

THE CORPORATION OF THE TOWNSHIP OF McGARRY

BY-LAW NO 2016-17

Being a By-law to Provide for Maintaining Land in a Clean and Clear Condition
(Clean Yards By-Law)

WHEREAS pursuant to *Sections 10(2) Clauses 5 & 6, 123, 127, 128, and 131 of the Municipal Act 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 S.O. 2001, c.25, as amended*, a municipality may enact a By-Law to require that a matter of 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 MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF McGARRY HEREBY ENACTS AS FOLLOWS:

That the Clerk of the Township of McGarry is hereby authorized to make any minor modifications or corrections of an administrative, numerical, grammatical, semantically or descriptive nature or kind to the By-Law and schedule as may be deemed necessary after the passage of this By-Law.

General Provisions:

1.1 Short Title

This By-Law shall be cited as the "*Clean Yards By-Law*".

1.2 Scope

The provisions of this By-Law shall apply to all property within the geographic limits of the Township of McGarry except where otherwise provided.

1.3 Enforcement

This By-Law shall be enforced by a Municipal By-Law Enforcement Officer, Property Standards Officer or designate, and Peace Officers.

1.4 Conflicts with other By-Law

Where a provision of this By-Law conflicts with a provision of another By-Law in force in the Township of McGarry, the provisions that establishes the higher standard in terms of protecting the health, safety and welfare of the general public and the environmental well-being of the municipality, shall prevail to the extent of the conflict.

Part 2

Definitions in this By-Law:

2.1 "Compost" means accumulated biodegradable waste.

2.2 "Township " means the Township of McGarry.

- 2.3 **“Council”** means Municipal Council of the Township of McGarry.
- 2.4 **“Domestic Waste”** means any article, thing, matter or any effluent belonging to or associated with a house or household, or concerning or relating to the home or family 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 it is hereby declared that domestic waste extends to the following classes of waste material:
- a) Accumulations, deposits, leavings, litter, remains, rubbish, garbage, trash.
 - b) Refrigerators, freezers or other appliances, any attached hinges or latching, locking or other closing mechanism or device should be removed.
 - c) Furnaces, furnace parts, fittings 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.
- 2.5 **“High Risk Area”** shall include but is not limited to standing and stagnant water present in those locations listed in Schedule ‘A’.
- 2.6 **“Hobby Vehicle”** means a vehicle that is actively being repaired or restored as a hobby for the owner/occupant of the property, a race car, or vehicle that by its special nature is not routinely used or licensed but is intended to show or display on occasion;
- 2.7 **“Industrial Waste”** means any article, thing, matter or any effluent belonging to or associated with industry or 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 it is hereby declared that industrial waste extends to the following classes of waste material:
- a) Articles, things, matter or effluent, which in whole or in part or fragments thereof, are derived from or are constituted from or consist of:
 - i. agricultural, 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) 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.

- 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) Materials resulting from, or as part of, construction or demolition projects.
- f) Rubble, inert fill except loose soil, sand, gravel.
- g) Bones, feathers, hides.
- h) Sewage.

2.8 **“Inoperative Motor Vehicle”** means any unlicensed motor vehicle or any motor vehicle having missing parts, including: tires, damaged or missing glass, deteriorated or removed metal components, or anything which prevents its mechanical function.

2.9 **“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.

2.10 **“Officer”** means Municipal By-Law Enforcement Officer or designate, Property Standards Officer and Peace Officers.

2.11 **“Owner”** Includes:

- a) The person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the person’s own account or as agent or trustee of any other person, or who would so receive the rent if such lands and premises were let, and
- b) A lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property.

2.12 **“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.

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

2.14 **“Refuse”** means any article, thing, matter, substance or effluent that: has been cast aside, discharged or abandoned, or is discarded from its usual and intended use, or is used up, in whole or in part, or expended or worn out in whole or in part; and shall include Domestic Waste and Industrial Waste, and that domestic waste and industrial waste does not cease to be reuse by reason that it may be commercially saleable or recyclable; Rubble, Inoperative Motor Vehicle, parts of motor vehicles, unused or abandoned motor vehicles, vehicles without validated licence plates, vehicles without licence plates, objects of conditions that may create fire, health or accident hazards, dead animals, old or decayed lumber, decayed trees, discarded trees, part of trees, leaves and discarded organic material.

