

Corporation of the Town of Moosonee

BY-LAW NO. 28-13

Being a by-law to require owners or tenants on private property to maintain their lands to be clean and to repeal By-Law No. 07-10

WHEREAS the Municipal Act, 2001, S.O.2001, c.25 as amended, Section 11 allows a municipality to pass by-laws respecting matters within the spheres of jurisdiction including 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 an 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 the Municipal Act, 2001, S.O.2001, c.25 as amended, Section 131 provides that a 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 the Municipal Act, 2001, S.O.2001, c.25 as amended, Section 391 provides that a municipality may impose fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS the Municipal Act, 2001, S.O.2001, c.25 as amended, Section 446(1) 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 the Municipal Act, 2001, S.O.2001, c.25 as amended, Section 446(2) provides that the Municipality may enter upon land at any reasonable time for the purpose of subsection (1);

AND WHEREAS the Municipal Act, 2001, S.O.2001, c.25 as amended, Section 446(3) 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 the Municipal Act, 2001, S.O.2001, c.25 as amended, Section 446(5) provides that the costs include interest charges 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 the Municipal Act, 2001, S.O.2001, c.25 as amended, Section 446(6) 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 the Municipal Act, 2001, S.O.2001, c.25 as amended, Section 446(7) provides that 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 the Municipal Act, 2001, S.O.2001, c.25 as amended, Section 446(8) provides that upon receiving payment of all costs payable, the municipality shall register a discharge of the lien in the proper registry office;

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

“**Costs**” shall mean all monetary expenses incurred by the town during and throughout the process of remedial action

“**Council**” shall mean the Council of the Corporation of the Town of Moosonee

“**Dangerous Place**” shall mean a deep body of water, cliffs, or stagnant water

“**Debris**” shall have the same meaning as refuse

“**Disposed**” shall mean to get rid of, throw away

“**Freon**” shall mean chlorofluorocarbon, hydro chlorofluorocarbon or hydro fluorocarbon refrigerants also known as CFC or HCFCs or HFCs

“**Ground Cover**” shall mean, but is not limited to, grass, weeds, and plant materials

“**Inoperable or Dismantled Motor Vehicle**” shall mean a motor vehicle as defined by the Highway Traffic Act, R.S.O. 1990, ch. 8, as amended, having missing or damaged components which prevents its mechanical function. It also includes a vehicle that does not display a vehicle permit license plate issued under the Highway Traffic Act, R.S.O. 1990, ch. 8, as amended and a vehicle with a vehicle permit license plate with a validation sticker that has been expired for more than one year.

“**Motor Vehicle**” shall include but is not limited to cars, trucks, vans, SUVs, 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;

“**Owner**” includes owner, lessee and/or occupant of the land;

“**Person**” shall mean a human being, a corporation, or other legal entity recognized by law as having rights and duties

“**Refuse**” 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 or 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, television 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 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, washing machines, dryers, dishwasher, microwave oven and other appliances that are finished in enamel.

“Stagnant Water” means a body of water that is inert and lacks movement from either natural or artificial means

“Town” shall mean the Corporation of the Town of Moosonee

PART 2: CLEAN AND CLEAR YARDS

- 2.1 Inoperable motor vehicle
- a) No person shall store more than 1 (one) inoperable vehicle on a Residential or private property within the Town of Moosonee.
- 2.2 Dumping Prohibited Without Lawful Authority
- a) No person shall dump, bury, throw, dispose or otherwise deposit refuse on private property or Town property without lawful authority.
- 2.3 Removal of Refuse
- a) Every owner or occupant shall remove refuse or debris from his or her land in an expedient manner;
 - 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.
- 2.4 Ground Cover
- a) No person shall cause or permit ground cover to exceed 6 inches in length.

PART 3: EXCEPTIONS

- 3.1 Where one (1) 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; within thirty (30) days;
 - c) Notwithstanding the provisions stated in Section 2, this By-Law shall not be deemed to prohibit the storing of automotive and mechanical equipment, salvage or similar material which is required for business purposes as part of an operating business which is permitted by the Town, and conforms with the municipal zoning by-law.
- 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) and the remains are put aside as a wood pile;
 - e) for the purpose of camp fire use or cooking.
- 3.3 Where a yard is in the process of being cleared an order to direct to do a thing or matter shall not be issued and/or a warning shall not be issued.
- 3.4 Where the owner and/or occupant has construction or renovation materials that are currently or soon to be used in construction or renovation, or are 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, in accordance with section 3.6 below
- 3.6 If reasonable time, generally thirty (30) days, has elapsed for the purpose of Section 3 and no action has been taken on behalf of the owner to remedy the exception, the Owner shall be considered in violation of Section 3 and no longer eligible for an ‘exception’ and shall 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 power of entry under the Municipal 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 the "owner or occupant" requesting the owner or occupant to clean the land, and the notice shall specify the time allowed for compliance. Such notice shall be given by registered mail. At the discretion of the By-Law Enforcement Officer, this notice may include notice of penalty.

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 Where anything required or directed to be done in accordance with this by-law is not done, the Manager of By-law Services or persons designated may upon such notice as they deem suitable, do such thing at the expense of the person required to do it. In so doing, the Town may charge an administration fee of 15% of such expense with a minimum fee of \$100.00. 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 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 thirty (30) calendar days, if payment is not received within the allotted time, the Corporation of the Town of Moosonee shall add the costs of the remedial action to the tax roll and collect the balance due in the same manner as taxes.

PART 9: OFFENCES

- 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 offence, and upon conviction is liable to the penalties as provided for the Provincial offences 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: GENERAL

13.1 Should any section, subsection, clause, paragraph or provision of this by-law be declared by a Court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity of the enforceability of any other provision of this by-law, or of the by-law as a whole.

PART 14: SEPARATE OFFENCE

14.1 For the purpose of this by-law, each day of a continued offence shall be deemed to be a separate offence, and may be subject to further penalty.

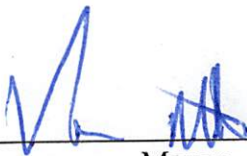
PART 15: SHORT TITLE

15.1 The short title of this by-law is the Clean Yards By-law.

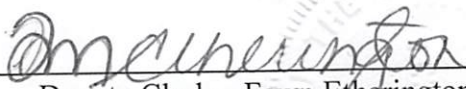
PART 16: REPEALED

16.1 By-law No. 07-10 is hereby repealed.

**READ a first and second time
this 26th day of August 2013.**

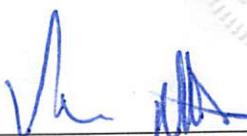


Mayor – Victor Mitchell

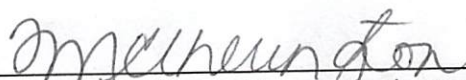


Deputy Clerk – Fawn Etherington

**READ a third time and finally passed
this 26th day of August 2013.**



Mayor – Victor Mitchell



Deputy Clerk – Fawn Etherington

