

**VILLAGE OF MCADAM**  
**BY-LAW NUMBER 54**  
**NUISANCE BY-LAW**

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

**PART 1 – DEFINITIONS**

**1. Name:**

This By – Law may be cited as “The Village of McAdam Nuisance By – Law”.

**2. Definitions:**

In this By – Law

- (a) “bona fide farm” means arable land and complementary buildings, operated as a farm enterprise by a bona fide farmer and farm property includes leased land that is operated as part of a farm enterprise;
- (b) “Council” means the duly elected Council of the Village of McAdam;
- (c) “Fire Chief” means the Fire Chief of the Village of McAdam Fire Department or designate;
- (d) “person” includes a firm, corporation and association;
- (e) “public park” includes park land or trails owned or used by the Village of McAdam;
- (f) “recreational vehicle” means any motor vehicle which is designed to be, or intended to be, used other than on a public highway or on the surface of the water and includes, without limiting the generality of the foregoing, all – terrain vehicles, trail bikes and snowmobiles, but does not include a motor home or travel trailer for the purposes of this By – Law;
- (g) “Village” means the Village of McAdam.

**PART 2 – NOISE**

**3. General Prohibition:**

- (a) No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood at any time within the Village.

- (b) Without limiting the generality of subsection (a), the activities listed in Schedule "A" during the prohibited times and places as set out therein, are deemed to be activities that unreasonably disturb the peace and tranquillity of a neighbourhood and are prohibited.
- (c) the purpose of a prosecution pursuant to subsections (a) or (b), evidence that one neighbour is unreasonably disturbed is prima facie evidence that the neighbourhood is unreasonably disturbed.

#### **4. Prescribed Exemptions:**

- (a) Notwithstanding any other provisions of this By – Law, it shall be lawful to emit or cause or permit the emission of sound in connection with emergency measures taken:
  - (i) for the immediate health, safety or welfare of the inhabitants;
  - (ii) for the preservation or restoration of property;  
Unless such sound is clearly of a longer duration or more disturbing than is reasonably necessary for the accomplishment of such emergency purposes.
- (b) Notwithstanding any other provisions of this By-Law, Section 3 shall not apply to:
  - (i) employees, contractors, or agents of the Village or Province of New Brunswick;
  - (ii) noises caused by motor vehicles being used for emergency purposes;
  - (iii) noises emitted by machinery or equipment owned by the Village or contractors engaged by the Village when used in the normal course of providing municipal services;
  - (iv) noises caused by motor vehicles or work persons engaged in the delivery of any type of fuel;
  - (v) noises related to parades, street dances, sporting events, concerts or other community activities conducted by the Village or approved by Council.

#### **5. Grant of Exemptions by Council:**

- (a) Notwithstanding any other provisions of this By-Law, any person may make application to Council to be granted an exemption from any of the provisions of this By-Law with respect to any emission of noise for which that person might be prosecuted; and Council, by resolution, may refuse to grant any exemption or may grant the exemption applied for any exemption of lesser effect; and any exemption granted shall specify the time period, not in excess of six months, during which the exemption shall be effective and the exemption shall be in written form and shall include such terms and conditions as Council deems appropriate.

- (b) 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 municipality, the views of any residents of the municipality which may be expressed to Council, the proposed hours of operation of the proposed noise emitting activity and the proposed duration of the subject activity.
- (c) In deciding whether or not to grant an exemption, Council shall give the applicant, and any person opposed to the application, an opportunity to be heard during a Council Session and may consider such other matters as it deems appropriate.
- (d) Any breach by the applicant of any of the terms or conditions of any exemption granted by Council shall render such exemption null and void and the applicant shall be subject to all of the terms and conditions of this By-Law from the time of the breach of any term or condition of any exemption.

### **PART 3 – OPEN BURNING**

#### **6. Burning:**

- (a) Except as permitted in subsection (b) hereof, no person shall light any exterior fire or burn rubbish, leaves, vegetation or other combustible materials within the Village without first obtaining a Burning Permit from the Fire Chief. Any Burning Permit which may, in the discretion of the Fire Chief be issued, shall be upon such terms and conditions as the Fire Chief, in his discretion, considers appropriate.
- (b) Notwithstanding any other provision of this By-Law, the following shall be permitted;
  - (i) the burning of brush, grass or other vegetation of bona fide farms in areas zoned as Agricultural in the McAdam Zoning and Subdivision By – Law provided that the Fire Chief is notified at least 24 hours in advance;
  - (ii) the burning of wood in outdoor fireplaces;
  - (iii) gas, propane and charcoal barbeques;
  - (iv) controlled burns by the McAdam Fire department for the purpose of training;

### **PART 4 – GENERAL**

#### **7. Disturbances:**

- (a) No person shall unreasonably disturb the peace and quiet of other persons by:
  - (i) fighting, creaming or using obscene language;
  - (ii) knocking on doors or ringing doorbells;
  - (iii) loitering in any public place or on any commercial property.

