

RURAL MUNICIPALITY OF LAC DU BONNET

MUNICIPAL ROAD ALLOWANCES, PUBLIC RESERVES, OPEN SPACES

BY-LAW NO. 13-13

Being a By-Law of the Rural Municipality of Lac du Bonnet to regulate and prohibit certain activities and things on Undeveloped Road Allowances, Municipal Public Reserve lands, Municipal Open Spaces, and Recreational and Institutional lands within the Municipality;

WHEREAS Division 2 and 3 of Part 7 of The Municipal Act L.M. 1996, c. 58 - Chap. M225 provides, in relevant part, that:

Section 231 - The power given to a council under this Division to pass by-laws is stated in general terms

- (a) to give broad authority to the council and to respect its right to govern the municipality in whatever way the council considers appropriate, within the jurisdiction given to it under this and other Acts; and
- (b) to enhance the ability of council to respond to present and future issues in the municipality

Section 232(1) A council may pass by-laws for municipal purposes respecting the following matters:

- (a) the safety, health, protection and well-being of people, and the safety and protection of property;
- (b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation
- (c) the enforcement of by-laws

Section 232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

- (a) regulate or prohibit

Section 236(1) Without limiting the generality of clause 232(1) (c) (enforcement of by-laws), a by-law passed under that clause may include provisions

- (a) providing for procedures, including inspections, for determining whether by-laws are being complied with; and
- (b) remedying contraventions of by-laws, including
 - (i) creating offences,
 - (ii) subject to the regulations, providing for fines and penalties, including the imposition of a penalty for an offence that is in addition to a fine or imprisonment, so long as the penalty relates to a fee, rate, toll, charge or cost that is associated with the conduct that gives rise to the offence, or related to enforcing the by-law,
 - (iii) providing that an amount owing under subclause (ii) may be collected in any manner in which a tax may be collected or enforced under this Act,
 - (iv) seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles, or other things related to a contravention,
 - (v) charging and collecting costs incurred in respect of acting under subclause (iv),
 - (vi) imposing a sentence of imprisonment for not more than six months for the commission of offences or nonpayment of fines.

Section 242(1) If a designated officer finds that a person is contravening a by-law or this or any other Act that the municipality is authorized to enforce, the designated officer may by written order require the person responsible for the contravention to remedy it if, in the opinion of the officer, the circumstances so require.

Section 242(2) The order may

- (a) direct a person to stop doing something, or to change the way in which the person is doing it;
- (b) direct a person to take any action or measure necessary to remedy the contravention of the Act or by-law, including the removal or demolition of a structure that has been erected or placed in contravention of a by-law and, if necessary, to prevent a reoccurrence of the contravention;
- (c) state a time within which the person must comply with the directions; and
- (d) state that if the person does not comply with the directions within a specified time, the municipality will take the action or measure at the expense of the person.

Section 243(2) The order may

- (a) state a time within which the person must comply with the order; and
- (b) state that if the person does not comply with the order within the specified time, the municipality will take the action or measure at the expense of the person.

AND WHEREAS it is deemed desirable to regulate and prohibit certain activities and things on Undeveloped Road Allowances, Municipal Public Reserve lands, Municipal Open Space, Recreational and Institutional lands within the Municipality.

AND WHEREAS Section 138 of The Planning Act provides, in relevant part "Use and Disposal of Public Reserve Land"

NOW THEREFORE, the Council of the Rural Municipality of Lac du Bonnet, in open meeting duly assembled, enacts as follows:

SECTION 1 - DEFINITIONS AND INTERPRETATION

By-Law Name

- 1.0 This By-Law may be referred to as the "Undeveloped Road Allowances, Public Reserve and Open Space, Recreational and Institutional lands By-Law"

Definitions

- 1.1 In this By-Law, unless the context otherwise requires,

"**Designated Officer**" means a building inspector or other official appointed by council, from time to time, to enforce this by-law, or, in the absence of such an appointment, the Chief Administrative Officer.

