance, or land vested in the Crown in the right of Saskatchewan or set aside for the purpose of the Crown in the right of Saskatchewan



pursuant to any Act, but does not include a provincial highway within the Town as designated pursuant to the provisions of *The Highways and Transportation Act, 1997*.

- s. **“Town”** The Town of Lumsden.
- t. **“Truck”** As per the definition in *The Traffic Safety Act*, a motor vehicle:
  - i. That is designed for the conveyance of goods;
  - ii. That is equipped with a lifting device; or
  - iii. On which any machinery is permanently mounted.
- u. **“Zoning Bylaw”** The Town’s Zoning Bylaw and all associated amendments.
- v. **“Zoning District”** An area provided by the Town’s Zoning Bylaw and any amendments thereto.

**2) GENERAL PROHIBITION**

1. Except as may be authorized under this Bylaw, no person shall make, continue, permit, or cause to be made, continued or permitted, a noise that:
  - a. is unreasonably or unnecessarily loud; or
  - b. unreasonably annoys, disturbs, injures, endangers, or distracts from the comfort, repose, health, peace, or safety of other person or persons within the Town’s limits.
  
2. Whether a noise or sound is unreasonably or unnecessarily loud or excessive is a question of fact to be determined by a court of competent jurisdiction which hears a prosecution of an offence against this Bylaw. Without limiting the foregoing, consideration may be given but is not limited to:
  - a. The nature of the activity of person(s) being disturbed;
  - b. The land use, nature and zoning of the area from which the sound emanates and the area where it is received;
  - c. The time of day or night the sound occurs;
  - d. The duration of the sound;
  - e. The volume of the sound;
  - f. The nature of the sound;
  - g. Whether the sound is recurrent, intermittent, or constant; and
  - h. The decibel level, if measured.
  
3. In the absence of other evidence, or by way of corroboration of other evidence, the court may infer from the evidence of a Peace Officer relating to the conduct of a person or persons, whether ascertained or not, that any loud, unnecessary or unreasonable noise:
  - a. Occurred; and
  - b. Was of a nature as to annoy, disturb, injure, endanger, or distract from the comfort, repose, health, peace, or safety of other person or persons.
  
4. An affidavit verifying the certification and dated calibration of the sound level meter shall be submitted as evidence to substantiate the accuracy of decibel readings.
  
5. A person may be found guilty of a contravention of this section whether or not the decibel level:
  - a. Is measured; or
  - b. If measured; exceeds any limit prescribed in this Bylaw.

**3) DECIBEL RATINGS**

1. No person shall cause or permit to be made or continued any noise that exceeds the following standards for a cumulative period greater than fifteen (15) minutes in any hour as measured in A-weighted decibels (dBA) using an approved sound meter at four (4) feet (1.2 metres) above the ground level surface at the lot line of the site where the noise originates:

Zoning District	Sound Pressure (dBA)	
	7:00 a.m. – 10:00 p.m.	10:00 p.m. – 7:00 a.m.
Residential Zone	70	60
Commercial Zone and all other zones within 30 metres of a Residential Zone	75	60
All other Zones	75	60

2. The following noises shall be exempt from this section:
  - a. Noises from construction and maintenance activities between 7:00 a.m. and 10:00 p.m.;
  - b. Noises from motor vehicles, airplanes and trains;
  - c. Exemptions itemized in Section 11 of this Bylaw.

#### 4) COMMERCIAL & INDUSTRIAL NOISE

1. Between the hours of 10:00 p.m. and 7:00 a.m., and without limiting the generality of Section 2, if a dwelling unit is in the same building as commercial premises or shares a common wall or party wall with commercial premises, or if a wall of a dwelling unit and a wall of commercial premises are flush against one another, then a person in such commercial premises must not make, cause, or permit to be made or caused continuous or non-continuous sound of a radio, television, player or other sound playback device, public address system, or any other music or voice amplification equipment, musical instrument, whether recorded or live, whether amplified or not.
2. No owner or occupant of a premises in a commercial district shall operate or permit or allow to be operated, or play or allow to be played, any instrument, equipment, or device that produces, reproduces, or amplifies sound, such that the noise or sound can be easily heard by a person who is not in or on the same premises.
3. No person shall load or unload motor trucks in any area designated as being a residential zone or within one block of the boundary of a residential zone between the hours of 10:00 p.m. and 7:00 a.m.