- 2.15 **“Rubble”** includes but not limited to broken concrete, flagstone, bricks, broken asphalt, patio or sidewalk slabs.
- 2.16 **“Town”** means the Township of McGarry.
- 2.17 **“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.
- 2.18 **“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 Timiskaming Health Unit
- 2.19 **“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 particular value; or
 - c) Appears to be used up, in whole or in part, or expended worn out in whole or in part.

Part 3 – Clean and Clear Yards

- 3.1 Every owner, lessee or occupant shall keep his ground, yards or vacant land drained and clear of all garbage, waste material, refuse or domestic or industrial waste of any kind.
- 3.2. For the purpose of subsection 3.1, “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 15 centimeters (6 inches) in height.
 - c) The removal of standing or stagnant water in high risk areas as noted in Schedule ‘A’.
- 3.3 In determining compliance with Clause 3.1 due consideration shall be paid to the distinction between groomed lawns and naturalized or underdeveloped areas particular in relationship to the surrounding environment.

Part 4 – Unsafe or Hazardous Conditions

- 4.1 No Owner shall cause or permit an unfenced or unprotected pit, excavation or other declivity which causes a safety hazard on their property.
- 4.2 No Owner shall permit any well which is unprotected or which the presence of which creates a risk or accident or injury.

- 4.3 No Owner shall fail to comply with an order to eliminate or correct 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.
- 4.4 No Owner shall keep a swimming pool, hot tub, wading pool and artificial pond unless it is maintained in good repair and working condition.

Part 5 – Litter

- 5.1 No person shall throw, place or deposit waste material on Township property without the written authority of the Township.
- 5.2 No person shall throw, place or deposit or in any manner put refuse on any private property within the Town.
- 5.3 Notwithstanding Section 5.1, acceptable refuse placed on municipal property for the purposes of regular garbage or waste collection, in accordance with applicable By-Laws respecting garbage and waste collection, shall be exempted from the provisions of the By-Law.
- 5.4 Notwithstanding Section 5.1 of this By-Law, acceptable refuse placed on municipal property for the purpose of special garbage or waste collection, placed in accordance with applicable By-Laws and within the time-frame allotted, shall be exempted from the provisions of this By-Law.
- 5.5 No person shall place refuse, set out for garbage collection **prior to 6 p.m. in the afternoon of the day preceding the collection** unless otherwise directed.
- 5.6 No person shall leave remaining empty receptacles and all materials and scattered refuse which was considered uncollectible by the Municipality **after 9 p.m. in the afternoon on the same day the garbage is collected or the material refused.**

Part 6 - Clean Up Week Regulations

- 6.1 No person shall place garbage, refuse or debris meant for pickup during cleanup week on private property or Town property **prior to one day** preceding the pickup date established by Council.
- 6.2 No person shall place any appliance containing Freon gas meant for pickup during cleanup week, on private property or Town property, unless such Freon gas has been removed from the appliance by a qualified technician and such technician properly tags the appliance.
- 6.3 No person shall allow items not picked up during clean up week to remain on private property or town property for a period exceeding one day after the pick up date.

Part 7 – Waste Disposal

- 7.1 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.

- 7.2 Every Owner shall cover over or remove any garbage, refuse, domestic waste of any kind in such a manner as may be prescribed in writing by the officer.
- 7.3 Without limiting the foregoing, Contractors are responsible to ensure the covering over or 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.
- 7.4 Section 7.1 does not apply to:
- a) Land or structures used by the Township used for the purpose of dumping or disposing of garbage or refuse, or domestic or industrial waste, or composting of organic materials.
 - b) Land designated by By-Law of the Township for the purpose of dumping or disposing of garbage or refuse, or domestic or industrial waste, or composting of organic material.

Part 8 – Compost

- 8.1 No Owner shall establish one or more compost heaps or structures except in the 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 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 is no larger than one square meter and 1.8 meters in height.
 - d) The compost heap or structure shall not be located in any front yard as defined in the Township Zoning By-Law and shall be located no closer than 2 meters from any side or rear property line.
 - e) The compost heap or structure is enclosed on all sides by concrete block, or lumber or similar structure or commercial plastic container designed for composting.

Part 9 – Vehicles

- 9.1 Except as provided in the Township of McGarry Zoning By-Law and amendments thereto or otherwise permitted by law, no person shall use any land or structure in the Township of McGarry for storing used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal.
- 9.2 Clause 9.1 shall not apply to Owners who are actively restoring not more than one vehicle and one hobby vehicle provided the vehicles are stored in an enclosed structure or located in a manner so as to be screened from view by neighboring residents or from adjacent roadways.

