

VILLAGE OF MCADAM

BY – LAW NO. 33

A BY – LAW RELATING TO THE INTERPRETATION OF THE BY – LAWS

BE IT ENACTED by the Council of the Village of McAdam as follows:

1. This by – law may be cited and referred to as the “Interpretation By – Law”.
2. (1) This by – Law extends to and applies to every by-law (including any form, schedule or appendix annexed to and forming part of such by-law) enacted and passed by the Council of the Village of McAdam and to every resolution passed pursuant to a by-law or the Municipalities Act and to every form, appendix, schedule, notice, certificate, license, permit or similar document (in this by-law sometimes referred to as “official document” passed, made, issued, granted, given or used pursuant to or for the purpose of implementing a by-law or any provision of the Municipalities Act, except in so far as it,
 - (a) is inconsistent with the intent or object of the by-law, resolution or official document,
 - (b) would give to any word, expression or clause in the by-law, resolution or official document an interpretation inconsistent with the context thereof of the interpretation section of the by-law,
 - (c) is by the by-law declared not applicable thereto, or
 - (d) is contrary to any provision of any applicable enactment of New Brunswick or Canada.(2) Where a by-law contains an interpretation section or provision, it shall be read and construed as being applicable only if the contrary intention does not appear.
(3) This by-law applies to the interpretation of all by-laws passed and enacted by the Council of the Village of McAdam whether before or after the enactment of this by-law.
3. In every by-law, resolution or official document of the Village of McAdam and the Council thereof, unless the context otherwise requires:
 - (a) “By – Law” means a by – law passed and enacted by the Council of the Village of McAdam;
 - (b) “Clerk of the Village” and “Village Clerk” means the municipal clerk of the village of McAdam appointed pursuant to the Municipalities Act;
 - (c) “daytime” or “day” means one-half hour before sunrise to one-half hour after sunset on the same day, and “night time” or “night” means any other time;
 - (d) “Council” means the Mayor and council of the Village of McAdam elected pursuant to the Municipalities Act;
 - (e) “Concillor” and “Member of the Council” means a person, other than the mayor, elected to the council of the Village of McAdam pursuant to the Municipalities Act;
 - (f) “estate” or “property” means real and personal estate; and “real estate”, “land” or “lands” includes lands, houses, tenements and hereditament, all rights thereto and incident therein;
 - (g) “goods” includes chattels and every description of personal property;
 - (h) “herein” used in any section shall be understood to relate to the whole by-law, and not to such section only’
 - (i) “highway” or “road” includes any public highway, street, road or bridge;
 - (j) “holiday” includes Sunday, New Year’s Day, Good Friday, Easter Monday, Dominion Day, Christmas Day, the birthday or the day appointed for the celebration of the birth of the reigning Sovereign, Victoria Day, New Brunswick Day, Labour Day, and any day appointed by any statute in force in the Province or by proclamation of the Governor

General or the Lieutenant-Governor as a general holiday within the Province, and when authorized by a By-Law or resolution of the Council, any day or part of any day proclaimed by the Mayor to be a civic holiday, and whenever a holiday other than Sunday falls on Sunday, "holiday" includes the following day;

