

BY-LAW NO. 62-2000

A BY-LAW TO REGULATE THE USE OF STREETS, SIDEWALKS
AND BOULEVARDS IN THE VILLAGE OF NEW MARYLAND

BE IT ENACTED BY THE COUNCIL OF THE VILLAGE OF NEW MARYLAND AS FOLLOWS:

1.0 CITATION

This By-law may be cited as “Use of Streets By-law No. 62”, and hereby repeals the former Use of Streets By-law No. 62 adopted on August 21, 1996.

2.0 DEFINITIONS

2.1 Words defined in Section 1 and Section 119 of the Municipalities Act, Chapter M-22, R.S.N.B. shall have the same meaning when used in this By-law unless otherwise defined in Section 2.02 of this By-law.

2.2 In this By-law:

“By-law Enforcement Officer” means the person(s) appointed to that position from time to time by council resolution;

“Village” means the Village of New Maryland;

3.0 EXCAVATION OF VILLAGE STREETS

The Village of New Maryland functions as the road authority for all municipal streets within the Village. All excavation in public roadways for the purposes of repair, extension or modification of services, located within the rights-of-way, must receive prior authorization from the Village of New Maryland, and must conform to the following requirements:

3.1 The person(s) or contractor must make application to the Village for an Excavation Permit, such application detailing the extent, purposes and duration of the necessary excavation.

3.2 Make deposit with the Village, in the form of cash, certified cheque or bond, the sum of \$750. per lane excavated. Such deposit will include a non-refundable inspection fee and a refundable performance bond component, returnable to the contractor upon satisfactory remediation of the excavation site.

3.3 Complete all approved work in accordance with the schedule approved by the Village, including proper compaction and surface restoration.

3.4 Routine maintenance projects and routine connection of service laterals will be approved for completion between May 1 and Oct 31 of any given year only. The Village Development Officer will not issue building permits for any lot which does not have completed laterals except during those dates.

- 3.5 Emergency excavation may be arranged during periods outside the dates specified in Paragraph 3.04. Such emergency excavations must be made with the approval of the Village and will be subject to the same remediation requirements once weather conditions permit. In addition, contractors required to excavate public roadways during off-season periods will be required to monitor and maintain excavation sites in the best possible condition until permanent repairs can be completed.
- 3.6 All work must be completed in accordance with the Village of New Maryland's "General Specifications For Developers" and/or as specified by the Village Engineer. The General Contractor must be qualified to complete the designated work, and must be approved by the Village.
- 3.7 The applicant is responsible for ensuring the complete safety of the public by taking whatever means necessary, including the marking of all excavations to ensure it is clearly visible to the public.
- 3.8 The applicant shall assume all liability associated with the work by providing a copy of the applicant's liability insurance of an amount satisfactory to the Village.
- 3.9 If the applicant is not the owner of the water and/or sanitary sewer system, the applicant must provide confirmation of the owner's approval for the work.
- 3.10 The Village will inspect the work as it deems necessary, at the applicant's expense. All work must be completed to the complete satisfaction of the Village Engineer, unacceptable work must be redone at the applicant's expense. Inspection costs will be billed directly to the applicant and must be paid prior to release of the cash deposit.
- 3.11 The applicant must warranty all work for a 12 month period after completion, and repair any damages or failures within this same time frame.
- 3.12 The refundable portion of the deposit will be returned at the end of the warranty period if all of the applicant's obligations and requirements have been met. However, if there are outstanding items, the Village has the right to utilize the deposit to correct such deficiencies as it deems fit.

4.0 EXCAVATION OF LANDS ADJACENT TO VILLAGE STREETS

No person shall permit any excavation made by him or her in a street right-of-way or public property to remain open any longer than is necessary for the purpose for which it was made and such person shall erect and maintain a suitable fence or guardrail not less than 1.2 metres in height around such excavation and maintain such danger lights thereon between sunset and sunrise as may be reasonably necessary to prevent injury or damage to persons or property.

5.0 BLASTING

No person shall blast rock, stone, or earth with dynamite or other explosive substance in or near any street without providing and at all times maintaining a proper shield, guard or covering for such rock, stone or earth sufficient to prevent any part thereof from being thrown by the force of an explosion into or over a street.

