

RURAL MUNICIPALITY OF LAC DU BONNET

REGULATION, CONTROL AND USE OF MUNICIPAL PROPERTY

BY-LAW NO. 11-16

Being a by-law of the Rural Municipality of Lac du Bonnet for the regulation, control and use of Municipal roads, Municipal road allowances, Public Parks, Public Reserves, Open Space, Recreational and Institutional lands within the municipality and repeal By-laws #18-12 and to repeal By-law 13-13;

WHEREAS Sections 231, 232, 242, 243 and 245 of *The Municipal Act*, provide in part as follows:

- 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 the council to respond to present and future issues in the municipality.
- 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) subject to section 233, activities or things in or on private property;
 - (d) municipal roads, including naming the roads, posting the names on public or private property, and numbering lots and buildings along the roads;
 - (e) private works on, over, along or under municipal roads;
 - (f) property adjacent to highways or municipal roads, whether the property is publicly or privately owned;
 - (h) drains and drainage on private or public property;
 - (m) local transportation systems;
 - (o) the enforcement of by-laws.
- 232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division (a) regulate or prohibit;
- 236(1) Without limiting the generality of clause 232(1)(o) (enforcement of by-laws) and subject to subsection (3), 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.
- 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.
- 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

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.

245(1) A municipality may take whatever action or measures are necessary to remedy a contravention of a by-law or this or any other Act that the municipality is authorized to enforce or to prevent a re-occurrence of the contravention, if

- (a) the designated officer has given a written order under section 242;
- (b) the order contains a statement referred to in clause 242(2)(b);
- (c) the person to whom the order is directed has not complied with the order within the time specified in the order; and
- (d) the appeal period respecting the order has passed or, if an appeal has been made, the appeal has been decided, and it allows the municipality to take the action or measures.

AND WHEREAS it is deemed necessary and desirable to control and regulate the use of municipal roads, municipal road allowances, Public Parks, Public Reserves, Open Space, Recreational and Institutional lands within the municipality

NOW THEREFORE, the council of the Rural Municipality of Lac du Bonnet, duly assembled, enacts as follows:

1. Definitions

Unless the context otherwise requires, where used in this By-law;

“Council” means the council of the Rural Municipality of Lac du Bonnet.

“Designated Officer” means the official appointed by Council for the administration and enforcement of this By-Law.

“Land Clearing Equipment” means any and all machinery designed or used to clear trees and brush, or to move, deposit, compact or reshape soil or aggregate, or change the natural elevations of land.

“Municipal Road” means land that

- (a) has been opened under section 289, or opened, dedicated or reserved under any other Act, as a road for public use; and
- (b) has not been closed under section 290 or any other Act; and includes a road allowance, street, lane, thoroughfare, walkway, bridge and underpass, but does not include a departmental road as defined in *The Highways and Transportation Act*.

“Municipality” means the Rural Municipality of Lac du Bonnet.

“Open Space” means that required portion of a zoning site at ground level, unless otherwise stated, unoccupied by principal or accessory buildings and available to all occupants of the building as defined in the Zoning By-Law

“Public Space” means any area within the Municipality, whether owned by the Municipality or third parties, that is ordinarily used as a gathering place or thoroughfare for members of the public.

2. Interpretation

- (a) In all parts of this By-law, any word importing the male gender 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.