#### 5) DOMESTIC NOISE

1. Between the hours of 10:00 p.m. and 7:00 a.m., and without limiting the generality of Section 2, no person shall operate or allow to be operated in any residential district:
  - a. A lawnmower of any kind;
  - b. A snow clearing machine powered by an engine of any type;
  - c. A rototilling machine of any kind;
  - d. A snowmobile or all-terrain vehicle; or
  - e. Any other machine or device of a similar or like nature that is powered by an internal combustion engine or an electrical motor.
2. No person who owns, has the care or control of, keeps, houses or harbours, or allows to be kept on premises occupied by him or her, any animal or bird, shall allow the animal to excessively bark, whine, cry, howl, or make any sound that unduly disturbs the peace, quiet, rest, or tranquility of a person or persons in the neighbourhood or the public at large.
3. No owner or occupant of a premises in a residential district shall operate or permit or allow to be operated, or play or allow to be played, any instrument, equipment or device that produces, reproduces or amplifies sound, such that the noise or sound can be easily heard by a person who is not in or on the same premises, or by a person residing in a separate dwelling unit within the building from which the sound emanates.

#### 6) CONSTRUCTION NOISE

1. Except in an emergency, no person shall carry on the construction, erection, demolition, alteration, or repair of any type of building or structure which involves hammering, sawing, drilling, or the use of any machine, tools, or any other equipment capable of creating a sound beyond the boundaries of the premises on which the activity is being carried on, in any district in the Town between the hours of 10:00 p.m. and 7:00 a.m. the next day.
2. Where it is impossible or impractical to comply with Subsection 6) 1., the Council may give written approval to carry on the work that is found to be necessary at designated hours. Responsibility for obtaining written approval lies with the person carrying on the work.

3. Except in an emergency, no person shall operate or allow to be operated:
  - a. A cement mixer;
  - b. A cement mixer truck;
  - c. A gravel crusher;
  - d. A riveting machine;
  - e. A trenching machine;
  - f. A drag line;
  - g. An air or steam compressor;
  - h. A jackhammer or pneumatic drill;
  - i. A tractor or bulldozer; or
  - j. Any other tool, device, or machine of a noisy nature; so as to create noise which is unusually loud or unusually bothersome to the occupant of any premises between the hours of 10:00 p.m. and 7:00 a.m.
4. The provisions of Section 6) hereto do not apply to any work carried on by the Town or by a contractor carrying out the instructions of the Town which are of an exigent nature.

#### 7) ADVERTISING NOISE

1. Excepting with prior approval from the Council, no person shall advertise any event or merchandise by:
  - a. Ringing bells;
  - b. Blowing whistles;
  - c. Calling loudly;
  - d. Playing music;
  - e. Playing any type of musical instrument;
  - f. Playing or using any type of noise making instrument; or
  - g. By the use of loudspeakers or other devices for the amplification of sound or by any other audible means;on any street or other public place or in any building or premises with the intention or result that the sound therefrom shall be or is audible to persons using or frequenting any street or other public place.

#### 8) MOTOR VEHICLE NOISE

1. No person shall create loud, unreasonable, or unnecessary noise in the operation of a motor vehicle upon a public street, lane, or thoroughfare within the Town whether the noise is caused by the mechanical condition of the motor vehicle or the manner which the motor vehicle is operated and whether or not the vehicle is stationary or moving at the time the noise is created.
2. No person shall cause any loud, unreasonable, or unnecessary noise, or noises which annoy, disturb, injure, endanger or detracts from the comfort, repose, health, peace, or safety of others within the Town resulting from any of the following acts:
  - a. The sounding of a motor vehicle signaling device or warning device, or siren, except where required or authorized by this Bylaw;
  - b. The operation anywhere other than on a highway of an engine or motor, in or on any motor vehicle, or vehicles, or items of auxiliary equipment for a continuous period exceeding twenty (20) minutes while such is stationary in a residential district unless:
    - i. The vehicle is in an enclosed structure so as to effectively prevent excessive noise emissions;
    - ii. The operation of such engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to, the operation of a ready-mix concrete truck, lift platforms, or refuse compactors;
    - iii. Whether conditions justify the use of heating or refrigerating systems powered by a motor or engine for the safety and welfare of the operator, passengers or animals, or the preservation of perishable cargo;
    - iv. Prevailing low temperatures make longer idling periods necessary, immediately after starting the motor or engine; or
    - v. The idling is for the purpose of cleaning and flushing the radiator and associated circulation system for seasonal change of anti-freeze, cleaning of the fuel system, carburetor or like, when such work is performed other than for profit.



