

BY-LAW

No. 2019 - 124

**BEING A BY-LAW TO ESTABLISH STANDARDS FOR THE
MAINTENANCE OF YARDS
IN THE MUNICIPALITY OF KINCARDINE**

WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended provides that a municipality may pass by-laws respecting, inter alia, health, safety and the well-being of persons and waste management;

AND WHEREAS Section 127 of the *Municipal Act, 2001* S.O. 2001, c.25 as amended authorizes municipalities to pass by-laws requiring land to be kept in a safe condition and free of debris and refuse;

AND WHEREAS Section 128 of the *Municipal Act, 2001* S.O. 2001, c.25 as amended authorizes municipalities to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances;

AND WHEREAS Section 131 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a 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 sale or other disposition;

AND WHEREAS Section 425 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that 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 2006, c. 32, Sched. A, s. 184;

AND WHEREAS Section 429 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may establish a system of fines for offences under a by-law of the municipality passed under this Act. 2006, c. 32, Sched. A, s. 184

AND WHEREAS Section 446 of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended authorizes municipalities to direct that where a *person* has defaulted, the municipality may have the default remedied at the *owner's* expense and add the cost to the tax roll.

AND WHEREAS the Council of The Corporation of the Municipality of Kincardine deems it expedient to establish standards for the maintenance of yards and properties in the Municipality of Kincardine;

NOW THEREFORE the Council of The Corporation of the Municipality of Kincardine **ENACTS** as follows:

1. **APPLICATION**

- a) This By-law shall apply to all properties located within the Corporation of the Municipality of Kincardine;

- b) This By-law does not apply so as to prevent a farm operation or practice meeting the definition of "agricultural operation" and "normal farm practice" under the *Farming and Food Production Protection Act*, 1998, SO 1998, c.1 as amended from carrying out a normal farm practice as provided for and defined under that Act;
- c) Where the provisions of this By-law conflict with the provisions of another By-law in force in the Municipality, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

2. DEFINITIONS

In this By-law:

"Composting" – means the biological degradation or breakdown of organic material into a dark soil-like material called humus.

"Excessive Growth of Grass or Weeds" - means grass or weeds which have grown to a height so as to be inconsistent with the surrounding environment or over 20 cm in height.

"Inoperative Motor-Vehicle" - means and includes a boat or any motor vehicle other as defined under the *Highway Traffic Act*, R.S.O. 1990, c. H.8, other than a motor vehicle which is currently licensed, and operable and owned by an *owner* or *occupant* of the *property* on which it is stored, unless it is permitted by the Municipality for the operation of a business enterprise lawfully situated on the *property*.

"Last Known Address" - means the address, which appears on the last revised assessment rolls of The Corporation of the Municipality of Kincardine.

"Municipality" - means The Corporation of the Municipality of Kincardine.

"Notice" - means a form set out in Schedule "A" of this By-law.

"Noxious Weed" - means a species of weed designated by or under the *Weed Control Act*, R.S.O. 1990, c. W.5, as a *noxious weed*.

"Occupant" - means the registered *owner* of *property*, tenant or *occupant* or person for the time being managing or receiving the rent from the *property*, whether on his or her own account or on account of an agent or trustee of any person or any one of the aforesaid.

"Officer" - means a By-law or Property Standards *Officer* appointed by By-law or assigned the responsibility of enforcing and administering this By-law.

"Official Plan" - means the *Official Plan* of The Municipality of Kincardine as amended.

"Order" - means a form set out in Schedule "B" of the By-law.

"Owner" - means the person in whom is vested the ownership, dominion or title of *property* and includes his or her agent, administrator or assignee.

"Person" - means an individual, firm, corporation, association or partnership, and shall include the *occupant*.

"Property" - means any parcel of land or registered water lot and, without limiting the generality of the foregoing, shall mean lands and premises

appurtenant to a building or structure whether residential, institutional, commercial or industrial and includes vacant property.

"Refuse or Debris" - means any article, thing, or matter that has been cast aside or discarded or abandoned, whether of any value or not, or that has been used up in whole or in part, or expended, or worn out in whole, or in part, and without limiting the generality of the foregoing shall include:

- a) garbage, rubbish, junk or litter;
- b) grass clippings, tree and garden cuttings, brush and leaves which are not part of a horticultural or composting process;
- c) unusable containers such as crockery, dishes, glassware, bottles, plastic containers and cans;
- d) discarded paper, paper products, cardboard, clothing;
- e) discarded weighty or bulky materials such as stoves, refrigerators and other such appliances, furniture, furnace parts, pipes, water or fuel tanks;
- f) any unused, abandoned, dismantled or *inoperative Motor vehicle*, as defined herein;
- g) any wrecked, dismantled, discarded *vehicle* or automotive parts or accessories, mechanical parts, unmounted or mounted tires, accessories or adjuncts to any *vehicle* or mechanical equipment;
- h) any all-terrain *vehicle*, motor home, trailer, motorized snow *vehicle*, motorized recreational *vehicle* or camper, traction engine, farm or lawn tractor, road-building machine or a *vehicle* drawn, propelled or driven by any kind of power including horse power or manpower, boat, watercraft or trailer or part thereof, which is unlicensed and/ or in a wrecked, discarded, dismantled, inoperative or abandoned condition unless it is necessary for the operation of a business lawfully situated on the *property*;
- i) discarded, unused or *waste* materials resulting from or as part of construction, alteration, repair or demolition of any building or structure or old or decayed lumber;
- j) debris, objects or conditions that may create a health, fire or accident hazard;
- k) Discarded, dead, diseased, decayed or damaged trees or brush.

"Stagnant Water" - means non-flowing, motionless or stale water that has remained in a location for a period exceeding four days as observed and recorded by an *officer*.

"Vehicle" means a motor *vehicle*, any all-terrain *vehicle*, motor home, motorized snow *vehicle*, motorized recreational *vehicle* or camper, traction engine, farm or lawn tractor, road-building machine or a *vehicle* drawn, propelled or driven by any kind of power including horse power and manpower, including a boat, watercraft or trailer or part thereof.

"Yard" means the land other than publicly owned land within the boundary lines of a property not occupied by a principal building, if any, and includes grounds or vacant property, and shall include any land around or appurtenant to the whole or any part of a property and used or capable of being used in connection with the property, including the boulevard and drive way apron abutting the respective property.

3. GENERAL STANDARDS FOR ALL PROPERTY

- 3.1 Every *owner* or *occupant* of a *property* shall maintain the *yard* of said *property* clean and free from *refuse or debris*.
- 3.2 Every *owner* or *occupant* shall keep their *property* free and clear of infestations of injurious insects, rodents, vermin or other pests.
- 3.3 Every *owner* or *occupant* shall keep the *yard* at their *property* free from conditions such as holes or excavations that might create a health, safety or accident hazard.
- 3.4 No *owner* or *occupant* shall use a *yard* for the parking, storage, keeping or placement of *inoperative motor vehicles*.

4. GRASS- TREES- BRUSH- HEDGES- LANDSCAPING

- 4.1 Every *owner* or *occupant* of a *property* shall keep their *yard* at the said *property* free from *excessive growth of grass or weeds*.
- 4.2 Every *owner* or *occupant* of a *property* shall keep the *yard* at the said *property* free from *noxious weeds*.
- 4.3 Every *owner* or *occupant* shall keep hedges and trees at the *property* adjacent to a public sidewalk, walkway or roadway cut and trimmed so as to allow safe, unhindered passage.
- 4.4 Every *owner* or *occupant* of a corner lot shall keep hedges and trees within the sight triangle as defined in the Comprehensive Zoning By-law as amended, at a height no greater than 0.5 meters.
- 4.5 Every *owner* or *occupant* shall ensure that *trimmings* from the *property* are not left on roadways intended for vehicular use, public sidewalks or trails intended for pedestrian traffic.
- 4.6 Every *owner* or *occupant* shall keep all sodded and grass covered areas of the *property* in a good living condition and properly maintained so as not to present an unsightly appearance.

5. STAGNANT WATER

- 5.1 Every *owner* or *occupant* shall keep their *property* free and clear of *stagnant water*. This section shall not apply to property designated as Environmentally Sensitive Policy Areas, Environmentally Sensitive Landscapes or Provincially Significant Wetlands as designated in the *Official Plan* or Environmental Preservation Areas in the Municipality of Kincardines *Official Plan*, or to marshes, swamps, bogs, and fens, natural bodies of water, storm water retention ponds and recreational types of ponds.

6. COMPOST HEAPS

- 6.1 No *owner* or *occupant* shall permit *composting* of any kind other than in accordance with this *By-law*.
- 6.2 All *compositing* shall be carried out in accordance with the following requirements:
 - a) a *composting heap* shall be no larger than two square meters and 1.8 meters in height and shall be enclosed in such a manner so as to prevent the infestation of vermin and to ensure that no noticeable and objectionable odors are created; and
 - b) a *compost heap* shall not be located in a front or an exterior side yard; and
 - c) a *compost heap* shall not be located less than one meter from a property line; and

- d) No domesticated animal feces shall be placed on a compost heap, container or digester used for composting.