- (b) for the purpose of a prosecution pursuant to subsection (a) evidence that one person is unreasonably disturbed is prima facie evidence that other persons are unreasonably disturbed.

**8. Public Nuisances:**

- (a) No person shall deface, alter or destroy any public or private building, fence, sign or any other structure or any property or any public notice erected or placed under the authority of the Village, Provincial Government or Federal Government.
- (b) No person shall damage or unnecessarily obstruct any street, road, highway, sidewalk or other public place or thoroughfare in the Village.
- (c) No person shall cast, project or throw any stone, snowball, ice or other object or use a bow and arrow, catapult, slingshot, air gun or any other such device on any street, road, highway, sidewalk or other public place or thoroughfare in the Village.
- (d) No person shall allow or permit an animal owned or controlled by that person to engage in persistent barking, calling, whining or making any similar persistent noise at any time.

**9. Park Curfew:**

- (a) No person shall use or be in any public park within the Village on any day between the hours of 10:00 p.m. and 7:00 a.m. without first obtaining written authorization from the Village.

**10. Halloween Curfew:**

- (a) Unless accompanied by a person over the age of 18 years, no person under the age of 16 years shall be in a public place within the Village between the hours of 10:00 p.m. on October 31st and 6:00 a.m. on November 1st.
- (b) A parent who permits his or her child, who is under the age of 16 years, to violate the provisions of section 9(a) or 10(a) hereof commits an offence pursuant to section 95(3) of the Municipalities Act, R.S.N.B. 1973 c. M – 22.

**11. Recreational Vehicles:**

No person shall operate a recreation vehicle on any public walking trail or in any public park in the Village.

## **PART 5 – ENFORCEMENT**

### **12. Enforcement:**

Notwithstanding the provisions of section 13 hereof, where a person contravenes or fails to comply with any provision of this By – Law, the Village may take any and all action available pursuant to section 106.1 of the Municipalities Act, R.S.N.B., 1973 c. M -22.

### **13. Offences:**

- (a) Any person who contravenes any provision of this By – Law is guilty of an offence and liable, on summary conviction, for a fine of not less than \$100.00 and not more than \$500.00
- (b) Each day of violation of any provision of this By – Law shall constitute a separate offence.
- (c) Where any person contravenes the same provision of this By – Law twice in one year, that person is guilty of an offence and liable, on summary conviction, for a fine of not less than \$200.00 and not more than \$1,000.00 for the second offence.
- (d) Where any person contravenes the same provision of this By – Law three or more times in one year, that person is guilty of an offence and liable, on summary conviction, for a fine of not less than \$300.00 and not more than \$1,070.00 for the third and subsequent offences.
- (e) Each day of violation of any provision of this By – Law shall constitute a separate offence.
- (f) Where a person contravenes any provisions of this By – Law, upon payment of such fine imposed pursuant to this By – Law, the person committing the violation is not liable to be prosecuted therefore.

### **14. Repeal of Existing By – Law:**

- (a) By – Law No. 39, A By – Law Relating To The Prevention Of Nuisances is repealed.

### **15. Effective Date:**

- (a) The effective date of this By – Law is July 23, 2007

This 1<sup>st</sup> reading of this By – Law was approved by Council at a meeting held on May 1, 2007

This 2<sup>nd</sup> reading of this By – Law was approved by Council at a meeting held on June 6, 2007

This By – Law was formally adopted by Council at a meeting held on July 23, 2007

This By – Law is hereby declared to be passed and proclaimed as a By – Law of the Village of

McAdam on this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk/Treasurer

**SCHEDULE “A”**

**TO THE**

**VILLAGE OF McADAM NUISANCE BY – LAW**

PURSUANT to Section 3 of the Village of McAdam Nuisance By – Law No. 54,  
the following activities are prohibited during the times prescribed.

1. The detonation of fireworks or explosive devices at any time in the Village, except with the written approval of the Fire Chief, upon such terms and conditions as Council may, in its discretion, consider appropriate.
2. The use of Jacobs Brakes or Engine Retarder Brakes at any time within the Village.
3. The operation of any motorized vehicle, equipment or machinery without an effective muffling device at any time within the Village.
4. The discharge of a firearm at any time within the Village, except the discharge of a firearm by a peace officer in the line of duty.
5. The operation of construction equipment and construction vehicles between the hours of 10:00p.m. and 6:00a.m., within the Village, except for the purposes of emergency work or repairs.
6. The operation of power tools outside any building or residence between the hours of 10:00p.m. and 6:00a.m. within the Village.
7. The operation of lawn mowers between the hours of 10:00p.m. and 6:00a.m. within the Village.
8. The operation of any television, radio, stereo, amplifier, musical instrument, public address system or electronic devices which emits noise which is audible beyond the property from which the noise is being emitted between the hours of 11:00p.m. and 7:00a.m. within the Village.