

THE CORPORATION OF THE TOWNSHIP OF TAY

BY-LAW NO. 2011-31

**Being a By-law to provide for maintaining land
in a clean and clear condition**

WHEREAS pursuant to Sections 10(2) clauses 5 & 6, 123, 127, 128, and 131 of the Municipal Act, 2001, S.O. 2001, c.25 as amended, Council may pass By-laws for requiring the cleaning and clearing of yards, for prohibiting the depositing of refuse on private and public lands; for prohibiting automotive wrecking yards and requiring removal or repair of dilapidated fences and structures;

AND WHEREAS pursuant to Section 446 of the Municipal Act, as 2001, S.O. 2001, c.25 as amended, a municipality may enact a by-law to require that a matter or thing be done and in default, the matter of thing may be done by the municipality at the person's expense and further that the costs of doing so may be added to the tax rolls and collected in the same manner as taxes;

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

1. DEFINITIONS

In this by-law:

"Compost" means accumulated biodegradable waste;

"Domestic waste" means any article, thing, matter of effluent usually but not exclusively associated with a house or household or concerning or relating to the home or family that appears to be waste materials, and for greater certainty, but not so as to restrict the generality of the foregoing terms of this clause it is hereby declared that domestic waste extends to the following classes of waste material:

- a) Accumulations, deposits, leavings, litter, remains, rubbish, trash;
- b) Refrigerators, freezers or other appliances, any attached hinges or latching, locking or other closing mechanism or device;
- c) Furnace, furnace parts, pipes, fitting to pipes, water or fuel tanks;
- d) Inoperative motor vehicles and motor vehicle parts including but not limited to tires, mechanical equipment, mechanical parts, accessories or adjuncts to the motor vehicles and mechanical equipment;
- e) Paper, cartons, fabrics or carpets;
- f) Furniture;
- g) Crockery;
- h) Sewage.

“High Risk Area” shall include but is not limited to standing and stagnant water;

“Industrial Waste” means any article, thing, matter or any effluent usually but not excessively belonging to or usually but not exclusively associated with industry of commerce or concerning or relating to manufacture or concerning or relating to any trade business, calling or occupation that appears to be waste material; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this clause is hereby declared that industrial waste exceeds to the following classes of waste material:

- a) Articles, things, matter or effluents, which in whole or in part or fragments thereof, are derived from or are constituted from or consist of:
 - i. agriculture, animal, vegetable, paper, lumber or wood products, or
 - ii. mineral, metal, or chemical products,
 - iii. whether or not the products are manufactured or otherwise processed.
- b) Automotive parts, inoperative motor vehicles, vehicle parts, mechanical equipment, mechanical parts, accessories or adjuncts to the vehicles and mechanical equipment;
- c) Piping, tubing, conduits, cable and fittings or other accessories or adjuncts to the piping, tubing, conduits or cable;
- d) Containers or pallets of any size, type or composition;
- e) Material resulting from, or as part of, construction or demolition projects;
- f) Rubble, inert fill;
- g) Bones, feathers, hides;
- h) Sewage.

“Inoperative Motor Vehicle” means a vehicle having missing parts, including tires or damaged or missing glass or deteriorated or removed metal adjunctions, which prevent it from functioning mechanically in the way for which it was originally designed, or which does not have a currently valid license plate issued by the Ministry of Transportation.

“Motor Vehicle” means commercial and industrial vehicles and equipment, automobiles, motorized snow vehicles, off-road vehicles, motorcycles, all-terrain vehicles, trailers, boats, marine equipment, farm equipment, construction equipment, and heavy machinery.

“Officer” means the 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 land.

“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 drain” means a drain or sewer or part thereof situated on private property.

“Sewage” includes grey water, any liquid waste containing human, vegetable, or mineral matter, waste that is in suspension whether domestic or industrial or any other waste whether in suspension or precipitated, but does not include roof water or storm run-off.

“Standing and Stagnant Water” includes but is not limited to water that is void of movement by either natural or artificial means and includes moisture or water that may cause health hazards as identified by the Simcoe Muskoka District Health Unit.

“Township” means The Corporation of the Township of Tay.

“Waste Material” means garbage, refuse, debris and other material or effluent (including domestic waste and industrial waste) that, in the opinion of the Officer,

- a) Appears to have been cast aside or discarded or abandoned; or,
- b) Appears to be worthless or useless or of no practical value; or,
- c) Appears to be used up, in whole or in part, or expended or worn out in whole or in part.