- (k) "Mayor" means the mayor of the Village of McAdam elected pursuant to the Municipalities Act, or the person for time being having the powers of or performing the duties of mayor of the Village of McAdam;
- (l) "McAdam" means the Village Of McAdam;
- (m) "Minister" means the Minister of Municipal Affairs of the Province of New Brunswick;
- (n) "month" means a calendar month;
- (o) "motor vehicle" means every vehicle which is self propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, and not operated upon rails, but does not include a farm tractor;
- (p) "Municipal Building", "Village Office", and "Office of the Village Clerk" means the building in the Village of McAdam wherein the Village Offices are located;
- (q) "Municipalities Act" means the Municipalities Act, R.S.N.B. 1973, c. M-22, and any amendments thereto, and predecessor statute of the Province substituted therefore or any part thereof;
- (r) "municipalities Act" means the Village Of McAdam;
- (s) "peace officer", "police officer" and "policeman" have the same meaning and each term means:
 - (i) a member of the Royal Canadian Mounted Police;
 - (ii) a police officer or police constable appointed by the Village; and includes
 - (iii) any member of the Royal Canadian Mounted Police Auxiliary while on duty;
 - (iv) any member of the auxiliary police force, where there is one, of the Village while on duty;
 - (v) any member of the Canadian Armed Services while engaged in lawful military police duties or in rendering assistance to a lawfully constituted civilian police force;
 - (vi) any person appointed by the Village to enforce any by-law of the Village;
- (t) "pedestrian" means any person on foot;
- (u) "person" or "party" includes a corporation, partnership or society and the heirs, executors, administrators, successors or other legal representatives of such person;
- (v) "Province" means the Province of New Brunswick;
- (w) "private road" or "driveway" means every way or place not a street or highway used for vehicular traffic;
- (x) "public officer", "public official", "Village officer", "Village official", includes any person in the public service of the Village who under any by-law is authorized to do or enforce the doing of any act or thing or to exercise any power or upon whom any duty is imposed;
- (y) "public place" includes any place, whether a building or open space, to which the public can and does have access, whether or not the place is devoted exclusively to the uses of the public, and whether or not such access is with or without invitation or permission, including permission obtained by payment of an admission charge, and without limiting the generality of the forgoing, any place to which the public has resort.
- (z) "representatives" may mean executors and administrators;
- (aa) "roadway" means that portion of a street or highway improved, designed or ordinarily used for vehicular travel, exclusive of the shoulder unless the shoulder is paved;
- (ab) "shall" is to be construed as imperative and "may" as permissive and empowering;
- (ac) "sidewalk means that portion of a highway or street between curb lines or the lateral lines of a roadway and the adjacent property lines set apart for the use of the pedestrians,

and includes any part of a highway or street set apart or marked as being for the exclusive use of pedestrians;

(ad) "street" means the entire width between the boundary lines of every street, highway, road, lane, boulevard, alley, drive, avenue, park, public square, common, or any other place in the Village when any part thereof is used by the general public for the passage of vehicles, and includes any sidewalk, bridges, dividers, medians, safety island, ditches, drains and culverts thereon; and meaning.

6. For convenience of reference, the Clerk may assign an identifying number or letter to a By-Law and such number or letter shall be deemed as much a part of the By-law as if enacted; and capital letters and numbers inserted in sections shall be taken as referring to appendices, schedules or forms in schedules having like numbers or letters at the head thereof, and shall, with the appendices, schedules, forms, letters, numbers and matters connected therewith, explain the meaning of and form part of such sections.
7. Every By-law shall be deemed and construed to extend and apply to the entirety of the area encompassed within the territorial limits of the Village of McAdam as determined and established pursuant to the Municipalities Act, unless the context otherwise requires.
8. In any By-law a reference to a place or thing shall be deemed and construed as reference to a place or thing in the Village of McAdam without expressly so identifying such place or thing, unless the context otherwise requires.
9. (1) A By- Law shall be construed as reserving to the Council the power of repealing or amending it and revoking, restricting or modifying a power, privilege or advantage thereby vested in or granted to a person.
(2) An amending By-law, as far as consistent with the tenor thereof, shall be construed as part of the By-law that it amends.
10. Any preamble to or recitals in a By-law are a part thereof, and intended to assist in explaining the purport and object of the By-law.
11. The marginal notes, the headings and the references to former amending or repealing By-laws printed at the end of sections or opposite section numbers form no part of a By-law but are inserted for convenience of reference only.
12. (1) In a By-law, resolution, or official document an Act of New Brunswick or Canada may be cited by reference to its chapter number in the Revised Statutes of New Brunswick or Canada, by reference to its chapter number in the volume of Acts for the year or regnal year in which it was enacted, or by reference to its long title or short title or without reference to its chapter number.
(2) In a By-law, resolution, certificate or document, a By-law may be cited by reference to its long title or short title with or without reference to its number.
(3) A citation or reference in a By-law, resolution of official document to any other By-law or to an enactment of New Brunswick of Canada shall be deemed to be a citation of or reference to the enactment as amended.
(4) In any By-law, resolution or official document, a citation of or reference to a statute, regulation, or other enactment by its short or long title without any indication of whether it is a statute, regulation or other enactment of New Brunswick or Canada shall be deemed and construed as a reference to a statute, regulation or other enactment of New Brunswick with that name unless the context otherwise requires.