6.0 MOVING OF BUILDINGS ALONG VILLAGE STREETS

No person shall move or cause to be moved along any street a building without having obtained permission in writing therefor from the Village Office (Public Works, Manager, or Clerk).

7.0 SNOW OR ICE ON STREETS

No person shall place on any street, sidewalk or common area any snow or ice brought from any privately owned yard, enclosure or place, into any street, sidewalk or common area without having first obtained permission from the Village office. Any contravention of this regulation will result in a fine being levied, and the snow being removed by the individual who first illegally placed it, or in lieu, being removed by the Village at the expense of the individual(s) having placed it illegally.

8.0 DITCHES, DRAINS AND GUTTERS

8.1 No person shall fill up or obstruct any public drain, gutter or watercourse or the natural drain on any public or private property within the Village.

8.2 Any person who has violated the provisions of section 8.01 must remove what he/she has been placed in the public drain, ditch, gutter or watercourse. If he/she neglects or refuses to comply, the By-law Enforcement Officer may remove or destroy what has been placed in the drain, ditch, gutter or watercourse, and the expense of such removal or destruction shall be paid by such person in addition to any fine herein provided.

9.0 PROTECTION OF STREETS, SIDEWALKS AND BOULEVARDS

9.1 No person shall draw on any street any timber or other heavy article in such a way that the same or any part thereof drags on the surface of the street.

9.2 No person shall drive, move stop, park or place any motor vehicle, vehicle, machines or object upon any seeded or grassed area within the boundaries of the right-of-way of any street, or upon any seeded or grassed area within any public park or any other public open space in the Village, except by permission in writing of the Village Office (Public Works, Manager or Clerk).

- 9.3 (a) No person shall, except when permitted by the Village, roll, move or place any heavy article over any sidewalk, or drive any vehicle across any sidewalk at a place where there is no permanent ramp or crossing for such sidewalk, unless he has provided a bridge or covering of planks, so constructed as to protect the sidewalk, curb or boulevard from damage, and to prevent any obstruction of the drain or gutter.
- (b) No such bridge or covering shall be allowed to remain on the sidewalk between 1800 hours and 0600 hours.
- 9.4 No person shall use any tractor or other heavy equipment on any paved or concrete street, which is liable to cause damage to such street, unless permission has first been secured from the Village.
- 9.5 When any sidewalk or street has been damaged as the result of the erection of any building, or any repairs to a building, or from any other cause, the Village may serve notice in writing upon the owner of the building, or the person causing such injury, requiring him to repair such injury within forty-eight hours from service of such notice, and if the owner of such person fails to make repairs within such time, the Village may cause the same to be done at the expense of the owner or such person; and the cost thereof may be recovered by the Village by ordinary action, in any court of competent jurisdiction.
- 9.6 Any vehicle or equipment that is parked or operating on Village streets, parking lots, or easements that are leaking fluids such as gasoline, diesel fuel, engine oil, transmission fluid, hydraulic fluid, antifreeze or any other fluid that could be hazardous to the environment, shall be immediately removed by the vehicle or equipment owner or at the discretion of Village staff, New Maryland Fire Department, or the RCMP, and at the expense of the owner. Clean-up of the area may be done by Village staff, New Maryland Fire Department or other agencies as deemed necessary and all costs for clean-up will be billed to the owner of the vehicle or equipment.
- 9.7 With the exception of emergency situations, no person shall perform any repair or maintenance to vehicles or equipment on Village streets. Any vehicle or equipment found in violation of this provision may be removed at the discretion of Village staff, New Maryland Fire Department or the RCMP and at the expense of the owner.
- 10.0 CLOSING OF STREETS OR PUBLIC PLACES
- 10.1 The Village may by order, or by erecting a fence or barricade, close any street, public ground or public place, or any pavement, sidewalk or crossing for such time as may be necessary to make repairs, alterations or improvements.
- 10.2 When the Village considers it is advisable and necessary for the protection of same, or to guard against the possible loss of life, and damage to property, the Village office may by order or by erecting a fence or barricade, prevent entry to any street, land, public ground or public place, or any pavement, sidewalk or crossing, and thereby prohibit the use thereof.