2. CLEAN AND CLEAR YARDS

2.1 Every owner, lessee or occupant shall keep his ground, yard or vacant land free from holes and excavations, adequately drained, graded, clean or cleared up and free from conditions that are out of character with the surrounding lands and neighbourhood.

2.2 For the purpose of subsection 2.1, “keeping clear” includes:

- a) The removal of dead, decayed or damaged trees or other natural growth and the branches or limbs thereof which create an unsafe condition in relation to their environment;
- b) The removal, trimming, or cutting of weeds, grass or ground cover more than 20 centimeters (8 inches) in height;

- c) The removal of standing and stagnant water in the following high risk areas, birdbaths, boat covers, eavestrophes and rain gutters, excavations capable of holding standing water, empty buckets, wheelbarrows and pots, vehicle tires, abandoned wells, pool cover, plastic containers and bottles, uncovered rain barrels, uncut grass and weeds and untrimmed shrubs, bushes and hedges;
 - d) The removal of objects or conditions that create or might create a health, fire or accident hazard;
 - e) The removal or control of invasive plant species;
 - f) The removal of any domesticated animal excrement;
 - g) The removal of all garbage, refuse and domestic or industrial waste of any kind.
- 2.3 In determining compliance with Clause 2.1 due considerations shall be paid to the distinction between groomed lawns and naturalized or undeveloped areas in particular in relationship to the surrounding environment.

3. UNSAFE OR HAZARDOUS CONDITIONS

- 3.1 No Owner shall cause or permit an unfenced or unprotected pit, excavation or other downward slop which causes a safety hazard on their property.
- 3.2 No Owner shall permit any well which is unprotected or which the presence of which creates a risk or accident or injury.
- 3.3 No Owner shall fail to comply with an order issued by the Officer to remedy any standing or stagnant water. Not limiting the foregoing, such order may include a direction to fill or drain off the water or the treatment of the same with larvicide.
- 3.4 No Owner shall keep a swimming pool, hot tub, wading pool and artificial pond unless it is maintained in good repair and working condition.

4. LITTER

- 4.1 No person shall throw, place or deposit waste material on Township property without the written authority of the Township of Tay.

5. WASTE DISPOSAL

- 5.1 No person shall use any land or structure within the Township for dumping, burying or disposing of garbage, refuse, or domestic or industrial waste of any kind.
- 5.2 Every Owner shall remove any garbage, refuse, domestic waste of any kind or industrial waste of any kind in such a manner as may be prescribed in writing by the officer.

- 5.3 Without limiting the foregoing, Contractors are responsible to ensure the removal of any garbage, refuse, domestic waste of any kind or industrial waste of any kind in such a manner as may be prescribed in writing by the officer and in particular is to ensure that none of the waste migrates to adjacent properties.

6. COMPOST

- 6.1 No Owner shall establish one or more compost heaps or structures except in accordance with the following:
- a) The compost heap or structure is for the sole use of the owner or occupant of the property in which the compost is deposited;
 - b) The use of the compost heap or structure is limited to the disposal of acceptable compostable material in accordance with standards established by the Ontario Ministry of the Environment and local health authorities;
 - c) The compost heap or structure shall not be located in any front yard as defined in the Township's Zoning By-law;
 - d) The compost heap or structure is no larger than one square metre and 1.0 metres in height provided it is no closer than 1 metre to any side or rear property line;
 - e) The compost heap or structure is no larger than three square metres and 1.8 metres in height provided it is no closer than 6 metres to any side or rear property line;
 - f) Where the compost heap or structure is enclosed on all sides including by concrete block, or lumber or similar structure or a commercial plastic container designed for composting and contains a top and is no larger than 0.6 square metres and 1.0 metres in height it can be located in any rear or side yard;
 - g) Agricultural uses as permitted by the Zoning By-law are exempt from clauses 6(c) through to and including 6(f).

7. VEHICLES

- 7.1 Except as provided in the Township of Tay Zoning By-law and amendments thereto, no person shall use any land or structure in the Township of Tay for storing inoperative motor vehicles or used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal.

8. NOTICE OF REMEDY

- 8.1 An Officer may, by personal service or by notice sent by registered mail to the owner of the land or structure, require the Owner within the time specified in the notice:
- a) To clean, clear or remove from the land or structure garbage, refuse or domestic or industrial waste of any kind;

- b) To cease using the land or structure for the dumping or disposing of garbage, refuse, or domestic or industrial waste of any kind;
 - c) To temporary cover over, screen, shield or enclose the garbage, refuse or the domestic or industrial waste until such time as the garbage is removed in the manner prescribed by the Officer;
 - d) To correct or eliminate any standing or stagnant water in particular in high risk locations identified in Section 2.2 (c);
 - e) To pull down, repair or renew any structure (including but not limited to fences and retaining walls) that by reason of its ruinous or dilapidated state is in an unsafe condition;
 - f) To remove the inoperative motor vehicle(s);
 - g) To eliminate or remove any object or conditions that creates or might create a health, fire or accident hazard;
 - h) To eliminate or remove the excrement of any domesticated animal.
- 8.2 Every notice sent by the Officer shall identify the land or structure.
- 8.3 Every notice to an owner shall be sent to the address shown on the last revised assessment roll or to the last known address.
- 8.4 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 property, and the placing of the notice shall be deemed to be sufficient service of the notice on the property owner.

9. RIGHT OF ENTRY

- 9.1 The Municipality, 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.
- 9.2 A person exercising a power of entry on behalf of the Township under this By-law must, on request display or produce proper identification.

10. REMEDIATION

- 10.1 Where the 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 and enforcement of such at the owner's expense.
- 10.2 Where any matters or things are removed in accordance with subsection 10.1, such matters or things may be immediately disposed of by the Officer.

- 10.3 The Township may recover the remedial action and enforcement costs incurred under subsection 10.1 by action, or by adding them to the tax roll and collecting them in the same manner as taxes in accordance with Section 446 of the Municipal Act.
- 10.4 The Township may, prior to recovering costs incurred in subsection 10.1 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.
- 10.5 The Township may place a lien on the property as per Section 446 of the Municipal Act on any remedial action that exceeds \$1000.00.

11. OFFENCES

- 11.1 Every person convicted of a breach of the provisions of this by-law shall be guilty of an offence.
- 11.2 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, R.S.O. 1990, Chapter P.22, as amended.

12. PENALTIES

- 12.1 The provisions of this by-law may be enforced pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, c. P. 33 as amended, and where any provision of this by-law is contravened and a conviction entered, in addition to any other remedy and to any other penalty may also be prohibited from continuing or repeating the offence in accordance with the provisions of s. 444 of the Municipal Act, S.O. 2001, as amended.
- 12.2 Every person who is guilty of an offence under this by-law may, if permitted under the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, pay a set fine, and the Chief Judge of the Ontario Court, Provincial Division, shall be requested to establish set fines as set out in Schedule "B" to this by-law.

13. OBSTRUCTION

- 13.1 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.

14. TOWNSHIP NOT LIABLE

- 14.1 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.

15. VALIDITY AND SEVERABILITY

15.1 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.

16. SEPARATE OFFENCE

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

17. SHORT TITLE

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

18. REPEALED

18.1 That by-law 1996-27, as amended is hereby repealed.

18.2 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 13TH DAY OF APRIL, 2011.

THE CORPORATION OF THE TOWNSHIP OF TAY

MAYOR

CLERK

PART 1 Provincial Offences Act-Set Fine Schedule

THE CORPORATION OF THE TOWNSHIP OF TAY

By-law No. 2011-31, Clean Yards By-law

| ITEM | Column 1 Short Form Wording | Column 2 Provision Creating or Defining Offence | Column 3 Set Fine |
|-------------|--|--|----------------------------------|
| 1 | Fail to keep ground, yards or vacant land drained and clear of all garbage, waste material refuse or domestic or industrial waste of any kind. | 2.1 | \$125.00 |
| 2 | Fail to eliminate or correct standing or stagnant water. | 3.3 | \$125.00 |
| 3 | Littering on Township of Tay property. | 4.1 | \$125.00 |
| 4 | Dumping, burying, or disposing of refuse, domestic or industrial waste on any Township of Tay property. | 5.1 | \$125.00 |
| 5 | Storing inoperative or used motor vehicles for wrecking or salvage anywhere within the Township of Tay. | 7.1 | \$125.00 |
| 6 | Obstructing an Officer or Agent. | 13.1 | \$125.00 |

Note: The general penalty section for the offences indicated above is Part 11.2 of By-law 2011-31. A certified copy of which has been filed.

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