3. No person shall allow the diesel motor on a truck which pulls a trailer or semi-trailer to remain running longer than twenty (20) minutes while the tractor-trailer or tractor alone, is stationary in any residential district or in any other location within 500 feet (150 metres) of a residential district.
4. No person shall engage, operate, apply or otherwise use an engine brake on any vehicle while being driven within the Town limits except in an emergency where it is necessary in the circumstances to do so.
5. The provisions of Section 8 of this Bylaw do not apply to an emergency vehicle, or to work on a Town street or public utility carried on by the Town, SaskPower, SaskTel, SaskEnergy, or to a contractor working for any of the above cited entities.

#### **9) OUTDOOR PUBLIC EVENT**

1. No person shall operate, maintain, or conduct an outdoor public event which produces, reproduces, or amplifies sound in such a manner as to create an unreasonable or unnecessary noise which annoys, disturbs, injures, or endangers the comfort, repose, health, peace, and safety of other persons who are not on the same premises from which the sound emanates, except during the following hours:
  - a. On a Monday, Tuesday, Wednesday, or Thursday, between the hours of 11:00 a.m. and 9:00 p.m.
  - b. On a Friday, Saturday, Sunday or Holiday between the hours of 11:00 a.m. and 10:00 p.m.
2. If permission has been obtained from the Council to extend the hours for the use or operation of amplification equipment at any outdoor public event in accordance with Section 9 of this Bylaw, amplification equipment may be used at the event during the extended hours.

#### **10) NOISES ABSOLUTELY PROHIBITED**

1. No person other than the Royal Canadian Mounted Police Officer in the regular course of duty or the Town's appointed Municipal Wildlife Control Officers shall discharge a firearm within The Town of Lumsden.

#### **11) EXEMPTIONS**

1. Notwithstanding any of the provisions of this Bylaw, this Bylaw does not apply to noise resulting from:
  - a. The ringing of bells in churches, religious establishments, and schools;
  - b. The moderate use of musical instruments for a charitable or religious undertaking;
  - c. A parade for which a permit has been obtained from the Town;
  - d. The sounding of a general or a particular alarm or warning to announce a fire or other emergency or disaster;
  - e. The sounding of whistles, sirens, signaling, or sound amplification equipment or device used by the police, fire department, an emergency service, or public service;
  - f. The use in a reasonable manner of any apparatus or mechanism for the amplification of the human voice or of music in a public park or any other sizeable space in connection with any lawful public gatherings of a similar nature;
  - g. Transit vehicles and trains engaged in normal transit operations;
  - h. The use of any tractors, trucks, or other equipment for snow removal, snow clearing or sanding of streets; the construction, repair, and maintenance of any municipal works or utilities, or any other public utility, or any other works by or on behalf of the Town; and
  - i. The use of any equipment for the repair or maintenance of any public utilities including the public utilities operated by or on behalf of the SaskPower, SaskEnergy and SaskTel.
2. Notwithstanding any of the provisions of this Bylaw, this Bylaw does not apply to any person who emits or causes the emission of noise in connection with any life-saving duty, or responsibility or any person acting in an emergency situation.

#### **12) RELIEF FROM REQUIREMENTS**

1. Applications for a permit for relief from the requirements of this Bylaw on the basis of extraordinary circumstances or undue hardship may be considered by Council. The application shall be made in writing and must include:
  - a. The name and address of the applicant;
  - b. A description of the source of sound in respect of which exemption is sought;
  - c. The period of time for which the exemption is sought;
  - d. The reasons why the exemption should be granted;
  - e. The other information required at that time; and
  - f. A statement of steps, if any, planned or presently being taken to bring about compliance and/or minimize disruption to others if the exemption is granted.
2. Council, by resolution, in its sole discretion, may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect and any exemption granted shall specify the time period during which it is in effect and may contain such terms and conditions as Council sees fit.

