

# **The Corporation of the Township of Woolwich**

## **By-law 40-2017**

### **A By-law to Provide for the Maintaining of Land in a Clean and Clear Condition and to Repeal By-law 27-2015 (Clean Yards By-law)**

WHEREAS pursuant to Section 8. (1) of the *Municipal Act, 2001* S.O. 2001, c. 25 the powers of a municipality under that or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS pursuant to Section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25 a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS pursuant to Section 11, of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, a Township may pass by-laws respecting the health, safety and well-being of persons, requiring the cleaning and clearing of land or clearing of refuse and debris from land, and prohibiting and regulating with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances.

AND WHEREAS pursuant to Sections 127 and 128 of the *Municipal Act, 2001*, S.O. 2001, c. 25, a local municipality may require the owner or occupant of land to clean and clear the land, not including Buildings, or to clear refuse or debris from the land, not including Buildings and to regulate when and how matters required under clause shall be done, prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land;

AND WHEREAS pursuant to Section 131 of the *Municipal Act, 2001*, S.O. 2001, c. 25, a local municipality may prohibit and regulate the use of any land for the storage of used motor Vehicles for the purpose of wrecking or dismantling them or salvaging parts from them for the sale or other disposition;

AND WHEREAS pursuant to Section 132 of the *Municipal Act, 2001*, S.O. 2001, c. 25, a local municipality may authorize the owner or occupant of land to enter adjoining land, at any reasonable time, for the purpose of making repairs or alterations to any Building, fence or other Structures on the land of the owner or occupant but only to the extent necessary to carry out the repairs or alterations;

AND WHEREAS pursuant to Section 425 of the *Municipal Act, 2001* S.O. 2001, c. 25, states a municipality may pass By-laws providing that a person who contravenes a By-law of the municipality passed under this Act is guilty of an offence;

AND WHEREAS pursuant to Section 426 of the *Municipal Act, 2001*, S.O. 2001 c.25 no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this Act or under a By-law passed under this Act;

AND WHEREAS pursuant to Section 429 of the *Municipal Act, 2001*, S.O. 2001 c.25 and a municipality may establish a system of fines for offences under a By-law of the municipality passed under this Act;

AND WHEREAS pursuant to Section 436 of the *Municipal Act, 2001*, S.O. 2001, c. 25, a municipality has the power to pass By-laws authorizing the power of entry for the purpose of inspecting land to determine compliance with a By-law, direction, order, or condition of license;

AND WHEREAS Sections 435, 437 and 438 of the *Municipal Act, 2001*, S.O. 2001, c. 25, set out additional powers and restrictions in regard to the power of entry;

AND WHEREAS pursuant to Section 446 of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that if a municipality has the authority under that Act or any other Act or under a by-law under that Act or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person or directed or required to do it, the matter or thing shall be done at the person's expense and, the municipality may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS The Council of the Corporation of the Township of Woolwich deems it desirable to regulate the maintenance of land in order to enhance the quality of communities and/or neighborhoods, to protect the health, safety and well-being of the public and to ensure the continued enjoyment of property for residents and the property owners of the Township;

AND WHEREAS The Council of the Corporation of the Township of Woolwich deems it a public nuisance to allow weeds or grass more than 20 cm in height, a motor Vehicle or Trailer that is not licensed with a current validated license plate, uncontrolled refuse on property and naturalized areas which are encroaching on to adjacent properties;

AND WHEREAS it is deemed expedient that the Council of The Corporation of the Township of Woolwich enact a By-law for the Maintaining of Land in a Clean and Clear Condition;

NOW THEREFORE the Council of the Corporation of the Township of Woolwich hereby enacts as follows:

1. DEFINITIONS

In this By-law:

- 1.1 "Building" means a building as defined by the Township of Woolwich Zoning By-law.
- 1.2 "Crockery" means plates, dishes, cups, and other similar items.
- 1.3 "Cutting" means the destruction of long grass and weeds by use of mechanical machine or manual means, including but not limited to lawn mowers, string trimmers, tractors, sickles or scythes.
- 1.3 "Dilapidated" means decayed, deteriorated or fallen into partial ruin due to neglect or misuse.
- 1.4 "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 so as not to restrict the

generality of the forgoing terms of this section, 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 of latching, locking or other closing mechanism or device, or any part thereof;
- (c) Furnace, furnace parts, pipes, fittings to pipes, water or fuel tanks;
- (d) Inoperative motor Vehicles, Vehicle parts and accessories;
- (e) Paper, cartons;
- (f) Furniture;
- (g) Crockery;
- (h) Salvage materials;
- (i) Waste materials;
- (j) Animal excrement;
- (k) Inoperative Vessels incapable of operation in the manner for which they were originally designed.