3. Prohibitions

- (a) No person shall place, plant, or grow on any Municipal Road, Road Allowance, Public Park, Public Reserve, Open Space, Recreational and Institutional Lands any trees, shrubs, weeds, grass, or any type of garden without prior written authorization from the municipality.
- (b) No person shall throw, place, deposit, leave, move onto or cause another person to throw, place, deposit, leave or move onto any snow, ice leaves, garbage, compost, any animal or vegetable substance, shells, shavings, dirt, rubbish, excrement, filth, manure, slops, unclean or nauseous water, hay, straw, paper, ashes cinders, soot, or any other refuse or offensive substance or any obstructions of any kind on any Municipal Road, Road Allowance, Public Park, Public Reserve, Open Space, Recreational or Institutional Lands without prior written authorization from the municipality.
- (c) No person shall erect, or cause another person to erect any structure of any type including but not limited to fences, sheds, garages, gazebos, decks, docks, boat launches, patios, ornamental or decorative lighting or ponds on any Municipal Road, Road Allowance, Public Park, Public Reserve, Open Space, Recreational and Institutional Lands without prior written authorization from the Municipality.
- (d) No person shall cause damage to a Municipal Road, Road Allowance, Public Park, or Public Reserve Open Space, Recreational and Institutional Lands.
- (e) No person shall clean and/or empty, or cause another person to clean and/or empty, any herbicide or any pesticide from any equipment designed to apply herbicides or pesticides on or in a Municipal Road, Road Allowance, Public Park, Public Reserve Open Space, Recreational and Institutional Lands without prior written authorization from the Municipality.
- (f) No operator of any truck or trailer shall clean the truck or trailer, and no owner of any truck shall permit the truck's or trailer's operator to clean the truck or trailer, on a Municipal Road, Road Allowance, Public Park, Public Reserve Open Space, Recreational and Institutional Lands without ensuring that any contents removed from such truck or trailer through the cleaning process are fully removed.
- (g) No person shall burn or cause to be burned any agricultural crop, hay, grass, brush, weeds, rubbish or other debris on a Municipal Road Allowance, Public Park or Public Reserve without prior written authorization of the Municipality.
- (h) No person shall break or remove any land on or from a Municipal Road Allowance, Public Park, Public Reserve, Open Space, Recreational or Institutional Land without prior written authorization from the Municipality.
 - (i) Any operator of Land Clearing Equipment who contravenes sub-section (h) shall be jointly and severally liable for any order issued under authority of this section together with any person(s) who instructed or hired the operator of such Land Clearing Equipment.
- (i) No person shall obstruct or cause to be obstructed any Municipal Road Allowance, Public Park, Public Reserve Open Space, Recreational and Institutional Lands without prior written authorization of the Municipality.
- (j) No person shall not place, park or store any of the following things on any Road Allowance, Public Park, Public Reserve, Open Space, Recreational or Institutional Land:
 - (i) Equipment, farm tractors, implements of husbandry, semi-trailers, tractors, truck tractors and vehicles as defined by the Highway Traffic Act.
 - (ii) Recreational vehicles including but not limited to camping trailers, motor homes, all water craft, all Off Road Vehicles as defined by the Off Road Vehicle Act and all trailers used to transport recreational vehicles.
- (k) No person shall cut or clear any trees or bush from any Municipal Road allowance, Public Park, Public Reserve, Open Space, Recreational or Institutional Land without prior written authorization from the Municipality.

- (l) No person may participate in any activity which in the opinion of the Designated Officer is unsafe to the general public or adjoining property on any road allowance, Public Park, Public Space, Open Space, Recreational or Institutional Land