Part 10 – Notice of Remedy

- 10.1 An officer may, by personal service or by notice sent by registered post on the owner, lessee or occupant 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 waste material or domestic or industrial waste of any kind.
 - b) To cease using the land or structure of the dumping or disposing of waste material or domestic or industrial waste of any kind.
 - c) To cover over, screen or enclose the waste material or the domestic or industrial waste in the manner prescribed by the officer.
 - d) To repair, alter or re-route private or public drains.
 - e) To correct or eliminate any standing or stagnant water particular in high risk locations identified in Schedule 'A'.
 - f) To provide for the sanitary disposal of sewage and drainage from the land or structure.
 - g) To pull down, repair or renew any (including but not limited) to fences and retaining walls: that by reason of its ruinous or dilapidated state is in an unsafe condition.
- 10.2 Every notice sent by the officer shall identify the land or structure.
- 10.3 Every notice sent to an owner or lessee shall be sent to the address shown on the last revised assessment roll or to the last known address.
- 10.4 Every notice sent to an occupant shall be to the address of the land or structure or to the last known address of the occupant.
- 10.5 With the exception of matters which pose an immediate risk to public health and safety, notice shall provide for 14 days from the date of service of the notice, for the completion of the works outlined in the notice.
- 10.6 When there is an immediate risk to public health and safety, the notice may require immediate action or remediation.

Part 11 – Right of Entry

- 11.1 Where the Township has a power of entry under the said Act, the power shall be exercised by an Officer of the Township who may be accompanied by a person under his/her direction.
- 11.2 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.
- 11.3 A person exercising power of entry on behalf of the Township under this Act must, on request display or produce proper identification.

Part 12 – Remediation

- 12.1 Where the owner is default of doing any matter of thing directed or required to be done under this By-Law, an officer may direct the completion of such at the owner's expense.
- 12.2 Where any matters of things are removed in accordance with Subsection 12.1, such matters or things may be immediately disposed of by the officer.
- 12.3 The Township may recover the remedial action cost and administration fees incurred under Subsection 12.1 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*.
- 12.4 The Township may, prior to recovering costs incurred in Subsection 12.1 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.

Part 13 – Offences

- 13.1 Every person convicted of a breach of the provisions of this By-Law shall be guilty of an offence.
- 13.2 Every person who is convicted of an offence under this By-Law shall be subject to a fine of not more than fifteen hundred dollars (\$1,500.00) for each offence. Such fines shall be recoverable under the *Provincial Offences Act, R.S.O. 1990, Chapter P.22, as amended*.

Part 14 – Penalties

- 14.1 The provisions of this By-Law may be enforced pursuant to the provisions of the *Provincial Offences Act, R.S.O. 1990, Chapter 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 *s444 of the Municipal Act S.O. 2001, c.25, as amended*.
- 14.2 Every person who is guilty of an offence under this By-Law may, if permitted under the *Provincial Offences Act RSO 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 Section 'B' to this By-Law.

Part 15 – Obstruction

- 15.1 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 and/or agent in the lawful exercise or power or duty under this By-Law.

Part 16 – Township Not Liable

16.1 The Township assumes no liability for property damage or personal injury resulting from remedial action or remedial work undertaken with respect to any person or property that is subject of this By-Law.

Part 17 – Validity and Severability

17.1 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.

Part 18 – Separate Offence

18.1 For the purpose of this By-Law, each day of a continued offence shall be deemed to be a separate offence.

Part 19 – Short Title

19.1 The short title of this By-Law is the Clean Yards By-Law.

THAT By-Law 2010-20 and By-Law 2010-33 are hereby repealed and replaced with By-Law 2016-17

READ A FIRST, SECOND and THIRD TIME, and finally passed this 7TH Day of June, 2016.