- (5) In any By-law, resolution or official document a citation of or reference to a By-law by a short or long title or by an identifying number or letter shall be deemed and construed as reference to a By-law of the Village of McAdam with that title or identifying number or letter.
13. Where a power is conferred or a duty imposed on a person requiring him to do an act or thing, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires, and when the power is so conferred or the duty imposed upon the holder of an office as such, the power may be exercised and the duty shall be performed by the person for the time being charged with the execution of the powers and duties of the office, or by such other person as the Council may appoint to execute such power or perform such duty.
14. Where a By-law authorizes or requires a document to be served or delivered by post, then, unless a contrary intention appears, service or delivery is deemed to be effected by properly addressing, prepaying and posting a letter containing the document, and, unless the contrary is proved, to have been affected at the time at which the letter would be delivered in the ordinary course of post.
15. (1) Where a By-law is repealed in whole or in part, the repeal or revocation shall not, unless a contrary intention appears:
- (a) revive any By-law or thing not in force or existing at the time at which the repeal or revocation takes place;
 - (b) affect the previous operation of any By-law so repealed or revoked or anything duly done or suffered thereunder;
 - (c) affect any right, privilege, obligation or ligation or liability acquired, accrued, accruing or incurred under the By-law so repealed or revoked;
 - (d) affect any offence committed against, or any violation of the provisions of the By-law so repealed or revoked, or any penalty, forfeiture or punishment incurred in respect thereof; nor
 - (e) affect any investigation, legal proceeding, or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment, and the investigation, legal proceeding or remedy may be instituted, continued or enforced and the penalty, forfeiture or punishment imposed as if the By-law has not been repealed or revoked.
- (2) Where a By-law is repealed in whole or in part and other provisions are substituted therefore, unless a contrary intention appears:
- (a) every person acting under the By-law so repealed or revoked shall continue to act as if appointed under the provisions so substituted until another is appointed in his stead;
 - (b) every bond and security given by any person appointed under this By-law so repealed or revoked shall remain in force, and all offices, books, papers and things made or used under the repealed or revoked By-law shall continue as before the repeal so far as consistent with the substituted provisions;
 - (c) every proceeding taken under the By-law so repealed or revoked may be taken up and continued under and in conformity with the provisions so substituted, so far as consistently may be;
 - (d) the procedure established by the substituted provisions shall be followed so far as it can be adapted in the recovery or enforcement of enforcement of rights, existing or accruing under the By-law so repealed or revoked, or in any proceedings in relation to matters which have happened before the repeal or revocation; and
 - (e) if any penalty, forfeiture or punishment is reduced or mitigated by any of the provisions so substituted, the penalty, forfeiture or punishment if imposed or adjudged after the repeal or revocation, shall be reduced or mitigated accordingly.

- (3) Where a By-law is repealed in whole or in part and other provisions are substituted by way of amendment, revisions or consolidation, the repeal shall not affect the validity of:
 - (a) any act, deed, right, title grant, assurance, rule, contract, lien, charge, capacity, immunity, matter or thing done, made, acquired, established or existing at the time of the repeal; or
 - (b) any office, appointment, commission, salary, remuneration, allowance, security or duty, or any matter or thing appertaining thereto established or existing at the time of the repeal; or
 - (c) any other matter or thing whatsoever had, done, completed, established, existing or pending at the time of the repeal; where it is not inconsistent with or repugnant to the provisions so substituted.

- 16. (1) A reference in a By-law to a part, division, section, schedule, appendix, or form shall be read as a reference to a part, division, section, schedule, appendix or form of the By-law in which the reference occurs;
- (2) A reference in a By-law to a subsection, paragraph, sub-paragraph, clause or sub-clause shall be read as a reference to a sub-section, paragraph, sub-paragraph, clause or sub-clause of the section, sub-section, paragraph, sub-paragraph or clause, as the case may be, in which the reference occurs.
- 17. Where a person is convicted of doing anything without a permit or license for or in respect of which a permit or license is required by a By-law, the Judge of a Provincial Court (or such other court as may have jurisdiction) may, unless such person has paid the fee for such permit or license, order payment thereof in addition to the fine.
- 18. Where a By-law creates an offence but does not state the penalty, everyone who commits a breach of such By-law is liable to a fine not exceeding Fifty Dollars (\$50.00).

REPEAL

- 19. By-law No. 12 entitled, “A By-law Relating to the By-laws” enacted November 14, 1967, is hereby repealed.

This By-law passed and enacted on the 29th day of June, A.D. 1976.

IN WITNESS WHEREOF the Village of McAdam has caused Corporate Seal of the Village to be affixed to this By-law the 29th day of June, A.D. 1976, and signed by :

Frank Carroll, Mayor the member of the Council who presided at the meeting at which it was passed; and

Marjorie O’Keefe, Clerk

READ FIRST TIME: June 29, 1976

READ SECONDTIME: June 28, 1976

READ THIRD TIME June 29, 1976

AND ENACTED: