

Section 1 Administration and Interpretation

Explanatory Note

Section 1 identifies the administrative controls and requirements of the By-Law. It names the By-Law, states its relationship with other by-laws, defines the area to which it applies, how it is to be enforced, etc. In essence, it identifies the legal parameters within which the By-Law functions.

1.1 Title

This By-Law shall be known as the Zoning By-Law or By-Law No. _____ of the Corporation of the Municipality of Red Lake.

1.2 Applications and Plans

In addition to the requirements of any Building By-Law, every application for a building permit shall be accompanied by a plan, drawn to scale and showing the following:

- (a) The true dimensions and/or legal description of the **lot** to be built upon or otherwise used;
- (b) The proposed location, **height** and dimensions of any **building, structure** or **use** proposed for such **lot**;
- (c) The proposed location, **height** and dimensions of **yards**, landscaping, **parking areas** and **loading spaces** required by this By-Law;
- (d) The location of all existing **buildings** or **structures** on the **lot**, including the **lot area** and **lot coverage** of existing and proposed structures;
- (e) A statement, signed by the owner disclosing the exact use of all existing and proposed **uses** of land, **buildings** or **structures** and such other information as may be required to determine whether the uses conform with the requirements of this By-Law.
- (f) Locations of **buildings, structures, sewage disposal systems** and/or wells on abutting properties;
- (g) The average slope for the proposed **building envelope**;
- (h) Where the proposed **building** is to be used for a **sensitive land use**, the location of all **livestock facilities** within 1 km (0.62 mi) of the proposed **use**.
- (i) Any other information as may be required to determine compliance with this By-Law.



1.3 Defined Area

The provisions of this By-Law shall apply to all lands within the municipal boundaries of the Corporation of the Municipality of Red Lake.

1.4 Enforcement and Administration

This By-Law shall be enforced by the **Chief Building Official** and enforced and administered by such other person as may from time to time be designated by Council, and no permit for the **use** of land or for the **erection** or use of any **building** or **structure** or approval of application for any municipal license within the jurisdiction of the **Council** shall be issued or given where the proposed building, structure or use would be a violation of any provision of this By-Law.

1.5 Inspection of Land, Buildings and Structures

- (a) Subject to Section 49 of the *Planning Act*, 1990, where an officer believes on reasonable grounds that a by-law passed under Section 34 or 38 (of the *Planning Act*) is being contravened, the officer or any person acting under his or her instructions, may at all reasonable times, and upon producing proper identification, enter and inspect any property on or in respect of which he or she believes the contravention is occurring.
- (b) Except under the authority of a search warrant issued under Section 49.1 (of the *Planning Act*), an officer or any person acting under his or her instructions shall not enter any room or place actually used as a **dwelling unit** without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.
- (c) No person shall obstruct or attempt to obstruct an officer or person acting under the officer's instructions in the exercise of a power under this Section.

1.6 Penalty

- (a) Every person who violates any of the provisions of this By-Law is guilty of an offense and upon conviction thereof shall forfeit and pay a penalty not exceeding Twenty-Five Thousand Dollars (\$25,000.00), on a first conviction, and Ten Thousand Dollars (\$10,000.00) on a subsequent conviction for each day or part thereof upon which the contravention has continued after the day of the first conviction.
- (b) Where a corporation is convicted under subsection (a), the maximum penalty that may be imposed is Fifty Thousand Dollars (\$50,000.00) on a first conviction and Twenty Five Thousand Dollars (\$25,000.00) on a subsequent conviction for each day or part thereof upon which the contravention has continued after the day of the first conviction.
- (c) In the case where any **building** or **structure** is **erected** or **altered**, or any part



thereof is ***used***, or any ***lot*** is used, in contravention of any of the requirements of this By-Law, such contravention may be restrained by action at the instance of any ratepayer or of the Corporation pursuant to the provisions of the *Municipal Act* or the *Planning Act* in that behalf.

1.7 Repeal and Relationship to Former By-Laws

Insofar as it applies to the lands affected by this By-Law, any by-laws passed under Section 34 of the *Planning Act*, 1990, or its predecessor, are hereby repealed.

The adoption of this By-Law shall not prevent any pending or future prosecution of, or action to abate any existing violation of the said By-laws if the violation is also a violation of any of the provisions of this By-Law.

1.8 Validity

Should any Section or part of a Section of this By-Law or Schedule hereto be declared by a court of competent jurisdiction to be invalid, the same shall not affect the provisions of this By-Law as a whole or any part thereof other than the part declared to be invalid.

