

# Corporation of the Town of Moosonee

## BY-LAW NO. 07-10

**Being a by-law to require owners or tenants on private property to maintain their lands to be clean and free of debris**

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**WHEREAS** section 11 of the Ontario Municipal Act 2001, Allows a municipality to pass by-laws respecting matters within the following spheres of jurisdiction of drainage, flood control and waste management;

**AND WHEREAS** the Municipal Act ,2001, S.O.2001, c.25 as amended, section 127 provides that a municipality may require that 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;

**AND WHEREAS** section 131 of the Ontario Municipal Act 2001; a local municipality may prohibit or 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;

**AND WHEREAS** section 446(1) of the Ontario Municipal Act 2001, provides that a municipality has the authority to direct or require a person to do a matter and/or thing, the municipality may also provide that, in default of it being done by the person required or directed to do it, the matter or thing shall be done at the persons expense;

**AND WHEREAS** Section 446 (2) of the Ontario Municipal Act 2001 provides that the Municipality may enter upon land at any reasonable time for the purpose of subsection (1);

**AND WHEREAS** Section 446 (3) of the Ontario Municipal Act 2001 provides that a municipality may recover the costs of doing a matter and/or thing in regards to subsection (1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

**AND WHEREAS** Section 446 (5) of the Ontario Municipal Act 2001 provides that the costs include interest at a rate of 15 percent or such lesser rate as determined by the municipality, calculated for the period commencing on the day the municipality incurs the costs and ending on the day the costs, including interest, are paid in full;

**AND WHEREAS** Section 446 (6) of the Ontario Municipal Act 2001 provides that, the amount of the costs including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien;

**AND WHEREAS** Section 446(7) of the Ontario Municipal Act 2001, the lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate established under subsection (5) to the date payment is made;

**AND WHEREAS** Section 446 (8) of the Ontario Municipal Act 2001, Upon receiving payment of all costs payable, the municipality shall register a discharge of the lien in the proper registry office;

**AND WHEREAS** Section 391 of the Ontario Municipal Act 2001, a municipality may impose fees or charges on persons for services or activities provided or done by or on behalf of it;

**NOW THEREFORE, THE CORPORATION OF THE TOWN OF MOOSONEE ENACTS AS FOLLOWS:**

### **PART 1: DEFINITIONS**

- “Clean”** shall mean the removal and disposal of refuse as defined in this by-law from any property within the boundary of the Town of Moosonee
- “Clear”** shall have the same meaning as clean
- “Council”** means the Council of the Corporation of the Town of Moosonee

<b>“Debris”</b>	shall have the same meaning as refuse
<b>“Disposed”</b>	to get rid of, throw away
<b>“Refuse”</b>	includes but is not limited to all materials described in schedule A to this by-law, and all similar or like materials. Schedule A shall be attached to, and form part of this by-law
<b>“Motor Vehicle”</b>	see schedule A
<b>“Shall”</b>	means must comply
<b>“Town”</b>	means the Corporation of the Town of Moosonee
<b>“Person”</b>	means a human being, a corporation, or other legal entity recognized by law as having rights and duties
<b>“Stagnant Water”</b>	means a body of water that is inert and lacks movement from either natural or artificial means
<b>“Dangerous Place”</b>	means a deep body of water, cliffs, or stagnant water
<b>“Owner”</b>	includes owner, lessee and occupant of the land;
<b>“Costs”</b>	shall mean all monetary expenses incurred by the town during and throughout the process of remedial action
<b>“White Goods”</b>	See schedule A
<b>“Freon”</b>	means chlorofluorocarbon, hydro chlorofluorocarbon or hydro fluorocarbon refrigerants also known as CFC or HCFCs or HFCs

## **PART 2: CLEAN AND CLEAR YARDS**

- 2.1 Dumping Prohibited Without Lawful Authority
- a) No person shall dump, throw or otherwise deposit refuse on private property or Town property without lawful authority
- 2.2 Removal of Refuse
- a) Every owner or occupant shall remove refuse or debris from his or her land
  - b) When removing a white good or appliance that has a door or latch, the door, latch and hinge shall be removed to prevent any person who may become trapped inside the white good or appliance

## **PART 3: EXCEPTIONS**

- 3.1 Where a motor vehicle is;
- a) being repaired either actively or recreationally for the purpose of usage or show
  - b) intended to be taken to a salvage yard or repair shop
- 3.2 Where an owner or occupant has fallen tree remains;
- a) for the purpose of fueling a wood stove
  - b) for the purpose of processing for lumber
  - c) for the purpose of construction or renovation
  - d) the remains are put aside as a wood pile
  - e) for the purpose of camp fire cooking
- 3.3 Where a yard is in the process of being cleared;
- a) an order to direct to do a thing or matter shall not be issued
  - b) a warning shall not be issued

- 3.4 Where there owner or occupant has construction or renovation materials;
- a) that are currently or soon to be used in construction or renovation
  - b) temporarily stored prior to use
- 3.5 None of the above mentioned exceptions shall be considered refuse or failure to maintain clean and clear yards.
- 3.6 If reasonable amount of time has elapsed and for the purpose of section 3. No action has been taken on behalf of the owner; it shall be considered a violation of Section 3; and be subject to any and all parts of this by-law

#### **PART 4: DANGEROUS OR HAZARDOUS PLACE**

- 4.1 Every owner shall not permit any steep declinations, deep waters, or any other hazardous condition to be in their property without being properly contained within a fenced in area.

