



February 16, 2022

Village of New Maryland

Noise Control By-law

By-law No. 55-2022

Proposed for Enactment

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SCHEDULE "A" - MUNICIPAL BY-LAW INFRACTIONS NOTICE

SCHEDULE "B" - APPLICATION FOR EXEMPTION TO THE NOISE BY-LAW

Proposed for Enactment - February 2022

Village Of New Maryland
Noise Control By-Law
By-law No. 55-2022

A By-law to Provide for the Control and Prohibition of Noises

WHEREAS pursuant to Section 10(1)(c) of the *Local Governance Act, S.N.B. 2017*, Chapter 18, 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;

THEREFORE, BE IT ENACTED by the Council of the Village of New Maryland under the authority vested in it by the *Local Governance Act, S.N.B. 2017, Chapter 18* as follows:

1.0 TITLE

This by-law may be cited as the “Noise Control By-law No. 55-2022”.

2.0 DEFINITIONS

In this by-law:

“By-law Enforcement Officer” means the person(s) appointed by Resolution of Council to enforce the by-laws of the Village of New Maryland;

“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, in the form set out in Schedule “A”, providing notification that the provisions of this by-law have been violated;

“Peace Officer” means any person as defined in the *Motor Vehicle Act, RSNB 1973, Chapter M-17*, and amendments thereto; and

“Village” means the Village of New Maryland.

3.0 PUBLIC DISTURBANCE

- 3.01** 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.
- 3.02** No owner or occupier of real property shall allow such real property to be used so that noise which emanates therefrom, disturbs, or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of persons in the neighborhood or vicinity.
- 3.03** 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.
- 3.04** This by-law does not apply to pneumatic hammers, construction equipment and machinery, or vehicles of business and trade during daytime hours.
- 3.05** Without restricting the generality of Sections 3.01 and 3.02, 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) residential property owners doing maintenance and/or repairs to their property between the hours of 8:00 a.m. to 9:00 p.m. daily;
 - (g) farm animals that are permitted under the *Village of New Maryland Zoning By-law*, and amendments thereto;
 - (h) 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.
 - (i) 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.

4.0 APPLICATION FOR EXEMPTION

- 4.01** 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.
- 4.02** An application for exemption under this by-law shall be submitted in the form set out in Schedule "B" attached to this by-law.
- 4.03** An exemption to this by-law may be considered by Council as it deems appropriate upon receiving an application for said exemption at least fourteen (14) days prior to the start of the contemplated activity.

4.04 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.

4.05 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.

4.06 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.

5.0 FEES

A person seeking an exemption to this by-law shall complete and submit the form set forth in Schedule "B" and pay the applicable fee of \$100.00 (*one hundred dollars*).

6.0 ENFORCEMENT

6.01 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.

6.02 Any Peace Officer or By-law Enforcement Officer is hereby authorized to take such action or issue such Municipal By-Law Infractions Notice as they may deem to be necessary to enforce any provisions of this by-law.

6.03 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.

7.0 PENALTIES

Every person who violates any provision of this by-law is guilty of a separate offence for each day that the violation is caused or allowed to continue, and is liable to a fine of not less than \$250.00 (*two hundred fifty dollars*) and not more than \$2,100.00 (*two thousand one hundred dollars*) for each day of continuing offence.

8.0 VOLUNTARY PAYMENT OF FINES

8.01 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; or,
- (c) for a third or subsequent offence, a sum equal to the maximum penalty prescribed for such violations.

8.02 The person so accepting payment under this section shall forward such payment to the Village Treasurer together with a copy of the receipt delivered pursuant to sub-section **8.01** hereof or other record setting forth the information required to be shown on the receipt.

8.03 A payment under sub-section **8.02** hereof shall constitute a full satisfaction, release and discharge of all penalties incurred by such person for such violation, and for the purposes 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.

8.04 If the voluntary payment set out in sub-section **8.01** 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 \$250.00 (two hundred fifty dollars) and not more than **\$2,100.00 (two thousand one hundred dollars) for each day of continuing offence.**

9.0 PARTIAL INVALIDITY OF 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.

10.0 REPEAL AND TRANSITION

10.01 By-law No. 55-2010, "A By-law to Provide for the Control and Prohibition of Noises", enacted on November 17, 2010 and all amendments thereto, are hereby repealed.

10.02 The repeal of By-Law No. 55-2010, "A By-law to Provide for the Control and Prohibition of Noises", 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.

