

# **The Corporation of the Township of Guelph/Eramosa**

## **By-law Number 26/2020**

### **Being a By-law Respecting the Cleaning up of Yards and Property Maintenance in the Township of Guelph/Eramosa.**

**WHEREAS** Sections 11(2) clauses 5 & 6, 127, 128 and 131 of the Municipal Act 2001, SO 2001 c. 25 as amended authorizes municipalities to pass by-laws for requiring the cleaning and clearing of yards, for prohibiting the depositing of refuse on private and public lands; and for prohibiting automotive wrecking yards; and

**AND WHEREAS** Council may pass by-laws under the following provisions of the Municipal Act, as amended;

**AND WHEREAS** Section 127 of the Municipal Act 2001, S.O. 2001, c.25, as amended, permits a municipality may pass by-laws requiring an 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 for regulating when and how such matters shall be done, for prohibiting the disposal of refuse or debris on land without the consent of the owner or occupant of land and for defining "refuse"; and

**AND WHEREAS** Section 128 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, permits a municipality to pass by-laws 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** Section 425 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, to pass by-laws providing that any *person* who contravenes any by-law of the municipality is guilty of an offence;

**AND WHEREAS** Section 436 of the Act permits a municipality to pass By-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a By-law passed under the Act, or a direction or order made under such a by-law are being complied with;

**AND WHEREAS** Subsection 444(1) of **the Act** permits a municipality, if satisfied that a contravention of a By-law of the municipality passed under **the Act**, has occurred, to make an Order requiring the person who contravened the By-law or who caused or permitted the contravention, or the Owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity;

**AND WHEREAS** Section 446 of the Municipal Act 2001, SO 2001 c. 25 permits a municipality to enact a by-law to require that a matter or thing be done by a person and in default, the matter or 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 of Guelph-Eramosa enacts as follows:

#### **1 SHORT TITLE**

- 1.1 This **By-law** may be cited as the "Clean Yards By-law"

#### **2 SCOPE AND INTERPRETATION**

- 2.1 The standards for maintenance of **property** set forth in this By-law are hereby prescribed and adopted as the minimum requirements for all **property** within the Township for the purposes of enhancing the quality of communities and/or neighbourhoods, to protect the health, safety and well-being of the

public, and to ensure the continued enjoyment of **property** for residents and **owners** of the **Township**.

- 2.2 This **By-law** does not apply so as to prevent a farm, meeting the definition of “agricultural operation” under the *Farming and Food Production Protection Act, 1998, S.O. 1998, c.1*, from carrying out a normal farm practice as provided for and defined under that Act.

### **3 WORD USAGE**

- 3.1 The words used in the present tense include the future, words in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural includes the singular.

### **4 CONFLICT**

- 4.1 Where the provisions of this **By-law** conflict with the provision of any other **By-law** in force in the **Township** the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.
- 4.2 Where the provisions of this **By-law** conflict with any Act, the provisions of the provincial standard shall prevail.
- 4.3 In the case of a conflict between this **By-law** and the permitted uses of the **Township’s Zoning By-laws** and/or respective site plan agreements, the provisions that establish the highest standards to protect the health and safety of the public shall apply.

### **5 DEFINITIONS**

- 5.1 “**Backyard Compost**” means a collection of humus material such as kitchen and table waste, grass clippings, plant trimmings, weeds or other leaves;
- 5.2 “**By-law**” means Clean Yards By-law.
- 5.3 “**Costs**” means all monetary expenses incurred by the **Township** during and throughout the process of any **remedial work**, including interest and may include an administrative surcharge amount as determined by the **Township Fees and Charges By-law**.
- 5.4 “**Council**” means the **Council** of the **Township** of Guelph/Eramosa.
- 5.5 “**Derelict**” shall mean any vehicle, machinery, trailer, boat, or vessel;
- (a) which has broken or missing parts of such sufficiency so as to render it incapable of being licensed to operate where such licensing as necessary in its current condition but shall not include a motor vehicle actively being repaired or restored by the owner or;
- (b) which is in a wrecked dismantled discarded inoperative or abandoned condition.
- 5.6 “**Derelict vehicle**” means a motor vehicle as defined in the Highway Traffic Act that is;
- (a) inoperative by reason of removed wheels battery motor transmission or other parts or equipment necessary for its operation;
- (b) not in a roadworthy condition;
- (c) in a state of disrepair or unsightly by reason of missing doors glass or body parts; or
- (d) inoperable and appears incapable of use as a means of lawful transportation or has an industry standard book value as a means of transportation that is less than the cost of repairs required to put it into a

lawful operable condition unless otherwise demonstrated by an authorized licensed mechanic but does not include an antique or historic motor vehicle which is actively being restored as a collectors or historic vehicle.

