



Village of New Maryland

584 New Maryland Highway, New Maryland, NB E3C 1K1
Office: (506) 451-8508 Fax: (506) 450-1605

VILLAGE OF NEW MARYLAND NOISE CONTROL BY-LAW NO. 55- 2010

A BY-LAW TO PROVIDE FOR THE CONTROL AND PROHIBITION OF NOISES

WHEREAS pursuant Section 11(1)(l) of the Municipalities Act, Chapter M-22, Council may by By-law regulate or prohibit the making or causing of noise likely to cause a public nuisance or disturbance within a Municipality;

AND WHEREAS the Council of the Village of New Maryland deems it necessary and desirable to regulate or prohibit noise or sounds in the Village of New Maryland likely to cause a public nuisance or otherwise disturb the inhabitants of the Village of New Maryland;

AND WHEREAS Council may make different regulations or prohibitions for different areas of the Village of New Maryland;

AND WHEREAS Council believes noises made contrary to the regulations in this by-law are objectionable and likely to cause a public nuisance or otherwise disturb the inhabitants;

NOW THEREFORE the Council of the Village of New Maryland in open meeting assembled ENACTS AS FOLLOWS:

SECTION 1: TITLE

1(1) This By-law may be cited as "Noise Control By-law No. 55-2010".

SECTION 2: DEFINITIONS

2(1) In this By-law:

daytime shall mean the time from 6:00 a.m. to 9:00 p.m. Monday through Friday, and "daytime" shall mean the time from 9:00 a.m. to 6:00 p.m. on Saturday, Sunday and statutory holidays;

nighttime shall mean times other than daytime.

municipal by-law infractions notice means a document providing notification that the provisions of this by-law have been violated;

SECTION 3: PUBLIC DISTURBANCE

3(1) No person shall make or cause, or permit to be made or caused, any noise which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of persons in the vicinity.

3(2) No owner or occupier of real property shall allow such real property to be used so that noise which emanates there from, disturbs, or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of persons in the neighborhood or vicinity.

3(3) No person shall own, keep or harbor any animal or bird which, by its frequent calls, cries, barks or other noise whatsoever disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of persons in the vicinity.

3(4) Without restricting the generality of the foregoing, this By-law does not apply to pneumatic hammers, construction equipment and machinery, vehicles of business and trade during daytime hours.

3(5) The provisions of this By-law do not apply to:

- (a) police, fire or other emergency vehicles;
- (b) emergency excavation, construction or repair of streets, highways or lands;
- (c) the use of bells or chimes for the announcing of church services;
- (d) snow removal operations;
- (e) the operation of Municipal or Provincial maintenance equipment;
- (f) farm animals that are permitted under The Village of New Maryland Zoning By-law, and amendments thereto;
- (g) noises in connection with athletic and recreational activities lawfully held in conformance with the requirements of the Village of New Maryland By-law Respecting Parklands, and amendments thereto.
- (h) any person, association, organization, corporation, or event that has obtained an approval for an exemption authorized by Village Council so long as that person or party is acting within the terms of such approval.

SECTION 4: APPLICATION FOR EXEMPTION

- 4(1) Notwithstanding any provision of this by-law, any person may apply to Council to be granted an exemption from any provision of this by-law for which that person might be prosecuted.
- 4(2) An application for exemption under this by-law shall be submitted in the form set out in Schedule "B" attached to this by-law.
- 4(3) An exemption of this by-law may be considered by Council as it deems appropriate upon receiving an application for said exemption at least thirty (30) days prior to the start of the contemplated activity.
- 4(4) In deciding whether or not to grant an exemption, Council shall give consideration to the social or commercial benefit of the proposed activity to the Village, the views of any resident of the Village which may be expressed to Council, the proposed hours of operation of the proposed activity, the proposed duration of the activity and the level of noise anticipated to be generated by the activity.
- 4(5) An exemption granted by Council shall be in writing, shall include such terms and conditions as Council shall deem appropriate and shall specify the time period during which the exemption shall be effective.
- 4(6) Any alleged breach of the terms and conditions of an exemption granted by Council by the applicant shall be investigated by Village staff and reported to Council in writing. Council may revoke the exemption if it believes that a breach of the terms and conditions of the exemption has occurred.

SECTION 5 MUNICIPAL BY-LAW INFRACTIONS NOTICE

- 5(1) Whenever a person violates any provision of this By-law, a Municipal By-Law Infractions Notice, in the form set out in Schedule "A" attached to this By-law, shall be served on the person presumed to be liable for the offence.

SECTION 6: PENALTIES

- 6(1) A Peace Officer or By-law Enforcement Officer is hereby authorized to enter on any property at all reasonable times for the purpose of ascertaining whether the regulations of this By-law are being observed.
- 6(2) Every person who violates any provision of this By-law is guilty of an offence and is liable to a fine of not less than Two Hundred and Fifty Dollars (\$250.00) and not more than One Thousand and Seventy Dollars (\$1070.00).

- 6(3) Unless otherwise provided in this By-law, a Peace Officer or the Village 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; and,
 - c) for a third or subsequent offence, a sum equal to the maximum penalty prescribed for such violations.
- 6(4) 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 6(3) hereof or other record setting forth the information required to be shown on the receipt;
- 6(5) A payment under Sub-section 6(4) hereof shall constitute a full satisfaction, release and discharge of all penalties 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.
- 6(6) If the voluntary payment set out in section 6(3) above has not been received on or before the date a charge pertaining to the offence has been laid before the Provincial Court, the person charged with the offence is, in accordance with the provisions of the Provincial Offences Procedures Act, liable on summary conviction to a fine of not less than Two Hundred and Fifty Dollars (\$250.00) and not more than One Thousand and Seventy Dollars (\$1070.00).
- 6(7) 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.

