

The Corporation of the Municipality of Red Lake

By-Law No. 902-07

Being a By-Law to Regulate Yard Maintenance

WHEREAS *Section 10(2)(6) of the Municipal Act, 2001, as amended*, enables a single-tier municipality to pass a by-law respecting the health, safety and well-being of persons; and

WHEREAS *Section 123 of the Municipal Act, 2001, as amended*, provides that a local municipality may, for the purpose of public safety, regulate with respect to cliffs, pits, deep waters and other dangerous places; and

WHEREAS *Section 127 of the Municipal Act, 2001, as amended*, provides that a local municipality may; (a) require the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings; (b) regulate when and how matters required under clause (a) shall be done; (c) prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land; and (d) define "refuse" for the purpose of this section; and

WHEREAS *Section 131 of the Municipal Act, 2001, as amended*, provides that a local municipality may prohibit and regulate the use of any land for the storage of used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts from them for sale or other disposition.

NOW THEREFORE the Council of the Corporation of the Municipality of Red Lake hereby **ENACTS AS FOLLOWS:**

SECTION 1 - DEFINITIONS

- 1.1 "By-Law" shall mean this By-Law, including its recitals, which form integral parts of it, as amended from time to time.
- 1.2 "Corporation" shall mean The Corporation of the Municipality of Red Lake, a municipal corporation duly incorporated pursuant to the laws of the Province of Ontario.
- 1.3 "Council" shall mean the elected Council for the Corporation.
- 1.4 "Debris" includes refuse, waste, discarded materials or garbage of any kind whatsoever and includes, whether of value or not;
 - 1.4.1 accumulations of litter, remains, rubbish, trash;
 - 1.4.2 weighty or bulky items such as appliances, furnaces, furnace parts, pipes, pipe-fittings, water or fuel tanks placed in a condition or location where they cannot be used for their intended purposes;
 - 1.4.3 paper, cartons;
 - 1.4.4 dilapidated furniture;
 - 1.4.5 crockery, glass, cans, containers;
 - 1.4.6 garden refuse and trimmings;
 - 1.4.7 material from or for construction and demolition projects;
 - 1.4.8 domestic and industrial waste;
 - 1.4.9 dead or dying trees, branches, leaves or shrubs;
 - 1.4.10 inoperative Motor Vehicles;
 - 1.4.11 vehicles parts;

SECTION 1- DEFINITIONS - Continued

- 1.4.12 Mechanical equipment or equipment parts placed in a condition or location where they cannot be used for their intended purposes;
- 1.4.13 Earth or rock fill;
- 1.4.14 Clothing or other household linens lying in an unprotected condition;
- 1.4.15 Objects or conditions that may create a health, fire or accident hazard; and
- 1.4.16 Animal feces.
- 1.5 "Highway" shall mean a common and public highway, and includes a street and lane and a bridge forming part of a highway on, over or across which a highway passes.
- 1.6 "Inoperative Motor Vehicle" includes a Motor Vehicle which may not be lawfully operated upon a Highway pursuant to the *Highway Traffic Act* because of any of the following reasons:
 - 1.6.1 there is not in existence a currently validated permit for the vehicle;
 - 1.6.2 there are not displayed on the vehicle, in the prescribed manner, number plates issued in accordance with the *Highway Traffic Act* showing the permit number issued for the vehicle;
 - 1.6.3 there is not affixed to a number plate displayed on the vehicle evidence of the current validation of the permit; or
 - 1.6.4 the vehicle is damaged to the extent that it cannot be driven, is in a wrecked or dismantled condition or has had its source of motive power removed.
- 1.7 "Land" shall mean real property, whether wholly vacant or comprised of buildings with Yards.
- 1.8 "Last Known Address" shall mean the address which appears on the last revised assessment roll of the Corporation.
- 1.9 "Notice" shall mean a written notice as contemplated by Section 7.4 of this By-Law.
- 1.10 "Nuisance" is a condition or use of Land which unreasonably interferes with the lawful use of another person's Land. It typically involves an injurious, offensive or objectionable condition. Examples include:
 - 1.10.1 emissions of smoke, gas, fumes, dust or sawdust;
 - 1.10.2 objectionable odours; or
 - 1.10.3 the unsightly storage of goods, wares, merchandise, Debris or other material.