- 5.7 “**Domestic Waste**” means any debris, rubbish, garbage, article, matter or effluent usually belonging to or associated with a residence, household or dwelling unit and includes but is not limited to the following examples:
- (a) Accumulation or deposits of grass clippings, weeds, brush, tree and garden cuttings;
  - (b) Litter, food remains, rubbish, and trash, excluding properly kept and maintained **Backyard Compost** piles;
  - (c) Paper, cartons, cardboard, clothing;
  - (d) Cans, glass, plastic containers, dishes or crockery;
  - (e) Rubble, including concrete, bricks, asphalt, patio or sidewalk slabs;
  - (f) Human and animal waste.
- 5.8 “**Exterior Property Areas**” means a **property**, exclusive of a building and an accessory building;
- 5.9 “**Graffiti**” shall mean one or more letters, symbols, marks, etchings, pictorial representations, messages or slogans, howsoever made, that disfigures or defaces a *structure or thing*, but does not include any of the following:
- (a) a sign, public notice, or traffic control mark authorized by the **Township**;
  - (b) a sign, public notice or traffic control mark authorized by Regional, Provincial or Federal law;
  - (c) Art murals.
- 5.10 “**Ground cover**” means organic or non-organic material applied to prevent the erosion of the soil e.g. concrete, flagstone, gravel, asphalt, grass or other forms of landscaping;
- 5.11 “**Historic vehicle**” means a motor vehicle that is;
- (a) At least 30 years old; and
  - (b) Substantially unchanged or unmodified from the original manufacturers product; and
  - (c) Appropriately insured for storage or use on the highway. Proof of such insurance shall be made available to the officer upon request.
- 5.12 “**Industrial Waste**” means any debris, rubbish, garbage, article, matter or effluent belonging to or associated with industry or commerce or concerning or relating to manufacturing or concerning or relating to any trade, business, calling or occupation and includes but is not limited to the following examples:
- (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, agricultural, animal, vegetable, paper, lumber, or wood products, or mineral, metal or chemical products;
  - (b) Containers of any size, type or composition;
  - (c) Material resulting from, or as part of, construction or demolition projects;
  - (d) Paper, cardboard, packaging or wrapping;
  - (e) Rubble, inert fill;
  - (f) Bones, feather, hides.
- 5.13 “**Infestation**” means the overrunning of a **property** by vermin, rodents and insects.
- 5.14 “**Noxious Weed**” means, as defined in the *Weed Control Act*, R.S.O. 1990, c. W. 5, as amended, a plant that is deemed to be a Noxious Weed under subsection 10 (1) or designated as a Noxious Weed under section 24 (a) of

that Act, as amended;

- 5.15 “**Officer**” shall mean a Municipal Law Enforcement Officer, a Police Officer, or any other **person** appointed by By-law to enforce the provisions of this By-law;
- 5.16 “**Owner**” shall mean:
- (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 receive the rent if the land and premises were let; and
  - (b) a lessee or occupant or tenant of the **property** who, under the terms of a lease, is required to repair and maintain the **property** in accordance with the standards for the maintenance and occupancy of **property**;
- 5.17 “**Person**” includes an individual, sole proprietorship, partnership, limited partnership, trust, corporation, and an individual in his or her capacity as a trustee, executor, administrator, or other legal representatives;
- 5.18 “**Property**” means a building or accessory building, or part of a building or accessory building, and includes the lands and premises appurtenant thereto and all mobile structures, mobile buildings, mobile homes, outbuildings, fences, retaining walls, and erections thereon, whether heretofore or hereafter erected and includes **Vacant Land**;
- 5.19 “**Remedial work**” means all work necessary for the correction or elimination of a contravention of this **By-law** as cited in any order issued under this **By-law**, including any such condition or health hazard, actual or potential, that the contravention may pose.
- 5.20 “**Standing Water**” means any body of stagnant water, other than a natural body of water that exists on a permanent basis or is contained within a **Township** owned stormwater management facility. This does not include standing water that is part of a swimming pool, hot tub, wading pool or artificial pond that is maintained in good repair;
- 5.21 “**Township**” means the Corporation of the **Township** of Guelph-Eramosa or the land within the geographic limits of the Corporation of the **Township** of Guelph-Eramosa as the context requires;
- 5.22 “**Unsafe Condition**” means any condition that poses or constitutes an undue or unreasonable hazard or risk to life, limb or health of any **person** on or about the **Property**;
- 5.23 “**Waste**” means any waste including **Domestic Waste, Industrial Waste**, derelict machinery, derelict vehicles including vehicles not licensed for the current year;
- 5.24 “**Weed(s)**” means a noxious **weed** designated by or under the *Weed Control Act, R.S.O. 1990, c. W.5*, including any **weed** designated as a local or noxious **weed** under a *By-law*.
- 5.25 “**Zoning By-law**” means a By-law passed by **Township Council** under the authority of the Planning Act;

