



TOWN OF MASSEY DRIVE

NUISANCE BY-LAW

Pursuant to the authority conferred by sections 7 and 8 of the Towns and Local Service Districts Act (TLSDA), the Town of Massey Drive has adopted, through resolution of the Town Council on the 10TH day, of May, 2025, the Nuisance By-Law.

The purpose of the Nuisance By-Law is to regulate, manage and enforce situations within the Town of Massey Drive that substantially and unreasonably interferes with an individual's right to peace, privacy, to use and enjoy their land and properties without disturbances and to protect public health, safety and quality of life.

The Town of Massey Drive's Town Councillor's Code of Conduct, Conflict of Interest and Workplace Harassment policies and procedures shall apply to all members of Council, staff and the general public.

1.0 POWERS AND DUTY

- 1.1 The Massey Drive Town Council shall ensure that residents of the Town use and enjoy their properties without interference of nuisances.
- 1.2 The Town of Massey Drive Nuisance By-Law shall apply within the boundaries of the Town.

2.0 DELEGATION AND ENFORCEMENT

- 2.1 The Council will delegate the day-to-day administration of the Nuisance By-Law to the Town Manager/Clerk.
- 2.2 Utilizing municipal enforcement capacity or engagement of the police and/or other relevant authorities will be at the discretion of the Town Manager.
- 2.3 This By-law may be enforced by the Town Manager, a person designated by Council to enforce by-laws, appropriate government officials, the Royal Newfoundland Constabulary(RNC) and/or the Royal Canadian Mounted Police (RCMP).

3.0 NUISANCES

- 3.1 A nuisance is defined as anything or any condition of things which is or may become injurious or dangerous or presents an obstruction to pedestrians or vehicular traffic or, any conditions of things, in the opinion of the Council, has an unpleasant effect on the sense or adversely affects amenities of the surrounding property or negatively affects the environment.
- 3.2 Nuisances are deemed unreasonable, unwarranted, or unlawful actions or omissions by someone or, something within their control, in a manner that substantially interferes with the rights of either the public or individuals to enjoy and use their personal properties, or public properties and, for the conditions of these properties to be unimpaired.
- 3.3 Two types of nuisances:
 - 3.3.1 Private nuisances are civil wrongs and focus on unreasonable interference with a person's use, enjoyment and comfort of their property, without trespass (unlawful entry upon land) or physical invasion of the land, and
 - 3.3.2 Public nuisances or criminal wrongs focus on interference with rights and interest shared by the public.
- 3.4 Response to a nuisance complaint will be determined by the type of nuisance.
- 3.5 In the event that a nuisance is potentially illegal or contravenes government legislation or regulations appropriate officials will be engaged.
- 3.6 To constitute a nuisance, the relevant activity must NOT be trivial or unreasonable. It can be a single event or something continuous or recurrent.
- 3.7 A single activity can sometimes constitute both a public and private nuisance, for example, a fuel spill that closes a highway and then migrates to a private landowner's property.
- 3.8 A defendant may also be required to remove a nuisance or pay the cost of removal.

4.0 NOISE AND BEHAVIOURAL NUISANCES

- 4.1 In general, no person shall make, continue or cause to allow to be made or continued any loud, unnecessary, excessive, raucous, or unusual noise or any noise and/or participating in any raucous behaviour whatsoever which either annoys, disturbs, injures, disrupts, endangers or distracts from the comfort, repose, health, peace, well-being or safety of other individuals or the community within the limits of the Town, except in accordance with this By-law.
- 4.2 No person shall within the Town operate or cause or permit to be operated any public address system, gramophone, radio, or other device or apparatus for reproducing or amplifying sound where the sounds of which are capable of being heard on any street in the Town without having first received a permit from the Town.

- 4.2.1 Such permit may be granted by the Council for the operation of such apparatus or device, may be restricted to hours deemed suitable by Council, and may be refused if, in the opinion of the Council, the operation of such apparatus or device will create a nuisance as defined in this By-law.
- 4.2.2 Such permit may be granted subject to terms and conditions as may be determined by the Council including the volume of sound to be reproduced by such apparatus or device, and shall be for such period as stated in such permit.
- 4.2.3 Any permit so granted may be cancelled by the Council at any time if, in its opinion, the operation of such apparatus or device for which such permit was issued violates any of the terms and conditions attached to such permit or creates a nuisance as defined in this By-law.
- 4.3 No person shall use or operate or cause to be used or operated any air conditioner, heat pump, compressor, condenser, chiller, cooling tower or similar device, the noise from which has a level greater than 55 dBA when measured at the property boundary of the property from which the source of the noise is emanating or the point of reception.
- 4.4 Using any off-road, all-terrain or motorized snow vehicle except where such use is approved and authorized in the Off-Road Vehicles Act.
- 4.5 Depositing, throw, place or sweep any litter upon any street or area whatsoever within the boundaries of the Town, excluding garbage placed at the curb for pick up by garage collector or that which is otherwise specified by Council.
- 4.6 Allowing dogs to wander outside the owner's private property.