For clarity, a condition or use of Land in some situation can be considered a Nuisance where in other situations the same condition or use of Land is not considered a Nuisance. Proximity to neighbouring Land and/or particular uses of neighbouring Land will have an impact on whether or not a certain condition or use of Land constitutes a Nuisance. Further, the context of the Land in question can impact whether or not its condition or use is a Nuisance. Persons living in urban areas must accept a certain level of disturbance as incident to life in an urban area without that disturbance being considered to be a Nuisance.

- 1.11 "Municipality" shall mean the geographic area which is under the jurisdiction of the Corporation.

SECTION 1 - DEFINITIONS – Continued

- 1.12 "Occupant" shall mean a person other than the Owner who exercises rights in respect of Land, including;
- 1.12.1 a person for the time being managing the Land;
 - 1.12.2 a person for the time being receiving the rent from the Land, whether on his or her own account or as agent or trustee of any other person;
 - 1.12.3 a tenant or lessee;
 - 1.12.4 a licensee; or
 - 1.12.5 an occupier.
- 1.13 "Officer" shall include a By-Law Enforcement Officer or his or her designate.
- 1.14 "Owner" shall mean the registered owner of the Land.
- 1.15 "Recipient" shall mean the person to whom a Notice is addressed, who is deemed to have received that Notice in accordance with Section 7.5 of this By-Law.
- 1.16 "Yard" shall mean Land around or appurtenant to the whole or any part of a residential or non-residential building which Land is;
- 1.16.1 vacant; or
 - 1.16.2 used or capable of being used in connection with the property.

SECTION 2 - LEGISLATION

- 2.1 References to legislation in this By-Law are printed in *Italic font* and are references to Ontario statutes. Where the year of the statute appears as part of its name, the reference is to the Statutes of Ontario for that year, and the chapter bearing the same name. Where the year of the statute does not appear as part of its name, the reference is to the Revised Statutes of Ontario, 1990 version. In both cases, however, this By-Law is considered to speak to the law as amended from time to time, including successor legislation.

SECTION 3 - INTERPRETATION

- 3.1 The captions, article and section names and number appearing in this By-Law are for convenience of reference only and have no effect on its interpretation.
- 3.2 This By-Law is to be read with all changes of gender or number required by the context.
- 3.3 The words "include", "includes" and "including" are not to be read as limiting the words or phrases which precede them.

SECTION 4 - CONFLICT

- 4.1 In the event of any conflict between this By-Law and any other by-law of the Corporation, the more restrictive provision shall prevail unless the context requires otherwise.

SECTION 5 - APPLICABILITY OF BY-LAW

- 5.1 This By-Law applies to all Land within the Municipality excluding publicly owned Land.

SECTION 6 - LAND AND YARD REQUIREMENTS

6.1 Land to be Kept Free from Debris

- 6.1.1. No Owner of Land shall fail to keep the Land clean and free from Debris.
- 6.1.2. No Occupant of Land shall fail to keep the Land clean and free from Debris.

6.2 Trees, Hedges and Shrubs to be kept Trimmed

- 6.2.1 No Owner of Land shall fail to keep the hedges, shrubs, trees or similar growth upon the Land trimmed so as not to interfere with the use of a Highway.
- 6.2.2 No Occupant of Land shall fail to keep hedges, shrubs, trees or similar growth upon the Land trimmed so as not to interfere with the use of a Highway.

6.3 Grass to be kept Trimmed

- 6.3.1 No Owner of Land shall fail to keep the grass and/or weeds upon the Land trimmed so as not to exceed thirty (30 cm) centimeters in height.
- 6.3.2 No Occupant of Land shall fail to keep the grass and/or weeds upon the Land trimmed so as not to exceed thirty (30 cm) centimeters in height.