SECTION 7: REPEAL AND TRANSITION

- 7(1) By-law No. 55-2009, Village of New Maryland Noise Control By-Law, enacted on May 19, 2010 and all amendments thereto, are hereby repealed.
- 7(2) The repeal of By-Law No. 55-2009, Village of New Maryland Noise Control By-Law, shall not affect any penalty, forfeiture or liability, incurred before such repeal or any proceedings for enforcing the same completed or are pending at the time of repeal; nor shall it repeal, defeat, disturb, invalidate or prejudicially affect any matter or thing whatsoever completed, existing, or pending at the time of repeal.

FIRST READING (BY TITLE): October 20, 2010

SECOND READING (BY TITLE): October 20, 2010

THIRD READING (IN ITS' ENTIRETY): November 17, 2010

FINAL READING (ENACTMENT): November 17, 2010

Original Signed
Mayor

Original Signed
Clerk

Schedule A - Municipal By-law Infractions Notice

VILLAGE OF NEW MARYLAND		MUNICIPAL BY-LAW INFRACTIONS INFRACTIONS AUX ARRÊTÉS MUNICIPAUX		NM 0108
VIOLATION / CONTRE-VEHANT				
ADRESSE / DRESSÉE				
CITY / MUNICIPALITÉ			PROVINCE / STATE	POSTAL CODE / RÉGION
DATE OF INFRACTION / DATE DE L'INFRACTION	HEURE / HOURS	NAME OF OFFENDER / NOM DE L'OFFENSANT OR NAME OF PARENT OR GUARDIAN / NOM DU PARENT OU TUTEUR		
VEHICLE INFORMATION / INFORMATION VÉHICULE	PLATE NO. / N°	PLATE / PLACARD	MAKE / MARQUE	
OFFENCE / INFRACTION				
			BY / PAR	SECTION / SECTION
			ARRÊTÉ	FINE / AMENDE
				\$
PLACE OF OFFENCE / LIEU DE L'INFRACTION			PROSECUTION / POURSUITE	
			<input type="checkbox"/>	<input type="checkbox"/>
REMARKS / REMARQUES				
PAYMENT INSTRUCTIONS / MODALITÉS DE PAIEMENT				
PAYMENTS CAN BE MADE IN PERSON AT THE PLACE OFFICE, NEW MARYLAND - 85000 MONROE RD. DURING REGULAR BUSINESS HOURS EXCLUDING HOLIDAYS OR USE THE DROP OFF BOX LOCATED AT THE TOWN HALL OR ANY OTHER THIS COMMENCEMENT OFFICE.		EN PERSONNE À NOTRE BUREAU, EN VILLE DE NEW MARYLAND, 85000 MONROE RD. PENDANT LES HEURES D'OUVERTURE NORMALES SAUF LES JOURS FÉRIÉS OU EN DÉPOSANT DANS LES BOîtes DE DÉPÔT SITUÉES AU TOWN CENTRE OFFICE OU EN DÉPOSANT DANS L'ENVELOPPE DÉDIEE.		
NOTE: IF PAYMENT FOR PENALTY IS NOT RECEIVED WITHIN 10 CALENDAR DAYS FROM DATE OF ISSUE, A SUMMONS WILL BE ISSUED TO APPEAR IN COURT.		NOTE: SI LE PAIEMENT N'EST PAS REÇU DANS LES 10 JOURS CALENDRIERS APRÈS LA DATE DE L'INFRACTION, UNE SOMMATION À COMPARAÎTRE EN COUR VOUS SERA ÉMISE.		
VIA / PAR	M. / M.	DATE / DATE	HEURE / HOURS	OFFICER SIGNATURE / NOM DE L'AGENT(E)
			AM / PM	
OFFICER'S SIGNATURE / NOM DE L'AGENT(E)				
APPEALS MUST BE MADE WITHIN 24 HOURS TO THE ISSUING AGENCY LES APPELS DOIT ÊTRE DÉPOSÉES DANS LES 24 HEURES AUX SERVICE CORRESPONDANTS				
<input type="checkbox"/> RCMP	(506) 357-4300	<input type="checkbox"/> ANIMAL CONTROL /	(508) 451-1563	
<input type="checkbox"/> FIRE / INCYDIE	(506) 450-8711	<input type="checkbox"/> CONTROL DES ANIMAUX		
		<input type="checkbox"/> BY-LAW ENFORCEMENT /	(506) 451-8508	
		<input type="checkbox"/> APPLICATION DES ARRÊTÉS		

SCHEDULE "B"

APPLICATION FOR EXEMPTION TO THE NOISE BY-LAW

CONTACT INFORMATION

Name of Applicant: _____

Address: _____

Telephone: _____ (home) _____ (work)

Name of group/organization/
club/society (if applicable): _____

ACTIVITY INFORMATION

Purpose of Activity: _____

Date(s) of Activity: _____

Time(s) of Activity: from: _____ to: _____

Location of Activity: _____

Is there somewhere else
the activity could be held? Yes (list) _____ / No _____

Type of sound system
to be used (if applicable): _____

Will efforts be made to
curb the noise level: Yes (describe) _____ / No _____

Have or will surrounding
property owners be contacted
to apprise them of this
activity and to solicit their
approval? _____

FOR INTERNAL USE

Police Comments:

Council decision:

NOTE: This application must be submitted to the Village Office a minimum of thirty (30) days prior to the proposed activity.