5.0 PEACE AND TRANQUILITY

- 5.1 No person shall adversely affect the peace and tranquility of individuals within the Town by:
 - 5.1.1 Using a lawnmower, chainsaw, snow blower or other machinery or equipment which may disturb the peace and quiet of a neighborhood between the hours of 11:00pm of any day to 7:00am of the following day, except as required for snow removal purposes.
 - 5.1.2 Creating or allowing a noise through the use of a motor vehicle that has no muffler, a modified muffler or exhaust system or a defective muffler except as may be necessary to move such a motor vehicle to a location for associated repairs, subject to the approval of law enforcement officials under the Highways Traffic Act.
 - 5.1.3 No person shall create a noise within the town through unnecessary revving of an engine.
 - 5.1.4 No person shall create a nuisance from dust within 100 meters of any residence.
 - 5.1.5 Any area within 100 meters of any residence, unless permitted by the town of Massey Drive Off-Road Vehicles By-law, may only be used as a pass through access to area trails, and shall not be used for continuous riding or operation.

- 5.1.6 Creating or allowing a noise through the squealing of tires of a motor vehicle which is caused by unnecessary braking, turning or setting in motion of such motor vehicle.
- 5.1.7 Creating or allowing any noise caused by the construction (including excavating), repairing, altering or demolishing of any building, wall or any other structure, or by the removal, transportation or delivery of rock, gravel, sand or other materials, between the hours of 11:00pm of any day to 7:00am of the following day.
- 5.1.8 Shooting fire-arms or other similar noise-making devices, except as may be approved by Council and subject to the approval of law enforcement or other regulatory agencies.
- 5.1.9 Shouting or use of noise-making devices for the purpose of selling wares, soliciting business or attracting attention.
- 5.1.10 Creating a noise using motor vehicle horns except as may be reasonably necessary in the opinion of Council for the safety and warning of traffic and pedestrians.
- 5.1.11 Allowing excessive barking or howling of any animal that is in the care or control of any person.
- 5.1.12 Creating or allowing a noise through the detonation of fireworks or explosive devices within town boundaries between the hours of 11:00pm of any day to 7:00am of the following day, except as permitted under the Town of Massey Drive Fireworks By-law.

6.0 FIRE ARMS

- 6.1 No person shall fire or discharge an air gun in a manner creating a nuisance or is or may become injurious or dangerous.
- 6.2 An enforcement officer may seize any air gun where there are reasonable and probable grounds to believe that an offence has been committed pursuant to this By-law.
- 6.3 No person shall carry or operate any firearm except as allowed by the current Firearms Act.

7.0 FIREWORKS AND EXPLOSIVE DEVICES

- 7.1 No person shall detonate fireworks or explosive devices, not used in construction, within the Town unless permitted under the Town of Massey Drive Fireworks By-law.

8.0 PROPERTY NUISANCES

- 8.1 The Town recognizes that landowners, or those in rightful possession of property, have the right to unimpaired condition of the property, and to reasonable comfort and convenience in its occupation, therefore no person shall:
 - 8.1.1 Erect or allow to be erected any building, wall, fence or any other structure which may cause a nuisance or unsightly condition to neighboring properties.
 - 8.1.2 Unreasonably use another individual's property without trespass or physical invasion, for example, a landowner dropping a tree across a neighbor's boundary line or encroachment of trees or branches onto a neighbor's land.

- 8.1.3 Create a dangerous condition on one property that negatively impacts another's property.
- 8.1.4 Create, cause or permit an intrusion of light of an unusual intensity or type onto adjacent property so as to be or to cause a nuisance. All exterior illuminated light fixtures shall be directed in a manner to minimize glare and the undue intrusion of light onto adjacent property.

9.0 HOURS OF OPERATION

- 9.1 Between the hours of 11:00pm on any day and 7:00am in the morning of the following day, no person, firm or company or owner of any land or building or premise shall, in the Town, operate, conduct or carry on any industry, business, trade, or vocation whatsoever, which makes or allows to be made in connection with such operation, conduct or carrying on of such industry, business, trade, or vocation, any noise or music which disturbs the peace and tranquility of any portion thereof, or which disturbs or tends to disturb the peace and tranquility of any person residing in the vicinity of such street, building or place, or which can reasonably be deemed an annoyance to any person residing or carrying on business or being in the vicinity of such street, building or place.
- 9.2 No person, firm or corporation shall permit or maintain a nuisance by creating loud noises or raucous sounds or by creating or participating in any raucous behaviour that, in the opinion of Council, may have an unpleasant or disagreeable effect upon the senses.
- 9.3 Council may grant a permit to operate, conduct or carry on any industry, business, trade or vocation which makes or allows to be made in connection with such operation, conduct or carrying on of such industry, business, trade or vocation any noise which disturbs the peace and tranquility of the Town or any portion thereof between the hours of 11:00pm on any day and 7:00am if such industry, business, trade or vocation is necessary and acceptable in the opinion of Council.
 - 9.3.1 Such permit may be granted upon such terms and conditions as may be determined by Council.