6.4 Inoperative Motor Vehicles and Parts

- 6.4.1 No Owner of Land shall use the Land, or to cause or permit the Land to be used, for the storage of Inoperative Motor Vehicles or parts of Motor Vehicles except in compliance with Section 6.5 of the By-Law.
- 6.4.2 No Occupant of Land shall use the Land, or to cause or permit the Land to be used, for the storage of Inoperative Motor Vehicles or parts of Motor Vehicles except in compliance with Section 6.5 of this By-Law.

6.5 Storage of Inoperative Motor Vehicles and Parts Permitted

- 6.5.1 Section 6.4 does not prohibit the storage of Inoperative Motor Vehicles and/or Motor Vehicle parts where;
 - (a) the storage is reasonably necessary for the conduct of a business or trade, lawfully conducted on the property;
 - (b) the Motor Vehicle and/or parts are stored in an enclosed building; or
 - (c) the storage is of a single Motor Vehicle and/or parts are fully and completely covered with a canvas or similar opaque, weather-resistant tarpaulin in good repair.

6.6 Dumping and Littering

- 6.6.1 No person, without authorization from the Owner of the Land shall throw, place or deposit Debris on private property or publicly owned Land.

6.7 Filling of Land with Earth – Exemption

- 6.7.1 Section 6.6 does not prohibit the filling or raising of Land with

earth or rock or the disposal of Debris on any Land which has been lawfully designated and/or licensed for that purpose by the Corporation or another authority with jurisdiction.

SECTION 6 - LAND AND YARD REQUIREMENTS - Continued

6.8 Ponding of Storm Water

6.8.1 No Owner of Land shall fail to keep the Land graded, filled up or otherwise drained so as to prevent recurrent ponding of storm water.

6.8.2 No Occupant of Land shall fail to keep the Land graded, filled up or otherwise drained so as to prevent recurrent ponding of storm water.

6.9 Hazards Created by Holes, Excavations and Trenches

6.9.1 Subject to Section 6.10, no Owner of Land shall cause or permit the existence or continuance on the Land of any holes, pits, excavations or trenches which constitute a hazard.

6.9.2 Subject to Section 6.10, no Occupant of Land shall cause or permit the existence or continuance on the Land of any holes, pits, excavations or trenches which constitute a hazard.

6.10 Exemption from Section 6.9

6.10.1 The existence or continuance on Land of any holes, pits, excavations or trenches is permitted provided the Land or the hole, pit, excavation or trench on the Land, is reasonably secured from public entry.

6.11 Nuisances

6.11.1 No Owner of Land shall use the Land or cause or permit the Land to be used, in a manner which creates a Nuisance.

6.11.2 No Occupant of Land shall use the Land or cause or permit the land to be used, in a manner which creates a Nuisance.

6.12 Failure to Comply with Notice

6.12.1 No Owner of Land shall fail to comply with a Notice.

6.12.2 No Occupant of Land shall fail to comply with a Notice.

SECTION 7 – ENFORCEMENT & CLEAN UP

7.1 Enforcement

7.1.1 This By-Law may be enforced by any By-Law Enforcement Officer.

7.2 Entry

7.2.1 The By-Law Enforcement Officer may enter upon any Land (but not within any building used as a residence) to ascertain whether the provisions of this By-Law are being complied with and to enforce and carry into effect the provisions of this By-Law.

7.3 Ultimate Responsibility of Owner

7.3.1 The Owner of Land is ultimately responsible for the condition of the Land whether or not the Owner is also the Occupant.

7.4 Notice

7.4.1 Where a By-Law Enforcement Officer discovers Land in a condition which violates any of the provisions of this By-Law, he or

she shall send written Notice, in a manner set out in this Section. The Notice must specify the particulars of non-conformity with this By-Law, and must require that the Owner and/or the Occupant make the Land conform to the requirements of this By-Law within a specified time period.

SECTION 7 – ENFORCEMENT & CLEAN UP - Continued

7.4.2 Notice may be sent by registered mail to the Last Known Address of the Owner of the Land and, where the Owner is different from the Occupant, also to the Last Known Address of the Occupant of the Land.