7. ADMINISTRATION AND ENFORCEMENT

7.1 Where the Municipality is satisfied that a contravention of this by-law has occurred, the *Officer* may notify the *owner* or *occupant* or other *person* responsible for the maintenance of the *property*, by delivering a *Notice* in the form attached hereto as Schedule "A" or in the form of an *Order* attached hereto as **Schedule "B"**, directing that the *property* be made to comply with the provisions of this By-law within a defined period of time, but not less than seventy two (72) hours from the date of the *Notice*. Said *Notice* or *Order* shall be sent to the address as shown on the last revised assessment rolls of the Municipality by regular mail, or delivered personally to the *owner*, *occupant* or person responsible for the *property*.

7.2 An officer may 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 directed to do it, the matter or thing may be done at the person expense.

7.3 In the event an *Officer* is unable to serve the *Notice* or *Order* by regular mail or personally, the *Notice* or *Order* may be posted in a conspicuous place on the *property*, and the placing of the *Notice* or *Order* shall be deemed to be sufficient service.

7.4 Where the *owner* or *occupant* fails to comply with any final and binding *Order* issued under this By-law, the Municipality may have the matter done and the cost thereof, including an administration fee, shall be added to the property tax roll for the *property* and collected in the same manner of as municipal taxes.

7.5 The Municipality or its agent, is not liable to compensate the *occupant*, *owner* or any other person by reason of anything done by or on behalf of the Municipality in the exercise of its powers carrying out compliance with this By-law.

7.6 Where an *officer* deems a violation of this By-law to constitute a hazard to the public, the *officer* may, without notice, cause the violation to be remedied at the expense of the owner. The Municipality shall not be responsible for any damages that may be sustained by the property of the owner.

7.7 Every *person* who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to the penalties as provided for in the *Provincial Offences Act*, R.S.O. 1990, c.P. 33, as amended.

7.8 Every *person* shall comply with an *Order* or *Notice* issued under the authority of this By-law.

7.9 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 by-law.

8. OFFICERS

8.1 The Council of the Municipality shall appoint a By-law *Officer* to be responsible for the administration and enforcement of this By-law.

8.2 Pursuant to section 435 and 436 of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended, an *Officer* may enter upon property at any reasonable time for the purpose of carrying out inspections to determine whether the provisions of this by-law are being complied with.

8.3 If an article of this By-law is for any reason held to be invalid, the remaining

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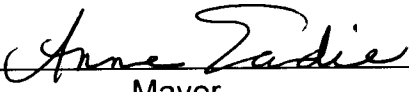
articles shall remain in full force and effect until repealed.

8.4 This By-law shall come into full force and effect on the day of its passing.

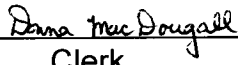
8.5 This By-law may be cited as the "Clean & Clear Yards By-law".

READ a FIRST and SECOND TIME this 7th day of October, 2019.

READ a THIRD TIME and FINALLY PASSED this 7th day of October, 2019.



Mayor



Clerk

Schedule "A" NOTICE

Regarding:

Date Issued:

Issued To:

Address Of Contravention:

An inspection of the above mentioned property revealed that a provision(s) of the Clean and Clear Yards By-law is being contravened. You are hereby directed to correct the following violation(s) within the time indicated below **from the date issued** on this *Notice*.

Charges May be Forthcoming if the violation is not corrected within the time shown below. This *Notice* **does not** authorize continuance of the violation(s).

MUNICIPAL BY-LAW	SECTION	VIOLATION(S)	REMEDIAL ACTION REQUIRED	TO BE COMPLIED WITHIN:

Please contact the undersigned if you wish to discuss this matter further with the Officer.

Officer name and signature: _____

Schedule "B"

ORDER

Regarding:

Date Issued:

Issued To:

Address Of Contravention:

An inspection of the above mentioned property revealed that a provision(s) of the Clean and Clear Yards By-law is being contravened. You are hereby directed to correct the following violation(s) within calendar days of the date issued on this *Order*.

MUNICIPAL BY-LAW	SECTION	VIOLATION(S)	CORRECTIVE ACTION

TAKE NOTICE THAT the *Municipal Act, 2001 S.O. 2001, c.25* as amended, authorizes municipalities to direct that where an owner has defaulted, the municipality may have the default remedied at the owners expense and add the cost to the tax roll. This *Order* **DOES NOT** authorize continuance of the violation(s).

OFFENCE- Any person who contravenes any of the provisions of this by-law or who fails to comply with the written *Notice* or *Order* of an Officer is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act, R.S.O. 1990, c P.33*.

Officer name and signature: _____