"**Municipal Warning**" means a warning issued pursuant to Section 4.0 of this By-Law in the form attached hereto as Schedule "A"

"**Municipal Order**" means an order issued pursuant to Section 4.0 of this By-Law in the form attached hereto as Schedule "B"

"**Open Space, Recreational and Institutional land**" means any piece, plot or parcel of land whether vacant or occupied, developed or undeveloped that the Municipality holds Certificate of Title and which is zoned Open Space, Recreational and Institutional pursuant to the Rural Municipality of Lac du Bonnet Zoning By-Law, as amended.

"**Person**" includes an individual, partnership, firm and/or corporation

"**Public Reserve Land**" means any piece, plot or parcel of land whether vacant or occupied, developed or undeveloped that the Municipality holds Certificate of Title from the dedication of the land pursuant to The Planning Act L.R.M. 1987, c. P80.

"**Structure**" means anything constructed or erected with a fixed location on or below the ground, or attached to something having a fixed location on the ground and includes buildings, walls, fences, signs, lighting and other similar items

"Undeveloped Road Allowance" means any undeveloped right-of-way surveyed for the purpose of a road by either the Federal or provincial government survey and includes all rights-of-way provided by virtue of any statute for the purpose of road, or any right-of-way properly dedicated to the public use as a highway;

Interpretation

- 1.2 In all parts of this By-Law, any word importing the male gender shall include the female gender and vice versa, and any word importing the singular shall include the plural, and vice versa, as applicable and unless the context requires a different interpretation.

SECTION 2 - SCOPE

- 2.0 This By-Law shall apply to all Undeveloped Road Allowances and Public Reserve lands and Open Space, Recreational and Institutional lands within the Municipality on which the Municipality holds Certificate of Title from the dedication of land.
- 2.1 The Planning Act Uses of public reserve land Section 138 (1) Public reserve land may be used only for a) a public park;
b) a public recreation area
c) a natural area
d) a planted buffer strip separating incompatible land uses; or
e) public works

SECTION 3-PROHIBITED

- 3.0 The following activities, in any manner or fashion, are not permitted on Undeveloped Road Allowances, Public Reserve lands and Open Space, Recreational and Institutional lands, unless prior permission is granted by the Municipality as prescribed in Section 3.3:
- i) archery
 - ii) any other activity which in the opinion of the Municipality is unsafe to the general public or adjoining property
 - iii) cutting or clearing of trees or brush
 - iv) burning
 - v) dumping of any waste or waste materials
- 3.1 The following things, in any manner or fashion, are not permitted to be placed, planted or in any way located on Undeveloped Road Allowances, Public Reserve lands and Open Space, Recreational and Institutional lands, unless prior permission is granted by the Municipality as prescribed in Section 3.0:
- i) a structure of any type including, but not limited to fences, sheds, garages, gazebos, decks, patios or ponds
 - ii) trees, hedges, shrubs, flowers including flower beds and gardens, gardens for the growing of produce or compost piles
 - iii) ornamental or decorative lighting, whether lit by electrical power or by a combustible fuel
 - iv) including, but not limited to private boat launches, building, structures (existing or future) without an approval process as set out in Schedule "C"
- 3.2 The following things, in any manner or fashion, are not permitted to be placed, located or stored on Undeveloped Road Allowances, Public Reserve lands and Open Space, Recreational and Institutional lands:
- i) Equipment, Farm Tractors, Implement of Husbandry, Semi-trailers, Semi-trailer Trucks, Tractors, Truck Tractors and Vehicles as defined in *The Highway Traffic Act*.
 - ii) recreational vehicles including, but not limited to, camping trailers and motor homes, boats including canoes and paddle boats, snowmobiles, motorcycles, all terrain vehicles and trailers for transporting recreational vehicles
- 3.3 A person may apply in writing to the Municipality to conduct an activity under Section 3.0 or place, plant or locate a thing under Section 3.1 or place, locate or store under Section 3.2 on Undeveloped Road Allowances, Public Reserve lands and Open Space, Recreational and Institutional lands. The Municipality shall, in its unfettered discretion, consider the activity and/or thing and may, by resolution, approve the activity and/or thing prescribing conditions and terms of such approval as set out in Schedule "C" as the Municipality, in its opinion, deems appropriate.

SECTION 4 - ENFORCEMENT

- 4.0 The Designated Officer is authorized to enter upon any property within The Rural Municipality of Lac du Bonnet for the purposes of determining compliance with this By-law and may
- a) enter upon the land at any reasonable time, without the consent of the owner or resident;
 - b) request that anything be produced to assist with such inspection; and
 - c) make copies of anything related to such inspection.