Read First Time: _____ 19 January 2022
(By Title Only)

Read Second Time: _____ 19 January 2022
(By title Only)

Advertised as to content on the Village
of New Maryland website in accordance
with Local Governance Act,
S.N.B. 2017, Chapter 18: _____ 02 February 2022

Read Third Time: _____
(By Summary)

Read Final Time _____
(By Title Only) and ENACTED: _____

Judy Wilson-Shee
MAYOR

Cynthia Geldart
CAO/CLERK

SEAL:

SCHEDULE "A"

MUNICIPAL BY-LAW INFRACTIONS NOTICE

VILLAGE OF NEW MARYLAND		MUNICIPAL BY-LAW INFRACTIONS/ INFRACTIONS AUX ARRÊTÉS MUNICIPAUX		NM 3351	
VIOLATOR/ CONTRE- VENANT		NAME/NOM			
ADDRESS/ADRESSE					
CITY/TOWN/VILLE/VILLAGE			PROV./STATE/ÉTAT	POSTAL/CODE POSTAL	
DATE OF BIRTH / DATE DE NAISSANCE Y/A M D/J		IF YOUNG OFFENDER - NAME OF PARENT OR GUARDIAN POUR UN MINEUR NOM DE PARENT OU TUTEUR			
VEHICLE INFORMATION/ INFORMATION SUR LE VEHICULE		PROV./STATE/ÉTAT	PLATE/PLAQUE	MAKE / MARQUE	
OFFENCE / INFRACTION					
			BY LAW/ ARRÊTÉ	SECTION	FINE AMENDE \$
PLACE OF OFFENCE/LIEU DE L'INFRACTION				PROSECUTION POURSUITE <input type="checkbox"/>	WARNING AVERTISSEMENT <input type="checkbox"/>
REMARKS/REMARQUE					
PAYMENT INSTRUCTIONS PAYMENTS CAN BE MADE IN PERSON AT THE VILLAGE OFFICE, 584 NEW MARYLAND HIGHWAY, MONDAY TO FRIDAY DURING NORMAL BUSINESS HOURS EXCLUDING HOLIDAYS OR USE THE DROP OFF BOX LOCATED AT THE VILLAGE OFFICE OR MAIL BY USING THIS CONVENIENCE ENVELOPE			MODALITÉS DE PAIEMENT EN PERSONNE, À NOTRE BUREAU EN VILLE, 584 CHEMIN NEW MARYLAND, DU LUNDI AU VENDREDI PENDANT LES HEURES D'OUVERTURE, SAUF LES JOURS FÉRIÉS. OU EN LE DÉPOSANT DANS LES BOÎTES DE DÉPÔT SITUÉES À BUREAU DU VILLAGE OU PAR LA POSTE, DANS L'ENVELOPPE CI-JOINTE		
NOTE: IF PAYMENT FOR PENALTY IS NOT RECEIVED WITHIN 10 CALENDAR DAYS FROM DATE OF ISSUE, FURTHER ENFORCEMENT MEASURES WILL BE TAKEN.			NOTE : SI LE PAIEMENT N'EST PAS REÇU DANS LES 10 JOURS OUVRABLES APRÈS LA DATE DE L'INFRACTION, DE NOUVELLES MESURES DISCIPLINAIRES SERONT PRISES.		
Y/A	M	D/J	TIME/HEURE AM PM <input type="checkbox"/> <input type="checkbox"/>	OFFICER SIGNATURE/DE L'AGENT(E)	
OFFICER'S COMMENTS/COMMENTAIRES DE L'AGENT(E)					

6, 2022

Propose

**APPEALS MUST BE MADE WITHIN 2 BUSINESS DAYS TO THE ISSUING AGENCY
 LES APPELS DOIT ÊTRE DÉPOSÉE DANS LES DEUX JOUR OUVRABLES AUX SERVICE
 CORRESPONDANTS**

- RCMP (506) 357-4300 BY LAW ENFORCEMENT/ (506) 451-8508
 FIRE/INCENDIE (506) 450-8711 APPLICATION DES ARRÊTÉS

SCHEDULE "B"

APPLICATION FOR EXEMPTION TO THE NOISE BY-LAW

CONTACT INFORMATION

Name of Applicant: _____

Address: _____

E-mail: _____

Telephone: _____ (home) _____ (work)

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

ACTIVITY INFORMATION

Purpose of Activity: _____

Date(s) of Activity: _____ **Number of Guests:** _____

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? _____

Please attach: Site Plan Parking Plan Seating Plan

FOR INTERNAL USE

Police Comments:

Staff Comments:

Council Comments:

NOTE: This application must be submitted to the Village Office a minimum of **fourteen (14)** days prior to the proposed activity.