4. ENFORCEMENT

- (a) The Designated Officer is authorized to enter upon any property within the Municipality for the purposes of determining compliance with this By-law and may:
 - (i) Enter upon the land at any reasonable time without the consent of the owner or resident
 - (ii) Request that anything be produced to assist with such an inspection
 - (iii) Make copies of anything related to the inspection
- (b) If the Designated Officer determines that an offence under this By-Law has been or is being committed the Designated Officer may issue a NOTICE OF VIOLATION to the person found responsible for the violation. The Notice will contain the following information"
 - (i) Notification of Violation providing the specific By-law and section of the violation
 - (ii) Notification of the steps to be undertaken in order to be in compliance with the By-law
 - (iii) Notification of the date and time when a follow-up inspection will be undertaken to ensure compliance.
 - (iv) Notice of Violation is attached to this By-Law as Schedule "A"
- (c) If the Violator has not complied by the follow-up inspection date the Designated Officer may issue an ORDER to the violator pursuant to this By-Law. The ORDER shall include:
 - (i) Notification of Violation providing the specific By-law and section of the violation
 - (ii) Notification of the steps to be undertaken in order to be in compliance with the By-law
 - (iii) Notification of the date and time when a follow-up inspection will be undertaken to ensure compliance
 - (iv) Notification of the actions to be undertaken by the Municipality should the requirements of voluntary compliance not be met including the date and time that the Municipality will take the corrective action
 - (v) Notification of the appeal process with a Notice of Objection
- (d) Appeals
 - 1) The time limit to file a Notice of Objection from the date of service of the Order shall be seven days. Notice of Objection is attached to this By-Law as Schedule "B"
 - 2) Upon the filing of a Notice of Objection, the following shall apply or occur:
 - a) The enforcement of the Order shall be stayed pending the appeal;
 - b) An appeal of the Order is deemed to be commenced;
 - c) the Municipality shall, within 3 days of the receipt of the Notice of Objection, set a date, time and place for the hearing of the appeal and serve notice of same on the appellant by registered mail;
 - d) The hearing shall be set no later than 20 days after the filing of the Notice of Objection;
 - e) The tribunal set to hear the appeal shall be the Council of the Municipality;

- f) The hearing may be adjourned from time to time as Council may decide;
 - g) If the appellant fails to appear at the hearing, the appeal shall be dismissed, the Order automatically affirmed and the enforcement reinstated retroactive to the dates specified therein;
 - h) After the hearing of the appeal, Council may
 - i) affirm the Order
 - ii) Rescind the Order if the appellant has since complied; or
 - iii) Vary the Order at its discretion.
- l) Council's decision on the issue is final and not subject to further appeal.

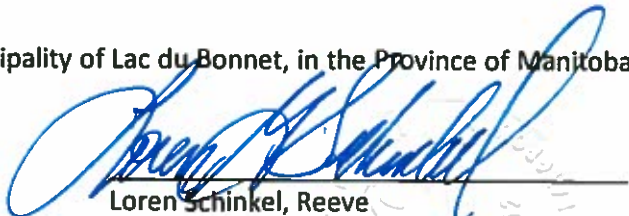
5. Penalties

- (a) Any person or person(s) who contravene any provision of this by-law shall be liable for a fine and or penalty as set out in Schedule "D" and shall be subject to all costs incurred to rectify the cost of repairing and restoring damage to municipal property including but not limited to towing fees and costs of any action taken by the Municipality under Sections 245 and 246 of the Municipal Act
- (b) Where a contravention of any provision of this By-Law continues for more than one day, the person committing the offence is guilty of a separate offence for each day that the contravention continues.

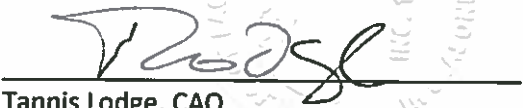
6. Transitional

- (a) By-law 18-12 is repealed, except in respect of an offence committed before this By-Law comes into force. By-law 18-12 will remain in effect to the extent necessary for the prosecution of any such offence.

DONE AND PASSED as a by-law of The Rural Municipality of Lac du Bonnet, in the Province of Manitoba, this 13 day of December 2016.



 Loren Schinkel, Reeve



 Tannis Lodge, CAO

Read a first time: November 8, 2016	Resolution # 2016 0544
Read a second time: November 29, 2016	Resolution # 2016 0571
Read a third time: December 13, 2016	Resolution # 2016 0603

Schedule "A"
Notice of Violation
under
Municipal Road By-Law 11-16
[Section 239 Municipal Act]

Location of Violation:

Legal Description:

Date of Notice:

File No:

Person Responsible:

Address:

Date of Inspection:

Description of Violation(s):

Section #

Manner of Rectification:

Date to be Completed:

In accordance with Section 239 (1) of the Municipal Act, the Municipality will enter onto the Property to conduct a second inspection. If there has been no compliance with this Notice, an order may be issued authorizing the Municipality to take actions or measures necessary to bring the Property into compliance with the By-law.