### **13) APPOINTMENT OF PEACE OFFICERS**

1. The enforcement of this Bylaw is delegated to:
  - a. The Royal Canadian Mounted Police; and
  - b. The Bylaw Enforcement Officer appointed by the Town.

### **14) OFFENCES AND PENALTIES**

1. Except as provided in Subsection 14) 2., every person who contravenes any provision of this Bylaw is guilty of an offence and liable on summary conviction:
  - a. In the case of an individual, to a fine:
    - i. For a first offence, not less than \$300.00;
    - ii. For a second offence, not less than \$750.00; and
    - iii. For a third or subsequent offence, not less than \$1,000.00;And not more than \$10,000.00 and, in the case of a continuing offence, to a further fine of not more than \$10,000.00 for each day during which the offence continues; and
  - b. In the case of a corporation, to a fine:
    - i. For a first offence, not less than \$500.00;
    - ii. For a second offence, not less than \$1,000.00; and
    - iii. For a third or subsequent offence, not less than \$1,250.00;And not more than \$25,000.00 and, in the case of a continuing offence, to a further fine of not more than \$25,000.00 for each day during which the offence continues.
2. Every person who uses engine brakes in contravention of Subsection 8) 4. of this Bylaw is guilty of an offence and liable on summary conviction:
  - a. In the case of an individual, to a fine not less than \$300.00 and not exceeding \$10,000.00 and, in the case of a continuing offence, to a further fine of not more than \$10,000.00 for each day during which the offence continues;
  - b. In the case of a corporation, to a fine not less than \$500.00 and not exceeding \$25,000.00 and, in the case of a continuing offence, to a further fine of not more than \$25,000.00 for each day during which the offence continues.
3. Notwithstanding Subsection 14) 2., in the case of a person who contravenes a provision of this Bylaw, a Peace Officer may issue a notice of violation to that person.
  - a. The notice of violation shall provide that, if the person pays the Town the sum of:
    - i. \$200.00 in the case of a violation of Subsection 8) 4.; or
    - ii. \$100.00 in the case of any other violation.Within fourteen (14) calendar days of the date of the notice of violation, the person shall not be prosecuted for the contravention.
  - b. The fine may be paid:
    - i. In person, during regular office hours, to the Town Office; or
    - ii. By mail, addressed to The Town of Lumsden, Box 160, Lumsden, SK S0G 3C0.
4. Notwithstanding Subsection 14) 3., if it is, in the opinion of a Peace Officer, in the public interest to compel a person who has contravened a provision of this Bylaw for the first time to appear before a justice under this Bylaw, the Peace Officer may issue a summons that requires the person to appear before a justice without the alternative of paying the specified amount to avoid prosecution.



5. If, in the opinion of a prosecutor it is appropriate, the prosecutor may, on or before the court appearance date, permit the person mentioned in Subsection 14) 4. to pay the specified amount to avoid prosecution.

**15) SEVERABILITY**

1. A decision of the court that one or more of the provisions of this Bylaw are invalid in whole or in part does not affect the validity, effectiveness, or enforceability of the other provisions or parts thereof with respect to this Bylaw.

**16) REPEAL**

1. Bylaw No. 2019-03 is hereby repealed.

**17) COMING INTO FORCE**

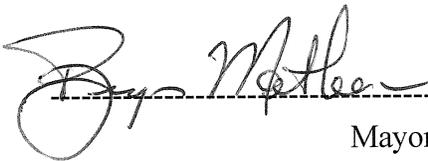
1. This Bylaw shall take effect and come into force upon the date of final passing by Council.

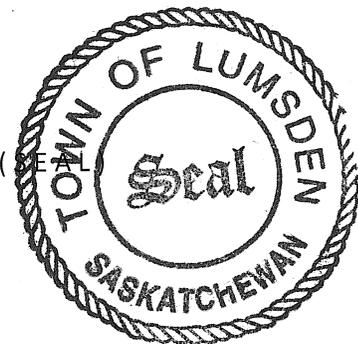
**Readings**

*Read a first time this 28<sup>th</sup> day of November, 2023*

*Read a second time this 12<sup>th</sup> day of December, 2023*

*Read a third time this 12<sup>th</sup> day of December, 2023*

  
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Mayor



  
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Chief Administrative Officer