1.5 "Grass" means all forms, types and species of grasses.

1.6 "Industrial Waste" means any article, thing, matter or any effluent belonging to or associated with industry or commerce or concerning or relating to any trade, business, calling or occupation that appears to be waste materials; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section it is hereby declared that industrial waste extends to the following classes of waste materials:

- (a) Articles, things, matter or effluents which in whole or in part fragments thereof, are derived from or are constituted from or consist of:
  - i. Agricultural, animal, vegetable, paper, lumber or wood products or;
  - ii. Minerals, chemicals and metal products;
- (b) 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 of any size, type or composition;
  - (e) Material resulting from, or as part of, construction or demolition projects;
  - (f) Rubble, inert fill;
  - (g) Bones, feather, hides;
  - (h) Salvage material;
  - (i) Waste material;
  - (j) Inoperative Vessels incapable of operation in the manner for which they were originally designed and which are not secure from deterioration by the elements, including parts or accessories thereof.
- 1.7 “Inoperative Motor Vehicle” means a motor Vehicle having missing parts, including tires, damaged or, missing glass, or deteriorated, or removed metal adjunctions, which prevents 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 for current year.
- 1.8 “Naturalized Area” means a landscape area that has been deliberately implemented to produce ground cover which consists of one or more species of wildflowers, annuals, perennials, shrubs and grasses or a combination thereof.
- 1.9 “Officer” means a Municipal Law Enforcement Officer or such other officer as may be appointed by Council from time to time for the enforcement of this By-law.
- 1.10 “Owner” means the owner registered on title for Property, Buildings or premises, or any person in control of the Property, Buildings or premises including a lessee or an occupant thereof.
- 1.11 “Overgrown” shall mean an uncut, unkempt or unsightly state.
- 1.12 “Person” means all transients, owners, tenants and occupiers of lands within the Town and shall include any individual, association, firm, partnership, incorporated company, corporation, agent or trustee and the heirs, executors or other legal representatives of a person to whom the context can apply according to law.
- 1.13 “Property” means privately owned land including but not limited to grounds, yards, vacant land.
- 1.14 “Refuse” means any article, thing, matter, substance or effluent that:
- a) has been cast aside, discharged or abandoned;
  - b) has been discarded from its usual and intended use; or

c) is used up, in whole or in part, or expenses or worn out in whole or in part;

and shall include domestic, construction or industrial waste, and provided further that waste does not cease to be refuse by reason that it may be commercially saleable or recyclable.

- 1.15 "Salvage Material" means any scrap metal, steel, plastic, rubber or other such materials or substances or goods of commercial value or not, collected, deposited, stored or kept for any purpose such as, without limitation, further cutting, sorting or processing, or dismantling elsewhere, including the storage of used motor Vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal.
- 1.16 "Shall" means imperative or must.
- 1.17 "Standing and Stagnant Water" means any water which is not continuously in movement by natural or mechanical means that is found on any Property, but does not include a natural body of water or water contained within a municipally-owned drain, catch-basin, or storm water management pond or facility.
- 1.18 "Structure" means a structure as defined in the Township of Woolwich Zoning By-law.
- 1.19 "Township" means The Corporation of the Township of Woolwich and includes, where the context permits, its duly authorized officers, contractors, employees and agents.
- 1.20 "Trailer" means a trailer as defined by the *Highway Traffic Act*, R.S.O. 1990, c.H.8., as amended.
- 1.21 "Underbrush" means shrubs and small trees forming the undergrowth in a forest.
- 1.22 "Unsafe or Hazardous Conditions" means the presence of:
- (a) Flammable refuse including overgrown grass and weeds or untrimmed Underbrush, timber, lumber and other wood products;
  - (b) An unfenced or unprotected pit, excavation, hole or downward slop which creates a safety hazard;
  - (c) Machinery, automotive equipment or other materials in disuse which are not properly enclosed and protected;
  - (d) Any other circumstance that creates or is likely to create a risk of fire or other accident;
  - (e) Any well which is unprotected or which by its presence creates a risk of accident or injury;
  - (f) Spilled or leaked substances including but not limited to fuels and chemicals which cause a risk of contamination to the lands or surrounding lands.