10.3 Any person who uses any street, lane, public place, or any pavement, sidewalk or crossing by walking thereon, or driving any vehicle or animal thereon while the same is fenced or barricaded, or while an order for closing the same is in force, is guilty of an offence under this by-law.

11.0 MAINTENANCE OF TREES AND BOULEVARDS

11.1 No person shall plant a shade or ornamental tree on a village right-of-way without the consent of the Village Office.

11.2 No person shall, without permission of the Village Office, remove, damage, or cut any ornamental or shade tree growing on a Village right-of-way.

11.3 Every owner of a shade or ornamental tree growing adjacent to a street shall keep the tree pruned or trimmed so that it does not interfere with or obstruct the users of the street.

11.4 Every person who owns property adjacent to, contiguous to, or fronting on, a street shall maintain the boulevard which is contiguous to his or her property. Maintenance of the boulevard includes, but is not restricted to, keeping the boulevard free of weeds, tall grass or garbage.

12.0 PLACEMENT OF WASTE MATERIAL

12.1 No person shall distribute or scatter handbills, flyers or other advertising material on a street.

12.2 No person shall deposit or in any manner place on a street any waste material or bottles, except that which is permissible as part of regular garbage collection by a contractor providing that service, and may not be placed in a manner that may block or impede movement on a street.

12.3 No person shall place any waste material or paper where it may be carried by the wind into or along a street.

12.4 No person shall place any water from a drain or cellar on any street.

13.0 GENERAL

13.1 No person or persons shall stand in or upon, use or occupy any public street, sidewalk, square, way or passage so as to obstruct, hinder or impede the free passage of the public thereon.

13.2 No person shall place or display any wares, goods or merchandise for sale upon any street.

13.3 (a) No person shall place, maintain or continue in, on or over any street, sidewalk or public place and fence, house, steps, erections, projections or obstructions whatsoever,

- (b) and any such fence, house, steps, erections, projections or obstructions which may now or at any time hereafter project into or over any street, sidewalk or public place, or any part thereof, may be destroyed or removed at the expense of the owners or lessees of the property in connection with which such erection, projection or obstruction is used or found.

14.0 OFFENCES AND PENALTIES

Except as otherwise expressly provided herein, every person who violates any provision of this By-law is guilty of an offence and on summary conviction is liable to a minimum fine of not less than Fifty Dollars (\$50.00) and a maximum fine of not more than One Hundred Dollars (\$100.00).

15.0 VOLUNTARY PAYMENT OF FINES

15.1 Unless otherwise provided in this By-law, a Peace Officer or the Clerk may, either before or after the institution of proceedings against a person in respect of an offence under this By-law, accept from the person alleged to have been guilty of the offence the payment of:

- a) for a first offence, a sum equal to the minimum penalty prescribed for such violation;
- b) for a second offence, a sum equal to twice the minimum penalty prescribed for such violation;
- c) for a third or subsequent offence, a sum equal to the maximum penalty prescribed for such violations;

15.2 The person so accepting payment under this section shall forward such payment to the Treasurer together with a copy of the receipt delivered pursuant to sub-section (1) hereof or other record setting forth the information required to be shown on the receipt;

15.3 A payment under Subsection (2) hereof shall constitute a full satisfaction, release and discharge of all penalties and imprisonments incurred by such person for such violation, and for the purses hereof shall have the same effect as if a judge had duly convicted the person of the violation for which the amount was paid, and a certificate purporting to be signed by the Treasurer to the effect that the sum has been paid in respect to a specific violation shall be prima facie evidence in all Courts of the conviction.

16.0 PARTIAL INVALIDITY OF THE BY-LAW

If any section, subsection, sentence, clause or phrase of this By-law is for any reason held to be invalid by the decision of any Court of competent jurisdiction, this decision shall not affect the validity of the remaining portions of this By-law.

READ FIRST TIME: - 17 May 2000

READ SECOND TIME: - 17 May 2000

READ THIRD TIME AND ENACTED: - 23 May 2000

Mariet van Groenewoud (signed)
Mayor

Cathy Hoffman (signed)
Clerk