1.9 Application of other By-Laws

Nothing in this By-Law shall exempt any person from complying with the requirements of any other by-law in force within the area affected by this By-Law, or from applying for and obtaining any permit, license, permission, authority or approval required by this or any other By-Law or regulation of the Corporation or by any other law in force from time to time.

1.10 Licenses and Permits

No municipal permit, certificate or license shall be issued where the said permit is required for a proposed use of land or a proposed erection, alteration, enlargement or use of any building or structure that is in violation of any provisions of this By-Law.

1.11 Conflict

In the event of conflict between this By-Law and amendments thereto, and any general or special by-law or regulations or requirements of any department of government, the most restrictive by-law or regulation shall prevail.

1.12 Interpretation

(a) Definitions

Definitions are given in this By-Law to aid in the understanding and implementation of the true spirit, intent and meaning of the By-Law. They are not to be used to avoid an obligation imposed by the By-Law or any requirement enacted in a substantive provision of the By-Law.

All terms shown in bold italicized font (e.g. ***hotel***, ***place of amusement***, ***alter***, ***interior side yard***) in this By-Law are defined in Section 2.



(b) Citation

This By-Law may be cited by its long title (“A By-Law to Regulate the Use of Land, Buildings and Structures within the Municipality of Red Lake”), its short title (“Municipality of Red Lake Zoning By-Law”) or its by-law number (By-Law ###-09), and any such citation is to be taken as meaning the By-Law as amended.

(c) Gender Neutrality

This By-Law is gender neutral and, accordingly, any reference to one gender includes the other.

(d) Plural and Singular

In this By-Law, words in the singular include the plural, and words in the plural include the singular.

(e) References

Appendices, footnotes, glossaries, headings, indices, marginal notes and references to former enactments or enabling legislation after a section or other division of the By-Law, do not form part of the By-Law and are inserted for convenience of reference only.

(f) Measurement Units

This By-Law utilizes the metric system to establish measurements when such measurements form part of a regulation or a requirement. In the case of a conflict between the stated metric and the imperial measurements, the metric measurement shall apply. (*Imperial measurements are provided for the convenience of the reader.*)

(g) Meaning of ‘Shall’

In this By-Law, the word ‘shall’ means it is mandatory, words in the singular include the plural, words in the plural include the singular, words in the present tense include the future. Where linear distances other than those referring to vertical measurements are specified, such linear distances are to be measured on a horizontal plane.

1.13 Effective Date

This By-Law shall take effect from the date of its passage by Council, subject to the provisions of the *Planning Act*.

1.14 Continuation of other Legislation/Regulations

The enactment of this By-Law does not affect the right of the Corporation of the Municipality of Red Lake to prosecute any violation of the previous By-Law(s), if the violation occurred while the By-Law(s) was in effect.

1.16 Compliance with Zoning By-Law

No person shall change the use of any building, structure or land or erect or use any building or structure or occupy any land or building except in accordance with the



provisions of this By-Law.

Any use not specifically permitted by this By-Law shall not be permitted in the Municipality of Red Lake.

1.17 Zone Requirements for Uses not in Buildings or Structures

Where a use does not take place within a building or structure, but a regulation in this By-Law imposes a requirement premised on the use being in a building or structure, the requirement applies as though the actual area occupied by the use was in the building.

1.18 Changes to the Zoning By-Law

Changes to the requirements contained in this By-Law may be made with prior approval from the Municipality as provided for under the *Planning Act*. Significant changes may require an amendment to the Zoning By-Law. Minor variances to the By-Law may be granted by the Municipality. Minor variances and zoning amendments must comply with the Municipality of Red Lake Official Plan.

The Committee of Adjustment is authorized under Section 45(1) of the *Planning Act* to authorize minor variances from the provisions of this By-Law where, in the opinion of the Committee, the variance:

- (1) is desirable for the appropriate development or use of the land, building or structure,
- (2) the variance is minor,
- (3) the general intent and purpose of the Zoning By-Law is maintained, and
- (4) the general intent and purpose of the Official Plan is maintained.

Where a proposed variance from the By-Law does not satisfy the above four criteria, an amendment to the By-Law is required to permit the variance. The Council of the Municipality of Red Lake is authorized to permit amendments to the Zoning By-Law in accordance with Section 34 of the *Planning Act*.