- 4.1 If the Designated Officer determines that an offence under this By-law has been or is being committed, the Designated Officer may issue a Warning to the owner of the property pursuant to this by-law

Warning Notice shall include:

- a. Notification of the violation of a Municipal By-law providing the name and by-law number plus the by-law section violated; and
- b. Notification of specific steps to be undertaken in order to come into compliance with the municipal by-law; and
- c. Notification of the date and time when a follow-up inspection will be undertaken to ensure compliance.

A Warning Notice shall be in a form as attached as Schedule "B" to this policy.

- 4.2 If the property owner has not complied by the follow-up inspection date, the Designated Officer may issue an Order to the owner of the property pursuant to this by-law

Municipal Order shall include:

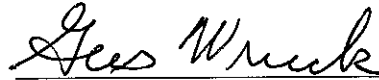
- a) Notification of the violation of a Municipal By-law provide the name and by-law number plus the by-law section violated; and
- b) Notification of specific steps to be undertaken in order to come into compliance with the municipal by-law; and
- c) Notification of the date and time when a follow-up inspection will be undertaken to ensure compliance; and
- d) Notification of the actions to be undertaken by the Rural Municipality of Lac du Bonnet should the requirements for voluntary compliance not be met including the date and time that the RM of Lac du Bonnet will take corrective action; and.
- e) Notification of the appeal process including, where the Rural Municipality of Lac du Bonnet has jurisdiction

- 4.3 Enforcement of the Municipal Order.

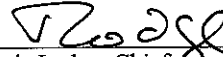
- a) In accordance with the Municipal Act Section 244(1), prior to the deadline, the offender may, in writing, submit an appeal to Council for their consideration. Any appeal shall be submitted within fourteen (14) days from the date the order is received.
- b) Upon the receipt of an appeal, a Council hearing date will be set. The offender will be notified in writing of the hearing date. Council may;
 - a. Require the offender to comply immediately;
 - b. Extend the date for compliance and/or
 - c. Establish parameters and/or specific directions as to how to proceed with the offence.
- c) Should an extension be granted by Council, the By-law Enforcement Officer shall re-inspect the property upon expiration of the extension. If the offender has complied the By-law Enforcement Officer shall advise the Manager accordingly and file the complaint as information.
- d) Upon re-inspection, should the offender still not be in compliance with the By-law the By-law Enforcement Officer shall discuss the matter with the Manager responsible for the By-law. The manager shall than determine the course of action which may include:
 - a. discontinuing the procedure
 - b. referring the matter to Council
 - c. any other action which may be appropriate under the circumstances

- 4.4 The costs of actions or measures taken by the Municipality to carry out the terms of an order issued by the designated officer are an amount owing to the Municipality by the owner of the property.
- In addition to all other rights of collection which the Municipality may have at law, such amounts may be collected by the Municipality in the same manner as a tax may be collected or enforced under The Municipal Act.
- 4.5 Any person or persons who contravene any provisions of this bylaw shall be liable for a fine or penalty as set out in Schedule D and shall be subject to all costs incurred to rectify, restore all municipal property back to original state, towing fees, and in accordance with The Municipal Act Section 249;

DONE AND PASSED in Council duly assembled in the Rural Municipality of Lac du Bonnet in the Province of Manitoba, this 23rd, day of July, 2013.



Gus Wruck, Reeve



Tannis Lodge, Chief Administrative Officer

Read a first time: July 9th, 2013
Read a second time: July 23rd, 2013
Read a third time: July 23rd, 2013

Resolution # 2013 979
Resolution # 2013 1007
Resolution # 2013 1008

Schedule "A"

RURAL MUNICIPALITY OF LAC DU BONNET

MUNICIPAL ROAD ALLOWANCES, PUBLIC RESERVES, OPEN SPACES

BY-LAW NO. 13-13

BY-LAW ENFORCEMENT WARNING

The individual completing this form and the individual receiving this form are advised that the information contain herein will be used as evidence at a hearing into the enforcement of a municipal by-law. Additionally the individual completing this form is advised that they may be called to give evidence at any subsequent hearing before Council, a Panel appointed by Council or an Appeal Panel. As a consequence the information contained herein will be made available to the Municipal Enforcement Officer and his/her representative at a hearing or any party to a subsequent Appeal Process whether closed or open.