- 1.23 "Vacant Lot" means any parcel of land capable of being conveyed and on which there is no Structure or Building being used or occupied, but does not include a lot where construction is underway pursuant to an active building permit.
- 1.24 "Vehicle" means any motor vehicle as defined in the *Highway Traffic Act*, R.S.O. 1990, c.H.8., as amended, and in addition includes a Trailer, commercial motor vehicle, a motorized snow vehicles, traction engine, farm tractor, self-propelled implement of husbandry, road building machine and any other vehicle propelled or driven otherwise than by muscular force.
- 1.25 "Vessel" means a boat, ship or craft designed, used or capable of being used for navigation on or through water, without regard to method or lack of propulsion, and includes a vessel that is under construction.
- 1.26 "Waste Material" means garbage, refuse, debris and other materials 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;
  - (b) Appears to be worthless or useless or of no practical value;
  - (c) Appears to be used up, in whole or in part, or expended or worn out in whole or in part.
- 1.27 "Weeds" means all weeds listed in the *Weed Control Act*, R.S.O 1990, c. W.5 or as identified by the Township by By-law as noxious and all weeds posing a human health hazard including but not limited to ragweed, poison ivy or any other weed.
- 1.28 "Zoning By-law" means Zoning By-law 55-86 of the Township of Woolwich.

## 2. WORD USAGE

- 2.1 As used in this By-law, words used in the present tense include the future; words used in the masculine gender include the feminine and neutral; and the singular number includes the plural and the plural includes the singular.
- 2.2 The headings and subheadings used in this By-law shall not form a part of the By-law, but shall be deemed to be inserted for convenience of reference only.

## 3. GENERAL PROVISIONS

- 3.1 Every Owner shall keep their Property free and clear of all Waste Material, Domestic or Industrial Waste of any kind.

- 3.2 Every Owner shall keep their Property properly drained and free from holes and excavations and standing or stagnant water.
- 3.3 Every Owner shall keep their Property free from any Unsafe or Hazardous or Dilapidated Conditions.
- 3.4 Every Owner shall keep all Grass and Weeds on their Property sufficiently cut and trimmed, to the satisfaction of an Officer of the Township of Woolwich, by cutting and trimming overgrown Grass and Weeds in the following preventative manner:
- (a) To prevent or minimize the harbouring of mosquitos and other similar insects;
  - (b) To prevent the ripening and dispersal of weeds and other noxious plants;
  - (c) To prevent grass and weeds from growing more than 20 centimetres in height.
- 3.5 No Person shall use any Property or Structure within the Township for dumping or disposing or storing or keeping of Waste Material, Domestic Waste or Industrial Waste of any kind without the written authority of the property owner.
- 3.6 No Person shall throw, place or deposit Waste Material, Domestic Waste or Industrial Waste on municipal property without the written authority of the Corporation of Township of Woolwich.
- 3.7 Except as provided in the Zoning By-law, no Person shall use any Property or structure in the Township for storing Vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for use, sale or other disposal.
- 3.8 No Person shall use any Property for parking or storage of the following:
- (a) Inoperative Vehicle or Trailer that is unfit to be operated on a highway due to damage or poor repair, unless such Vehicle or Trailer is located wholly within a Building or the storage of such a vehicle or Trailer is a permitted use under the Township of Woolwich Zoning By-Law; and
  - (b) Motor Vehicle or Trailer that does not display a valid license plate and corresponding current validation sticker issued for such motor Vehicle or Trailer by the Ontario Ministry of Transportation or an extra-provincial government agency, unless such a Vehicle or Trailer is located wholly within a Building or the storage of such a Vehicle or Trailer is a permitted use under the Zoning By-Law.
- 3.9 Every Owner shall keep all steps, pedestrian walkways, driveways, parking spaces and other similar areas on their property maintained so as to afford clear, unobstructed and safe passage by pedestrians and Vehicles.
- 3.10 Every Owner shall ensure that any Naturalized Area on their Property does not encroach above or onto any adjacent property.