7.4.3 Notice may be delivered by hand directly to the Recipient at the Last Known Address of the Occupant of the Land.

7.4.4 Notice may be delivered by hand directly to the residential Last Known Address of the Owner of the Land and, where the Owner is different from the Occupant, also to the Last Known Address of the Occupant of the Land. Where there is no Last Known Address the Notice shall be affixed to the front doorway to the residence.

7.4.5 Where none of 7.4.2 through 7.4.4 can be effected with reasonable certainty that a Recipient will actually receive the Notice, the Recipient shall be advised by way of advertisement in a newspaper with delivery in the municipality of the Recipient's Last Known Address, that he or she should contact the Municipality for information regarding the Land.

7.5 Receipt of Notice

7.5.1 Notice which is sent by mail to a Recipient in accordance with Section 7.4.2 is deemed to have been received by the Recipient five (5) business days following the date of the mailing of the Notice.

7.5.2 Notice which is delivered to a Recipient in accordance with Section 7.4.3 is deemed to have been received by the Recipient at the time that it is handed to him or her.

7.5.3 Notice which is delivered or affixed to a residence in accordance with Section 7.4.4 is deemed to have been received by the Recipient five (5) business days following the date of delivery or posting.

7.5.4 Notice which is published in accordance with Section 7.4.5 is deemed to have been received by the Recipient on the business day next following the date of publication of the newspaper in which the Notice was published.

7.6 Where No Notice is Required

7.6.1 Where the condition of the Land is such that it constitutes a hazard to members of the public, the Municipality is authorized to follow the provisions of Section 7.8 of this By-Law without having first issued the Notice.

7.7 Penalties

7.7.1 Every person who commits an offence pursuant to this By-Law is liable, upon conviction to the penalties prescribed by the Provincial Offences Act.

7.8 Municipal Action

7.8.1 Subject to Sections 7.9 and 7.10, where a Notice has been sent, and it has not been appealed by the Recipient, and the requirements of the Notice have not been complied with, the Corporation may cause any work to be done which is necessary to bring the Lands into a condition which complies with the Notice.

In such circumstances, the cost of the work shall be at the expense of the Owner, and constitutes a debt due to the Corporation.

SECTION 7 – ENFORCEMENT & CLEAN UP – Continued

7.8.2 Where any of the matters or things are removed in accordance with Section 7.8.1, the matters or things may be immediately disposed of by the Municipality.

7.9 Authorization by Council

7.9.1 Prior to taking action in accordance with Section 7.8 of this By-Law, the Officer shall report to the Council and obtain authorization for the work to be undertaken.

7.10 Delegation of Authority to By-Law Enforcement Officer

7.10.1 Council's authority to authorize work in accordance with Section 7.8 is delegated to the By-Law Enforcement Officer in all cases where the cost of the work to be undertaken is estimated to be less than ten thousand (\$10,000.00) dollars.

7.11 Recovery of Debt

7.11.1 Any debt due to the Corporation under Section 7.8 of this By-Law may be recovered from the Owner by action or by adding the debt to the tax roll and collecting it in the same manner as taxes.

SECTION 8 - APPEAL FROM NOTICE

8.1 Property Standards Committee

8.1.1 The Corporation's Property Standards Committee has jurisdiction and authority to hear appeals under Section 8.3.

8.2 By-Law Enforcement Officer

8.2.1 The recipient of a Notice who disagrees with all or any part of its content, shall contact the By-Law Enforcement Officer within ten (10) business days of his or her deemed receipt of the Notice (in accordance with Section 7.5). The By-Law Enforcement Officer has authority to alter all or any part of the content of a Notice. Where the Notice was issued by any other Officer, the By-Law Enforcement Officer shall consult with the Officer, or his or her designate, prior to altering any provision of the Notice.

8.3 Appeal

8.3.1 Where the Recipient has approached the By-Law Enforcement Officer in accordance with Section 8.2, and continues to disagree with all or any part of the content of a Notice, he or she may appeal to the Property Standards committee. The appeal to the Property Standards Committee must be submitted to the By-Law Enforcement Officer within five (5) business days of the date that he or she discussed the matter with the By-Law Enforcement Officer in accordance with section 8.2.

