

RURAL MUNICIPALITY OF ARMSTRONG
BY-LAW NO. 7/2022

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF ARMSTRONG TO
REGULATE AND PROHIBIT NUISANCE NOISE.

WHEREAS Section 232 AND 233 of The Municipal Act, L.M. 1996, c.58 Cap. M225 provides in part as follows:

- 232(1) A council may pass by-laws for municipal purposes respecting the following matters;
 - (a) the safety, health, protection and well-being of people, and the safety and protection of property;
 - (b) people, activities and things in, or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation;
 - (c) subject to section 233, activities or things in or on private property;
 - (j) the sale and use of firecrackers and other fireworks, the use of rifles, guns and other firearms, and the use of bows and arrows and other devices;
 - (o) the enforcement of by-laws;

- 233 A by-law under clause 232(1)(c) (activities or things in or on private property) may contain provisions only in respect of
 - (d) activities or things that in the opinion of Council are or could become a nuisance, which may include noise, weeds, odors, unsightly property, fumes and vibrations.

NOW THEREFORE the council of The Rural Municipality of Armstrong duly assembled enacts as follows:

1. TITLE

- This by-law may be referred as “The Rural Municipality of Armstrong Nuisance Noise By-Law”;
- That this By-law is applicable within the limits of the Rural Municipality of Armstrong;

2. DEFINITIONS

In this by-law,

- (a) “the Act” means The Municipal Act S.M., 1996, c.58.
- (b) “CAO” shall mean the Chief Administrative Officer of the Rural Municipality of Armstrong.
- (c) “Construction” includes erection, alternation, repair, dismantling and demolition of structures and includes structural maintenance, hammering, land clearing, moving of earth, rock or felled trees, rock breaking, grading, excavating, the laying of pipe or conduit whether above or below ground level, working with concrete, alternation or installation of any equipment, the structural installation of construction components or materials in any form whatsoever, the placing or removing of any construction related materials and includes any work in connection therewith.
- (d) “Emergency” means any occurrence or set of circumstances including actual or imminent physical trauma or property damage which demands immediate action.
- (e) “Emergency work” means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- (f) “Motor Vehicle” means an automobile, motorcycle, truck and any other vehicle propelled or driven otherwise than by muscular power.
- (g) “Motorized Recreational Vehicles” means all recreational motorized vehicles whether or not duly licensed and registered, including, but not limited to commercial or non-commercial racing vehicles, motorcycles, go-carts, snowmobile, trail bikes, amphibious craft and motor boats.
- (h) “Municipality” means the Rural Municipality of Armstrong.
- (i) “Noise” means any loud or harsh sound.

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- (j) "Nuisance Noise" means any loud, unnecessary or unusual sound or any sound whatsoever which annoys, disturbs, injures, endangers or distracts from comfort, repose, health, peace and/or safety of any person as determined by an Officer.
- (k) "Officer" means any member of the Royal Canadian Mounted Police Force and any other police officer, police constable, By-Law Enforcement Officer, designated officer or other person appointed and employed by the Rural Municipality of Armstrong for preservation and maintenance of the public peace.
- (l) "Person" means any individual and includes firm, partnership, association, corporation, company or group of persons.
- (m) "Point of Reception" means any point on any lands or premises where sound, originating from other lands or premises is received.
- (n) "Premises" means a building or buildings including the associated land.
- (o) "Public Right of Way" means any street, avenue, lane, highway, boulevard, sidewalk, park, square, subway, bridge, wharf, thoroughfare or way or similar place which is owned or controlled by a governmental entity.
- (p) "Residential Area" means any area where a person or persons maintain a residence, and without limiting the generality of the foregoing, shall include all areas zoned for residential purposes pursuant to the Rural Municipality of Armstrong Zoning By-Law and all other areas where residences are maintained.
- (r) "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium and the description of sound may include any characteristic of such sound, including duration, intensity and frequency.

3. PROHIBITED NOISES

No person shall make, continue to cause, or allow be making or continued, by whatever means, any Nuisance Noise except where otherwise permitted in this By-law.

Without restricting the generality of Section 3 hereof, the following shall be deemed likely to be Nuisance Noise and are declared to be in violation of this By-law:

- (a) the Sound emanating from any musical instrument, loudspeaker, radio, television or similar device which creates a nuisance noise at a point of reception at any time unless authorized by the Municipality;
- (b) no person shall yell, shout, use abusive, obscene or insulting language, whistle or sing to the extend that the noise nuisance is created;
- (c) no person shall operate or permit operation of any power or manual equipment, machinery, device, motor vehicle or motorized recreational vehicle in such manner as to create noise nuisance.
- (d) The sound emanating from excavation or construction work of any nature between the hours of 11:00 P.M. of any day and 7:00 A.M. of the next following day;
- (e) The sound resulting from the use and/or operation of any power tool, motorized lawn mower, snow clearing device, chain saw, leaf blower, motorized garden tiller, weed/grass trimmer, motorized toy or similar device used outdoors in any Residential Area between 11:00 P.M of any day and 7:00 A.M. of the next following day, except where such work is necessary to protect or prevent injury or danger to persons or property;
- (f) The sound created by the use or operation of any drum, horn, bell, mechanical loudspeaker or other instrument or device or sound producing, sound re-producing, or sound transmitting instrument or apparatus for the purposes of advertising or for attracting attention to any performance, show or sale or display of goods, wares or merchandise or which projects Noise or Sound into ant street or other public right of way except where such Noise or Sound has been authorized by the Municipality.
- (g) The property owner, lessee, occupier or Person in control of a Premises is responsible for Nuisance Noise created by invitees, guests or other persons on the Premises in the same manner as the person actually creating the Nuisance Noise unless the property owner, lessee, occupier or Person in control of the Premises establishes that he exercised due diligence in a bona fide effort to control and abate such Nuisance Noise.