- 3.11 Every Owner shall ensure that there are no obstructions on corner lots of property located at the intersection of two streets and within the triangular space formed by joining the point of each street line distant 7.5 metres from the point of intersection of the said street line, and no shrub, foliage, or structure including a permitted Building placed in a location or manner so as to obstruct the view of the driver of a Vehicle approaching the intersection, and in no case shall such shrub, foliage or structure be maintained to a height of more than 0.75 metres above the finished grade of either abutting streets, or as outlined in the Zoning By-law.
- 3.12 This By-law does not apply to:
- (a) Property or structures used by the Township for the purpose of storage or disposing of Waste Material, Domestic Waste or Industrial Waste; or
  - (b) Property zoned by by-law of the Township for the purpose of storing or disposing of Waste Material, Domestic Waste or Industrial Waste for which approval has been granted by another level of government.
- 3.13 Nothing in this By-law shall be interpreted to prohibit or prevent the use of a compost heap for the composting of waste material as permitted by Provincial regulation.
- 3.14 Nothing in the By-law shall be interpreted to require action of the Township's Enforcement Services Division for situations under control, investigation and/or enforcement of another level of government.
4. NOTICE OF VIOLATION
- 4.1 Where a contravention of this By-law has occurred, an Officer may send notice by mail to the Owner, lessee or occupant of the Property or structure, requiring the owner, lessee or occupant to discontinue the activity within the time specified.
- 4.2 Where a contravention of this By-law has occurred, an officer may send notice requiring the person who contravened the By-law to do work to correct the contravention.
- 4.3 Every person to whom a notice is issued under this By-law shall comply with the notice.
- 4.4 Notices shall be sent by mail and shall be deemed to be delivered on the seventh (7<sup>th</sup>) day after the date of mailing to the last known address.
- 4.5 All notices issued under this By-law shall comply with the following:
- (a) Every notice sent by the Officer shall identify the property;
  - (b) Every notice to an owner shall be sent to the address shown on the last revised assessment roll or to the last known address;
  - (c) Every notice sent to an occupant shall be to the address of the Property and with a copy to the owner in accordance with subsection (b);



- (d) Every notice shall include a specified date by which the contravention shall be rectified;
- (e) A list of contraventions found on the property and actions required to remove said contraventions.

- 4.6 In the event that an 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, and deemed delivered on the date of such delivery.
- 4.7 The Township of Woolwich assumes no liability for property damage or injury resulting from the cleaning of Property by any Owner or Persons acting on behalf of any Owner resulting from the cleaning of the Property.

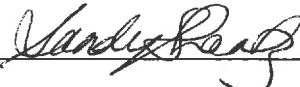
5. POWERS OF ENTRY

- 5.1 An Officer may enter on any Property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
  - a) The provisions of this by-law; or,
  - b) A direction or notice issued under this by-law.
- 5.2 Where an inspection is conducted by the Township, an Officer may:
  - a) Require the production for inspection of documents or things relevant to the inspection;
  - b) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - c) Require information from any Person concerning a matter related to the inspection including their name, address, phone number and identification.
- 5.3 Every Owner or Person occupying the property shall permit an Officer to inspect any Property for the purposes as set out in this by-law. An Officer may be accompanied by a Person under the Officer's direction.
- 5.4 Power of entry may be exercised by an Officer as defined in this by-law.
- 5.5 Where the Owner, lessee or occupant is in default of doing the necessary work as outlined within the notice provided pursuant to this By-law, the Officer may enter upon land at any reasonable time and cause the work to be completed by a qualified contractor as contracted by the Township.

