

THE CORPORATION OF THE TOWNSHIP OF TAY

BY-LAW NO. 2012-09

Being a By-law to prohibit littering in the
Township of Tay

WHEREAS pursuant to Sections 11(2) clauses 5 & 6 and 127 of the Municipal Act, 2001, S.O. 2001, c.25 as amended, Council may pass By-laws for prohibiting the deposit of refuse on private and public lands and for requiring the cleaning and clearing of refuse;

AND WHEREAS it has been deemed necessary by the Council of the Corporation of the Township of Tay to pass a by-law to prohibit littering on private property and on property owned, controlled or managed by the Township of Tay;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP TAY ENACTS AS FOLLOWS:

1. **DEFINITIONS**

In this by-law:

"Corporation" means The Corporation of the Township of Tay;

"Highway" means a highway as defined under the Highway Traffic Act R.S.O.;

"Local Board" means any school board, public utility commission, transportation commission, public library board, local board of health, board of commissioners of police or any other board, commission, committee, board or local authority under any general or special Act with respect to the affairs or purposes, including school purposes, of the Township of Tay or any part thereof;

"Officer" means a Municipal Law Enforcement Officer;

"Owner" means the registered owner of the property and, for the purpose of this By-law, includes any lessee or tenant, occupant or any person having an interest whether equitable or legal in the real property;

"Person" in addition to its regular meaning, includes an individual, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau and agency or any director, officer, manager or person in charge of such entity or the collecting of rent of any property, or any other person who is the occupier of the property;

"Private Property" means real property owned by a person(s) or corporation(s) other than a municipal corporation and within the Township as defined herein;

"Refuse or Debris" includes but is not limited to garbage, domestic waste (including items such as, but not limited to,

furniture, carpets, appliances, household garbage), ashes, rubbish, builder's and building contractors refuse, other industrial waste, inoperable vehicles and motor vehicles parts and accessories;

"Township" means The Corporation of the Township of Tay;

"Township property" means any land situated within the Township of Tay which owned by the Corporation or controlled by the Corporation by lease or otherwise.

2. GENERAL PROHIBITIONS

- 2.1 No person shall throw, place or deposit or permit or aid in the depositing of refuse or debris on any highway, bridge or road allowance within the Township or on any other property owned by the Township of Tay.
- 2.2 No person shall throw, place or deposit or permit or aid in the depositing of refuse or debris on private property within the Township without authority from the owner or occupant of such property.
- 2.3 No person shall throw, place or deposit or permit or aid in the depositing of refuse or debris on Township property without written authority from the Township.
- 2.4 Where the person who owned or deposited any refuse or debris on Township property can be determined, that person shall be required, upon receipt of written notice from the Township, to remove said refuse or debris within 72 hours of receipt of said notice.
- 2.5 No person shall refuse or fail to remove any refuse or debris in accordance with a notice referred to in Section 2.4.

3. NOTICE OF REMEDY

- 3.1 Where it is alleged that an offence has been committed under this by-law by the depositing of refuse or debris on private property, even though no charge has been laid or conviction registered, the Township may require the owner of the private property to clean up and properly dispose of the refuse and debris. An Officer may, by personal service or by notice sent by registered mail to the owner of the property, require the owner within the time specified in the notice to clean, clear or remove from the property all refuse or debris.
- 3.2 Every notice sent by an Officer under this by-law shall identify the property where the refuse or debris is located.
- 3.3 Every notice sent by an Officer under this by-law to an owner shall be sent to the address of the owner shown on the last revised assessment roll or to the last known address.
- 3.4 In the event the Officer is unable to serve such notice under the provisions of this Section, the notice may be posted in a conspicuous place on the subject property, and the placing of the notice shall be deemed to be sufficient service of the notice on the property owner.

4. RIGHT OF ENTRY

- 4.1 An Officer or person designated by Council, for the purpose of inspection and/or remedial action, may enter upon the land and into structures other than a place actually used as a dwelling house, at any reasonable time, without notice.
- 4.2 A person exercising a power of entry on behalf of the Township under this by-law must, on request display or produce proper identification.

5. REMEDICATION

- 5.1 Where an owner of property 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 and enforcement of such at the owner's expense.
- 5.2 Where any refuse or debris is removed in accordance with subsection 5.1, such refuse or debris may be immediately disposed of by the Officer in such a manner as the Officer sees fit.
- 5.3 The Township may recover the costs and expense of remedial action and enforcement incurred by the Township under subsections 5.1 and 5.2 by action, or by adding such costs and expense to the tax roll of the subject property and collecting such costs in the same manner as taxes in accordance with Section 446 of the Municipal Act.
- 5.4 The Township may, prior to recovering costs incurred in subsections 5.1 and 5.2 pursuant to Section 446 of the Municipal Act by adding costs to the Municipal Taxes, invoice owners requesting voluntary payment of said remedial action costs.
- 5.5 The Township may place a lien on the property as per Section 446 of the Municipal Act on the costs and expense of any remedial action that exceeds \$1000.00.