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4. PERMITTED NOISES

None of the provisions of this By-law shall apply to:

- (a) Sound emanating from the Fire Hall alarm or the sirens of any emergency vehicle while engaged in providing Emergency Work or responding to an Emergency or during testing of the Emergency Measures civil defense or warning siren;
- (b) Work performed in respect of the maintenance, construction or demolition of a public right of way or public space; snow clearing, road maintenance and road construction vehicles and equipment operated by the Municipality or the Province of Manitoba or their agents and/or contractors;
- (c) sound emanating from the clearing of snow from private commercial parking lots and driveways by private contractor;
- (d) mowing equipment and maintenance vehicles and equipment operated by the Municipality and the Province of Manitoba or their agents and/or contractors;
- (e) Sound emanating from the Band Stand, any street festival, parades, events, fairs, block party or similar function authorized by the Municipality;
- (f) The use of any bell, chime or similar Sound for the purpose of calling persons to church, school and/or any similar services;
- (g) the use or operation of Sound producing devices during the month of December in any year for the rendering of Christmas Carols;
- (h) the use, in a reasonable manner, of any apparatus, mechanism or device for the amplification of the human voice or of music on public property in connection with any duly approved public meeting, celebration or other public gathering;
- (i) the lighting and setting off of fireworks, by certified persons, as a public display of celebration with the approval of the Municipality;
- (j) any operation of agricultural machinery being used for agricultural purposes;
- (k) any activity, work or undertaking which would otherwise be prohibited by this By-Law where approval has been obtained from the Municipality.

5. APPROVALS

Any approvals required under this By-law shall be requested in writing; there shall be no charge for approvals issued under this By-law.

6. CONTRAVENTION & FINES/PENALTY

- a) The By-law Infraction Notice to be issued by an Officer for contravention of this By-law shall be in the form as provided by the Municipality. An Officer may also issue a Common Offence Notice of the Province of Manitoba for contravention of this By-law.
- b) Any Person who contravenes this By-law shall be issued a By-law Infraction Notice or a Common Offence Notice of the Province of Manitoba by the Officer and such Person may voluntarily dispose of the matter by attending the Municipality Office during regular office hours within thirty (30) days of the date of the By-law Infraction Notice or Common Offence Notice and pay to the CAO the fine as set out in the By-law Infraction Notice or Common Offence Notice which shall be as follows:
 - I. To a fine of not less than Two Hundred Dollars (\$200.00) and to a maximum of Five Hundred Dollars (\$500.00) for the first offence;
 - II. To a fine of not less than Five Hundred Dollars (\$500.00) and to a maximum of One Thousand Dollars (\$1000.00) for the second offence and for each subsequent offence within twelve (12) months of the first offence, and in default of payment, to imprisonment for not more than (30) days.
- (c) if a Person served with a By-law Infraction Notice or a Common Offence Notice of the Province of Manitoba under this By-law fails to pay the fine as set out in the By-law

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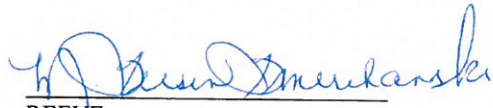
Infraction Notice or the Common Offence Notice the thirty (30) day period, the Officer shall lay an Information with respect to the contravention and Summons will be issued for the Person to attend before Provincial Court Judge, Magistrate or Justice of the Peace. Any person found guilty for contravention of this By-law before a Provincial Court Judge, Magistrate or Justice of the Peace is subject to a minimum fine of Five Hundred Dollars (\$500.00) for a first offence and to a minimum fine of One Thousand Dollars (\$1000.00) for the second offence and for each subsequent offence plus all applicable court costs.

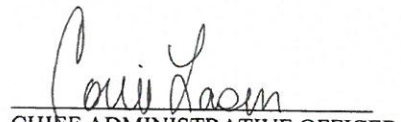
- (d) where the contravention, refusal, neglect, omission or failure continues for more than one day, the Person is guilty of separate offence for each day that it continues;
- (e) a fine levied and costs charged under this By-law may be collected in any manner in which tax may be collected or enforced under The Municipal Act.

7. SEVERABILITY

If any provision of this By-law is held to be invalid by any Court of competent jurisdiction, the remaining provisions of the By-law shall not be invalidated.

DONE AND PASSED in Council at The Rural Municipality of Armstrong, in the Province of Manitoba, this 9th day of August 2022.


REEVE


CHIEF ADMINISTRATIVE OFFICER

Read a first time this, 12th day of July, 2022
Read a second time this 9th day of August, 2022
Read a third time this 9th day of August, 2022