10.0 PUBLIC NUISANCES

- 10.1 A public nuisance or criminal wrong focusses on interference with rights and interest shared by the public, may fall outside the Town's enforcement authority and therefore require appropriate government officials or law enforcement.
- 10.2 A public nuisance is an act or omission that obstructs, damages, endangers, or inconveniences the rights of the community such as threats to health, safety, morality, comfort, convenience, property, or welfare of a community.
- 10.3 Violators may be punished by a criminal sentence, a fine or both.
- 10.4 Examples of public nuisances include but are not limited to:

- 10.4.1 Unauthorized entries (trespassing) or physical invasion of another individual's property;
- 10.4.2 Harboring a vicious dog even though an injury is only threatened and has not actually occurred;
- 10.4.3 Keeping a diseased animal or a malarial water body;
- 10.4.4 Pollution of soil, streams, underground, water supply, and water table to name a few.
- 10.4.5 Raising of the water table;
- 10.4.6 Destruction of crops;
- 10.4.7 Obstructing a highway or creating a condition to make travel unsafe or highly disagreeable;
- 10.4.8 A danger likely to lure children onto a person's land. For example, an individual with a pool has the legal obligation to take reasonable precautions to prevent foreseeable injury to children;
- 10.4.9 Acts that interfere with the physical condition of private or public land or properties including damages caused by vibration or blasting, raising the water table, interference of drainage, and the pollution of soil, streams, ponds and/or groundwater;
- 10.4.10 Foul odors, noxious gas, smoke, or excessive light.

11.0 EXCEPTIONS

11.1 The provisions of these regulations shall not apply to:

- 11.1.1 Any member of the Royal Newfoundland Constabulary (RNC), the Royal Canadian Mounted Police (RCMP), the Town of Massey Drive Fire Department or other fire departments, or any emergency personnel or emergency vehicles, or any employees of the Town of Massey Drive, while such a member is employed in the execution of their duties as a member of the police, fire, ambulatory, medical responders, or employees of the Town;
- 11.1.2 A person or an employee of any business or organization performing any work for the Town while such person(s) or employee(s) is employed in the execution of duties in connection with the performance of any such work for the Town.
- 11.1.3 Musicians, performers or sound systems providing outdoor entertainment involving sounds reproduction devices during events staged by or on behalf of the Town;
- 11.1.4 Municipal snow clearing or removal activities by heavy equipment;
- 11.1.5 Snow clearing and removal operations during or following a snowfall event.

12.0 FAULT

Fault for the purposes of this by-law means the defendant intentionally, negligently, or recklessly interfered with the complainant's use and enjoyment of their property or, that the defendant who continues his/her conduct after learning of actual harm or substantial risk of future harm to the complainant's interest.

13.0 OFFENCES AND PENALTIES

13.1 Every person who is guilty of an offence under this By-law or who acts on contravention of or fails to comply with any provision thereof, or neglects or refuses to do so:

13.1.1 Shall be liable to penalties as stipulated in accordance with section 290 of the Towns and Local Service Districts Act; or

13.1.2 Shall be subject to an order under section 285(1) of the Towns and Local Service Districts Act; or

13.1.3 Shall be subject to a violation notice issued under section 287(1) of the Towns and Local Services Districts Act; or

13.1.4 Shall be issued a ticket under the Provincial Offences Act in accordance with section 288 of the Towns and Local Service Districts Act.

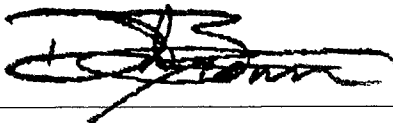
13.2 Any person doing any of the acts outlined in section 289 of the Towns and Service Districts Act is considered to have committed an offence.

14.0 REPEAL OF PREVIOUS NUISANCE REGULATIONS

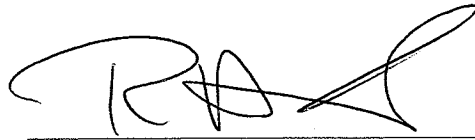
All previous Town of Massey Drive Nuisance regulations and amendments are repealed.

15.0 COMPLIANCE WITH OTHER ACTS AND REGULATIONS

Nothing in this By-law serves to exempt any person from obtaining any license, permission, permit, authority or approval required by any other By-law of the Town or any statute or regulation of the Province of Newfoundland and Labrador, and as such cases where more than one By-law or statute applies the more restrictive regulation or statute shall apply.



Mayor



Town Clerk/Manager

May 10, 2025

Date

May 10, 2025

Date