6. OFFENCES

- 6.1 Every person convicted of a breach of the provisions of this by-law shall be guilty of an offence.
- 6.2 Every person who is convicted of an offence under this by-law shall be subject to a fine of not more than five thousand dollars (\$5,000.00) for each offence. Such fines shall be recoverable under the Provincial Offences Act.

7. PENALTIES

- 7.1 Every person who contravenes any of the provisions of this by-law and every director or officer of a corporation, who knowingly concurs in the contravention by the corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 7.2 Every person who contravenes the provisions of this by-law and every director or officer of a corporation, who knowingly concurs in the contraventions by the corporation, is guilty of an offence

- and liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act 2001, S.O. 2001, c. 25, as amended.
- 7.3 For the purpose of continuous offences, every person who contravenes any provision of this by-law and every director or officer of a corporation who knowingly concurs in the contravention of a by-law of the corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 7.4 Despite section 7.3 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, the total of all daily fines for the offence is not limited to \$100,000.
- 7.5 For the purpose of multiple offences, every person who contravenes any provision of this by-law and every director or officer of a corporation who knowingly concurs in the contravention of a by-law of the corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 7.6 Despite section 7.5 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the total of all daily fines for the offence is not limited to \$100,000.
- 7.7 Every person who fails to comply with a notice made under this By-law is guilty of an offence.
- 7.8 It shall be an offence for a person to hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under the Municipal Act, 2001, as amended, or under a by-law passed under the Municipal Act, 2001, as amended.
- 7.9 Any person who has been alleged to have contravened any of the provisions of a by-law passed under the Municipal Act, 2001, as amended shall identify themselves to the Officer upon request. Failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of the Officer's duties.
- 7.10 Every person who contravenes any section of this by-law under a Part 1 ticket, upon conviction shall be liable to a fine as provided for in the Provincial Offences Act, R.S.O 1990, Chapter P.33, as amended.
- 7.11 Upon conviction any penalty imposed under this By-law may be collected under the authority of the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

8. OBSTRUCTION

- 8.1 In accordance with the provisions of the Municipal Act S.O. 2001, c. 25, as amended, Section 426(1), no person shall hinder, interfere with or otherwise obstruct, either directly or indirectly, an officer, employee of the Township of Tay and/or agent in the lawful exercise or power or duty under this by-law.

9. TOWNSHIP NOT LIABLE

- 9.1 The Township assumes no liability for property damage or personal injury resulting from remedial action, remedial work

and enforcement undertaken with respect to any person or property that is subject of this by-law.

10. VALIDITY AND SEVERABILITY

10.1 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.

11. SEPARATE OFFENCE

11.1 For the purpose of this by-law, each day of a continued offence shall be deemed to be a separate offence.

12. SHORT TITLE

12.1 The short title of this by-law is the Littering By-law.

13. REPEALED

13.1 That By-law 1994-26 is hereby repealed.

13.2 This by-law shall come into force and take effect immediately upon the final passing thereof.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 29TH DAY OF FEBRUARY, 2016.

THE CORPORATION OF THE TOWNSHIP OF TAY

MAYOR, Scott Warnock

CLERK, Alison Thomas

SCHEDULE 'A' TO BY-LAW 2012-09**PART 1 Provincial Offences Act - Set Fine Schedule****THE CORPORATION OF THE TOWNSHIP OF TAY****By-law No. 2012-09, Littering By-law**

ITEM	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1	Throw, place, deposit or permit or aid in depositing of refuse or debris on any property owned by the Township of Tay.	2.1	\$125.00
2	Throw, place, deposit or permit or aid in the depositing of refuse or debris on private property.	2.2	\$125.00
3	Refuse or fail to remove any refuse or debris upon receipt of said notice.	2.5	\$125.00
4	Obstructing an Officer or Agent.	8.1	\$125.00

Note: The general penalty section for the offences indicated above is Part 6.2 of By-law 2012-09. A certified copy of which has been filed.

PART 1 Provincial Offences Act - Set Fine Schedule**THE CORPORATION OF THE TOWNSHIP OF TAY****By-law No. 2012-09, Littering By-law**

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1	Throw, place, deposit or permit or aid in depositing of refuse or debris on any property owned by the Township of Tay.	2.1	
2	Throw, place, deposit or permit or aid in the depositing of refuse or debris on private property.	2.2	
3	Refuse or fail to remove any refuse or debris upon receipt of said notice.	2.5	
4	Obstructing an Officer or Agent.	8.1	

Note: The general penalty section for the offences indicated above is Part 6.2 of By-law 2012-09. A certified copy of which has been filed.