Mayor



Clerk-Treasurer

Schedule 'A'

High Risk Locations

Clean Yards By-Law # 2016-17

1. Birdbaths
2. Boat Covers
3. Eave Trough and Rain Gutters
4. Excavations capable of holding standing water
5. Empty buckets, wheelbarrows and pots
6. Flat top roofs
7. Vehicle Tires
8. Abandoned Wells
9. Pool Cover
10. Plastic containers and bottles
11. Rain Barrels
12. Uncut grass and weeds
13. Untrimmed shrubs, bushes and hedges
14. Unused motor vehicles and similar vehicles and trailers
15. Yard waste and debris

Township of McGarry

**Part 1 – Provincial Offences Act
Schedule ‘B’ By-Law # 2016-17**

Clean Yards By-Law

<u>Item #</u>	<u>Column 1 Short Form Wording</u>	<u>Column 2 Provision Creating or Defining Offence</u>	<u>Column 3 Set Fine</u>
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.	3.1	\$110
2	Fail to comply with an order to eliminate or correct standing or stagnant water.	4.3	\$110
3	Litter on Township of McGarry property.	5.1	\$110
4	Dumping, burying, or disposing of refuse, domestic or industrial waste on any lands within Township of McGarry	7.1	\$110
5	Storing used motor vehicles for wrecking or salvage anywhere within the Township of McGarry.	9.1	\$110
6	Obstructing Officer or Agent in the Lawful exercise or power of duty.	15.1	\$110

Every person who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended

The General provision for offences listed above is Part 13 of By-Law 2016-17, a certified copy of which has been filed and S.61 of the Provincial Offences Act, RSO. 1990 c. P.33

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
3rd FLOOR, SUITE 303
SUDBURY, ONTARIO P3E 6A5



CABINET DU JUGE PRINCIPAL RÉGIONAL
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU NORD-EST

159, RUE CEDAR
3^e ÉTAGE, BUREAU 303
SUDBURY (ONTARIO) P3E 6A5

TELEPHONE/TÉLÉPHONE (705) 564-7624
FAX/TÉLÉCOPIEUR (705) 564-7620

April 22, 2021

Ms. Karine Pelletier, Clerk-Treasurer
Township of McGarry
27 Webster Street
P.O. Box 99
Virginiatown, ON P0K 1X0

Dear Ms. Pelletier:

Re: Set Fines – Provincial Offences Act – Part I
Township of McGarry, Temiskaming District

Enclosed herewith is a copy of an Order and a copy of a schedule of set fines for By-law No. 2016-17 the By-law indicated in the schedule. Please ensure that a copy of the said documents is forwarded to the Provincial Offences Office, which has jurisdiction for the Temiskaming District.

The setting of the fines does not constitute my approval of the short form of wording used to describe the Offences.

I have forwarded a copy of the Order and the schedule of the set fines to the Ontario Court of Justice in Haileybury.

Yours truly,


MARTIN LAMBERT
A/REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

ML/hrd
Encl.

c.c.: His Worship Gary McMahon - Regional Senior Justice of the Peace
His Worship Theodore Hodgins

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
3rd FLOOR, SUITE 303
SUDBURY, ONTARIO P3E 6A5



CABINET DU JUGE PRINCIPAL RÉGIONAL
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU NORD-EST

159, RUE CEDAR
3^e ÉTAGE, BUREAU 303
SUDBURY (ONTARIO) P3E 6A5

TELEPHONE/TÉLÉPHONE (705) 564-7624
FAX/TÉLÉCOPIEUR (705) 564-7620

April 22, 2021

Ms. Devyani Anandjit
Crown Law Office, Criminal
720 Bay Street, 10th floor
Toronto, Ontario
M7A 2S9

Dear Ms. Anandjit:

Re: Set Fines - Provincial Offences Act - Part I
Township of McGarry, Temiskaming District

Please find enclosed a copy of an Order dated April 22, 2021, and a copy of a letter to Ms. Karine Pelletier on behalf of the Township of McGarry.

Should you have any questions, please do not hesitate to contact me at (705) 564-7624.

Yours truly,

MARTIN LAMBERT
A/REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

ML/hrd

Enclosures

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

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COUR DE JUSTICE DE L'ONTARIO
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TELEPHONE/TÉLÉPHONE (705) 564-7624
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PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-Law No. 2016-17 of the Township of McGarry, Temiskaming District, attached hereto is the set fine, for those Offences. This Order is to take effect May 7th, 2021.

Dated at the City of Greater Sudbury, this 22nd day of April, 2021.

A handwritten signature in blue ink, appearing to read 'M. Lambert'.

MARTIN LAMBERT
A/REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

Township of McGarry

**Part 1 – Provincial Offences Act
Schedule 'B' By-Law # 2016-17**

Clean Yards By-Law

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Note: The General provision for offences listed above is Part 13 of By-Law 2016-17, a certified copy of which has been filed and s.61 of the Provincial Offences Act, R.S.O. 1990 c. P.33, as amended