The costs of such actions or measures are an amount owing to the Municipality

Your co-operation and assistance in this matter is appreciated.

Date of second inspection:

If you have questions please call:

Designated Officer

Signature

Schedule "B"
Order to Comply
with
Municipal Road By-Law 11-16
 [Section 242 The Municipal Act]

Location of Violation:

File No:

Legal Description:

Person Responsible :

Address:

Further to the Notice sent to you on _____, a second inspection of the noted property found that it continues to be in violation of the Rural Municipality of Lac du Bonnet Municipal Road By-law No.11-16.

Description of Non-Conformance(s):

Order to Comply:

Under the authority of Section 242(2)(b) of The Municipal Act, you are hereby ordered to make the following changes to bring the property into compliance with the Rural Municipality of Lac du Bonnet Municipal Road By-law No. 11-16

Action required to remedy non-conformances:

Date of Order:

Date to be completed:

Non Compliance with this order:

In the event that you do not comply with this Order, please note that 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, the Municipality may collect such amount in the same manner as a tax may be collected or enforced under the Municipal Act.

Appeal:

You may appeal this Order by filing with the Chief Administrative Officer of the Rural Municipality of Lac du Bonnet within seven days, an objection substantially in the form attached to the By-law as Schedule "C" a copy of which is attached.

If you have any questions, please call:

Designated Officer

Signature

For Office Use Only:

Notice of Correction of Non-Conformances:

Completed by Owner/Occupant on _____

Not Completed and objection filed on _____

Result of Objection and action taken:

Date

Signature

Schedule "C"
Notice of Objection
with
Municipal Road By-Law
[Section 242 The Municipal Act]

NOTICE OF OBJECTION

IN THE MATTER OF the Municipal Road By-law No. 11-16
of the
Rural Municipality of Lac du Bonnet.

To: The Rural Municipality of Lac du Bonnet

PLEASE TAKE NOTICE that the undersigned Appellant hereby appeals to the Council of the Rural Municipality of Lac du Bonnet regarding the Order to

made by _____ on the _____ day of _____, 20____,

respecting the municipal land described as _____.

Dated at the Rural Municipality of Lac du Bonnet this _____ day of _____, 20____.

Name of Appellant (Please Print)

Signature of Appellant

Address

Schedule "D"
Fine Schedule
Municipal Road By-Law
[Section 242 The Municipal Act]

Section	Offences pertaining to Municipal Roads, Road Allowances, Public Parks, Public Reserves, Open Space, Recreational and Institutional Lands	1 st offence	2 nd offence	Subsequent offence
3(a)	Place , Plant or grow any trees, shrubs, grass, weeds or any type of garden	\$100	\$200	\$300
3(b)	Throw, place, deposit, leave or move any items	\$200	\$300	\$500
3(c)	Erect any structure	\$200	\$300	\$400
3(d)	Cause damage	\$200	\$300	\$400
3(e)	Clean or empty any herbicide or pesticide	\$250	\$350	\$450
3(f)	Fail to remove the contents after cleaning truck or trailer	\$200	\$250	\$300
	Offences pertaining to Municipal Road Allowances, Public Parks, Public Reserves, Open Space, Recreational and Institutional Lands			
3(g)	Burn any crop, hay, grass, brush, weeds, rubbish or other debris	\$250	\$300	\$400
3(h)	Break or remove land	\$300	\$400	\$500
3(i)	Obstruct the use of	\$200	\$250	\$300
3(j)	Park equipment or recreational vehicles	\$150	\$200	\$250
3(k)	Cut or clear trees or bush	\$250	\$350	\$400
3(l)	Participate in unsafe activity	\$300	\$400	\$500