#### **PART 5: ENTRY ONTO LAND**

- 5.1 Where the town has a power of entry under the said act, the power shall be exercised by an officer of the Town or their designate who may be accompanied by a person under his or her direction
- 5.2 The Town may for the purpose of inspection and or remedial action may enter upon the land and into structures other than a dwelling at any reasonable time, without notice
- 5.3 A person exercising a power of entry on behalf of the Town under this act must, upon request display or produce proper identification

#### **PART 6: NOTICE PRIOR TO REMEDIAL ACTION**

- 6.1 The Town may prior to taking remedial action under this by-law, shall send notice to “owner or occupant” requesting that the owner or occupant to clean the land. Such notice shall be given by registered mail

#### **PART 7: REMEDIAL ACTION**

- 7.1 Where an owner is in default of doing any matter or thing directed or required to be done under this by-law, an officer may direct the completion of such work or thing at the owner’s expense.
- 7.2 Where any matters or things are removed in accordance with section 7.1 such matters or things shall be immediately disposed of.
- 7.3 The Town may recover the costs of the remedial action incurred under this subsection by action, or by adding them to the tax roll and collecting them in the same manners as taxes in accordance with section 446 of the Municipal Act.
- 7.4 Where in the event that a white good has to be removed, if the appliance still has Freon within the unit, the unit shall be subject to an additional \$125 removal fee

#### **PART 8: INVOICE FOR COSTS PRIOR TO ADDITION OF COSTS TO MUNICIPAL TAXES**

- 8.1 The Corporation of the Town of Moosonee shall prior to adding the remedial action costs to municipal taxes, invoice the “owner” requesting voluntary payment of said remedial action costs payable to the Corporation of the Town of Moosonee within 30 calendar days, if payment is not received within the 30 calendar days, the Corporation of the Town of Moosonee shall add the costs of the remedial action to the tax roll and collect them in the same manner as taxes

#### **PART 9: OFFENSES**

- 9.1 No Owner shall fail to clean land.
- 9.2 No Owner shall fail to maintain clean land.

## **PART 10: OBSTRUCTION**

- 10.1 The Municipal Act S.O 2001 C.25 as amended section 426(1) , no person shall hinder, interfere, or attempt to hinder or obstruct either directly or indirectly an officer, employee or agent or persons under the direction of the municipality in the lawful exercise of power or duty under this by-law

## **PART 11: PENALTIES**

- 11.1 Any person who contravenes any provision of this by-law is guilty of an offense, and upon conviction is liable to the penalties as provided for the Provincial offenses act, R.S.O 1990 c. P. 33 as amended

## **PART 12: TOWN NOT LIABLE**

- 12.1 The Town assumes no liability for any damage in respect to property or personal injury resulting from remedial action or remedial work undertaken in respect to any person or property that is subject to this by-law

## **PART 13: PUBLIC NOTICE**

- 13.1 The Town may give notice to the public of this by-law through local community postings, radio broadcasts, or television announcements

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**READ a first and second time  
this 11<sup>th</sup> day of January 2010.**

*Original Signed and Sealed by*

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Mayor – Wayne Taipale

*Original Signed and Sealed by*

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Deputy Clerk – Betty Budden

**READ a third time and finally passed  
this 11<sup>th</sup> day of January 2010.**

*Original Signed and Sealed by*

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Mayor – Wayne Taipale

*Original Signed and Sealed by*

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Deputy Clerk – Betty Budden

**Schedule A**  
**Clean Yards By-law 10-07**

**THE CORPORATION OF THE TOWN OF MOOSONEE**

**In this by-law, refuse includes but is not limited to the following:**

Household refuse (bagged or not) which is not set out for collection, bags plastic or paper, plastics, containers, beverage containers (includes bottles and cans), wrappers, food waste, boxes, cardboard, paper, also includes scrap construction materials, animal carcasses, bones, feathers, or animal hides, or dishware.

Household furniture such as couches, chairs, tables, bed other types of bedding materials box spring, mattresses, sheets, household appliances or furnishings, wrecked or dismantled playground equipment;

Consumer electronics, such as digital cameras, portable digital media players, home entertainment systems, stereos, DVD players, compact disc players, televisions sets, video game console systems, personal computers, laptop computers, mobile cellular telephones, telephones, mobile and static, and their component parts;

Yard waste, tree trimmings, grass clippings, fallen trees, remains of fallen trees, animal feces, excavated soil, and leaf piles;

Hazardous waste (gasoline, motor oil, antifreeze, paint, acetone.) or other industrial or commercial products;

Motor vehicles, motorcycles, snowmobiles, boats, all terrain vehicles, which are in a wrecked, discarded, inoperable or dismantled condition in whole or in part, and their component parts;

White goods - stove, refrigerators, freezers, air conditioners, hot water heaters, washer machines, dryers, dishwasher, microwave oven and other appliances that are finished in enamel;

White goods that have not had the Freon removed shall be subject to a \$125 removal fee; if the Freon is removed than the fee shall be \$35;

Freon must be removed by a certified ozone depletion technician.