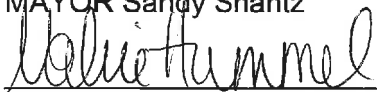
- 5.6 Where any of the matters or things are removed in accordance with Section 5.5 above, the matters or things may be immediately disposed of.
- 5.7 The Township shall recover the expenses related to remedial action taken, by action or in like manner, as municipal taxes. The expense of the Officer's time shall not be recouped from the property owner.
6. SEVERABILITY
- 6.1 If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this By-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in force.
- 6.2 Where the provisions of this by-law conflict with the provisions of any other by-law or Provincial statute, the more restrictive provisions shall apply.
7. ENFORCEMENT
- 7.1 An Officer as defined in this by-law is hereby vested with the authority to enforce this By-law.
8. PENALTY PROVISIONS
- 8.1 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 upon conviction to a penalty that shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c.25, as amended.
- 8.2 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 contraventions by the corporation, is guilty of an offence and liable upon conviction to a penalty not exceeding \$10,000 per day exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c.25, as amended.
- 8.3 Despite Section 8.1 and the provisions of the Municipal Act, 2001, S.O. 2001, c.25, as amended, the total of all daily fines for continuous offences is not limited to \$100,000.
- 8.4 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 contraventions by the Corporation, is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000 per offence, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c.25, as amended.

- 8.5 Despite Section 8.1 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.
- 8.6 Every person who fails to comply with a notice made under this By-law is guilty of an offence.
- 8.7 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.
- 8.8 Any Person who is 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.
- 8.9 Every person who contravenes any section of this by-law shall, upon conviction, be liable to a fine as provided for in the Provincial Offences Act R.S.O 1990, Chapter P.33 as amended.
- 8.10 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.
- 9. REPEAL
- 9.1 This by-law repeals By-law 27-2015 in its entirety.
- 10. SHORT FORM TITLE
- 10.1 This By-law shall be referred to as the "Clean Yards By-law".
- 11. EFFECTIVE DATE
- 11.1 This By-law shall come into full force and effect upon receipt of the approval of the set fine schedules as issued by the Regional Senior Judge of the Ontario Court of Justice, West Central Region.

PASSED this 6<sup>th</sup> day of June, 2017.



MAYOR Sandy Shantz



CLERK Val Hummel

**THE CORPORATION OF THE TOWNSHIP OF WOOLWICH**

**BY-LAW NUMBER 40-2017: Clean Yards By-law**

**Schedule "A" – Set Fine Schedule**

**Part 1 Provincial Offences Act**

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| <b>Item</b> | <b>Column 1<br/>Short Form Wording</b>   | <b>Column 2<br/>Provision Creating or<br/>Defining Offence</b> | <b>Column 3<br/>Set Fine</b> |
|-------------|--|--|------------------------------|
| 1.          | Fail to keep property free and clear of waste material.  | Section 3.1  | \$110.00                     |
| 2.          | Fail to keep property free and clear of domestic waste.  | Section 3.1  | \$110.00                     |
| 3.          | Fail to keep property free and clear of industrial waste.  | Section 3.1  | \$110.00                     |
| 4.          | Fail to keep land drained.   | Section 3.2  | \$110.00                     |
| 5.          | Fail to keep land free from holes and excavations.   | Section 3.2  | \$110.00                     |
| 6.          | Fail to keep grass and weeds cut no more than 20 centimetres.  | Section 3.4 (c)  | \$110.00                     |
| 7.          | Use property or structure to store waste material.   | Section 3.5  | \$110.00                     |
| 8.          | Use property or structure to store domestic waste.   | Section 3.5  | \$110.00                     |
| 9.          | Use property or structure to store industrial waste.   | Section 3.5  | \$110.00                     |
| 10.         | Throw, place or deposit waste material, domestic or industrial waste on any Township of Woolwich property. | Section 3.6  | \$110.00                     |
| 11.         | Use property or structure for storing vehicles for the purpose of wrecking or dismantling.                 | Section 3.7  | \$110.00                     |
| 12.         | Store inoperative vehicle.   | Section 3.8 (a)  | \$110.00                     |
| 13.         | Store unlicensed vehicle.  | Section 3.8 (b)  | \$110.00                     |

**NOTE: The Penalty Provision for the offences indicated above is Section 8 of By-law 40-2017, a certified copy of which has been filed.**