8.4 Notice of Appeal

8.4.1 Where the By-Law Enforcement Officer receives notice under Section 8.3 that any person wishes to appeal a Notice, he or she shall schedule a hearing before the Property Standards Committee as soon as reasonably practicable. He or she shall send notice of the appeal hearing to every person who received the Notice that is in question, whether or not that particular Recipient objected to its content.

8.5 Detail in the Notice

- 8.5.1 Specify the time, place and purpose of the hearing of the Property Standards Committee at which the Notice will be considered;

SECTION 8 - APPEAL FROM NOTICE - Continued

- 8.5.2 Information the affected Recipient, together with any other person who received a Notice regarding the same Land, that each of them is entitled to attend the hearing and to present evidence and to make submissions regarding the Notice and that, in his or her absence, the Property Standards Committee may proceed to consider the matter, and the Recipient will not be entitled to any further notice of the proceeding; and

- 8.5.3 Be given at least fifteen (15) days prior to the date of the Property Standards Committee hearing.

8.6 Powers of Committee

- 8.6.1 At the hearing, the Property Standards Committee may amend or revoke all or any part of the Notice, or may add conditions to a Notice.

8.7 Decision of Committee

- 8.7.1 A decision of the Property Standards Committee with respect to any Notice is final and binding, and it takes effect upon the rendering of the decision by the Property Standards Committee.

SECTION 9 - IMPLEMENTATION

- 9.1 By-Law No. 885-07 shall be repealed on the date the Ministry of the Attorney General approves the Set Fines under By-Law No. 902-07.
- 9.2 This By-Law shall come into force and effect on the date the Ministry of the Attorney General approves the Set Fines under By-Law No. 902-07.

READ a FIRST and SECOND TIME this 17th day of July, 2007.

Phil T. Vinet, Mayor

Shelly L. Kocis, Clerk

READ a THIRD TIME and FINALLY PASSED 17th day of July, 2007.

Phil T. Vinet, Mayor

Shelly L. Kocis, Clerk

Schedule "A"

THE CORPORATION OF THE MUNICIPALITY OF RED LAKE

SET FINES

"Part 1 Provincial Offences Act"

Municipality of Red Lake By-Law No. 902-07

Title: Yard Maintenance By-Law

Item	Column 1 (Short Form Wording)	Column 2 (Offense Creating Provision)	Column 3 (Set fines)
1.	Owner of land to fail to keep the land clean and free of debris.	Sec. 6.1.1	\$100.00
2.	Occupant of land to fail to keep the land clean and free from debris	Sec. 6.1.2	\$100.00
3.	Owner of land to fail to keep the (hedges)(shrubs)(trees) trimmed.	Sec. 6.2.1	\$100.00
4.	Occupant of land to fail to keep the (hedges)(shrubs)(trees) trimmed.	Sec. 6.2.2	\$100.00
5.	Owner of land to permit storage of inoperative motor vehicles (parts).	Sec. 6.4.1	\$100.00
6.	Occupant of land to permit storage of inoperative motor vehicles (parts).	Sec. 6.4.2	\$100.00
7.	(Cause to) Permit deposit waste on private property.	Sec. 6.6.1	\$100.00
8.	(Cause to) Permit deposit of waste on Municipal property.	Sec. 6.6.1	\$100.00
9.	Owner of land to permit ponding of storm water.	Sec. 6.8.1	\$100.00
10.	Occupant of land to permit ponding of storm water.	Sec. 6.8.2	\$100.00
11.	Owner of land to permit hazardous (holes)(pits)(excavations)(trenches).	Sec. 6.9.1	\$100.00
12.	Occupant of land to permit hazardous (holes)(pits)(excavations) trenches).	Sec. 6.9.2	\$100.00
13.	Owner of land to create a nuisance.	Sec. 6.11.1	\$100.00
14.	Occupant of land to create a nuisance.	Sec. 6.11.2	\$100.00
15.	Owner of land to fail to comply with Notice.	Sec. 6.12.1	\$100.00
16.	Occupant of land to fail to comply with Notice.	Sec. 6.12.2	\$100.00

"NOTE: the general penalty provision for the offences listed above is Section 7.7 of By-Law No. 902-07, a certified copy of which has been filed and Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33."