Date of Inspection: _____ File No.: _____

Land Location: _____

Property Owner: _____

This notice is to inform you that you have until _____ 20 _____

() days from the inspection date to rectify the following infraction under

By-law No. _____ Section No. _____

Items Necessary for Compliance: _____

Re-inspection date: _____

For more information please phone: _____

Inspecting Officer: _____

Schedule "B"

RURAL MUNICIPALITY OF LAC DU BONNET

MUNICIPAL ROAD ALLOWANCES, PUBLIC RESERVES, OPEN SPACES

BY-LAW NO. 13-13

MUNICIPAL ORDER

Pursuant to s. 242 of *The Municipal Act*

**To:
Address:
RE:
Reference #:**

I, as the Designated Officer of The Municipality of Lac du Bonnet, upon inspection, have determined that your property is in an violation of By-Law #

THE FOLLOWING DEFICIENCIES ARE NOTED:

- 1.
- 2.

PURSUANT TO s. 246(1) OF *THE MUNICIPAL ACT* YOU ARE HEREBY ORDERED TO RECTIFY THE NOTED DEFICIENCIES BY COMPLETING THE FOLLOWING ACTIONS WITHIN () DAYS OF THE RECEIPT OF THIS ORDER.

- 1.
- 2.

NOTICE: IF YOU DO NOT COMPLY WITH THIS ORDER WITHIN THE TIME SET ABOVE, THE RURAL MUNICIPALITY OF Lac du Bonnet MAY EXERCISE ITS AUTHORITY PURSUANT TO S. 242 (2)(b) OF *THE MUNICIPAL ACT* TO ENTER ON YOUR PROPERTY AND COMPLETE THE REQUIRED WORKS. THE COST OF THE PERFORMING SUCH WORKS WILL, BY STATUTE, BECOME A DEBT OWING BY YOU TO THE RURAL MUNICIPALITY OF Lac du Bonnet.

APPEAL: Pursuant to s. 244(1) of *The Municipal Act*, you have the right to appeal to the Council of the Rural Municipality of Lac du Bonnet *within fourteen (14) days of the receipt of this Order*. The Council of The Rural Municipality of Lac du Bonnet has the authority to confirm, vary, substitute or cancel this Order. **AN APPEAL TO COUNCIL MUST BE A WRITTEN NOTICE** delivered to the Municipal Office, PTH #317, Box 100, Lac du Bonnet, Manitoba, ROE 1A0 Phone (204)345-2619 Fax (204)345-6716 E-Mail cao@lacdubonnet.com

Re-Inspection Date:

DATE at Lac du Bonnet, Manitoba this day of .

Recipient

**Designated Officer,
Rural Municipality of Lac du Bonnet**

Schedule "C"

RURAL MUNICIPALITY OF LAC DU BONNET

MUNICIPAL ROAD ALLOWANCES, PUBLIC RESERVES, OPEN SPACES

BY-LAW NO. 13-13

Approval Form

Date: _____ Council Resolution No: _____

Land Location: _____

Property Owner: _____

Conditions or Items Necessary for Compliance: _____

Re-inspection date: _____

For more information please phone: _____

Inspecting Officer: _____

Schedule "D"
to Bylaw No. 13-13

Fines for the regulation and prohibiting of certain activities and things on Undeveloped Road Allowances, Municipal Public Reserve Lands, Municipal Open Spaces, and Recreational and Institutional Lands within the Municipality

Fines and Penalty Schedule

Provision of By-law	Description of Offence	Suggested Set Fine for 1 st Offense	Suggested Set Fine for 2 nd Offense	Suggested Set Fine for 3 rd Offense
3.0	Failure to request permission by the municipality	\$100	\$200	\$400
3.1	Failure to request permission by the municipality	\$100	\$200	\$400
3.2	Failure to request permission by the municipality	\$100	\$200	\$400
4.1	Failure to comply with warning	\$100	\$200	\$400
4.2	Failure to comply with order	\$100	\$200	\$400