## **6 EXTERIOR PROPERTY AREAS - MAINTENANCE**

- 6.1 Every **owner** shall ensure all **exterior property areas** are kept in a neat and tidy condition, and free from:
- (a) Waste;
  - (b) Injurious insects, termites, rodents, vermin and other pests and any condition that may promote an **infestation**;
  - (c) **Noxious Weeds**, and growth of other weeds, grass, and **Ground**

- Cover** in excess of 20.32 centimetres (8 inches);
  - (d) Unsightly and unreasonably overgrown, in relation to their environment, **Ground Cover**, hedges and bushes;
  - (e) Dead, decayed, or damaged trees, or other natural growth and the branches and limbs thereof which create an **Unsafe Condition**;
  - (f) **Standing Water**;
  - (g) Animal excrement;
  - (h) Deep ruts and holes.
- 6.2 Every **owner** shall ensure a suitable **Ground Cover** shall be provided to prevent erosion of the soil. Where grass forms a part of the **Ground Cover** and has been killed, such dead areas shall be re-sodded as often as required so as to restore the grass to a living condition.
- 6.3 Every **owner** shall ensure hedges, plantings, trees or other landscaping, required by the Township as a condition of site development, or redevelopment shall be maintained in a living condition or shall be replaced with equivalent landscaping, so as to carry out its intended function and maintain an attractive appearance.
- 6.4 Every **owner** shall ensure landscaping and general maintenance of the **exterior property areas** shall not detract from the landscaping and the general maintenance of the neighbourhood of which they are a part.
- 6.5 Every **owner** shall ensure an abandoned or unused well, septic tank or a hole on a Property shall be filled or safely covered and protected.
- 6.6 Every **owner** shall ensure all roofs and components of a roof on buildings shall be maintained so as to prevent any snow and/or ice accumulation where there is a risk of injury to any **person**.
- 6.7 Every **owner** shall ensure **Vacant Land** is graded, filled or otherwise drained so as to prevent recurrent ponding.
- 6.8 Every **owner** of land shall ensure ice-box, refrigerator, freezer or other container is not placed in an **exterior property area** for disposal without first removing all locks and doors or taking some other adequate precautionary measure to prevent a **person** from being trapped in an ice-box, refrigerator, freezer or other container.
- 6.9 Sections 6.1(c) and 6.1(g) do not apply to a **property** that is zoned Agricultural under the **Township's Zoning By-law** where the predominant use is for agricultural purposes.

## **7 COMPOSTING**

- 7.1 Every **owner** shall ensure all **Backyard Compost**:
- (a) Is maintained in a Composter or an open Backyard Compost pile that is not larger than 2.0 metres (21.5 square feet) in area and 1.0 metre (39 inches) in height
  - (b) Is set back a minimum of 0.6 meters (2 feet) from any lot line
  - (c) Does not consist of any animal matter (meat, dairy, feces, bones, or animal fats)
  - (d) Is kept free of pests, such as rodents, vermin, termites and injurious insects and any condition that may promote an Infestation.

## **8 GRAFFITI**

- 8.1 No **person** shall place, or cause or permit to be placed **graffiti** on **property**.
- 8.2 The **owner** of a **property** shall keep the **property** free of **graffiti**.

## 9 FIREWOOD

- 9.1 No **owner** shall keep firewood on the **property** unless actually used for wood burning on the **property**.
- 9.2 Firewood shall be kept stored in neat and orderly piles.

## 10 INSPECTION

- 10.1 For the purpose of ensuring compliance with this **By-law**, an **Officer** may, at all reasonable times, enter upon and inspect any **land** to determine whether or not the following are being complied with:
- (a) this **By-law**;
  - (b) a direction or order made under this **By-law**; or
  - (c) a prohibition order made under s. 431 of the Municipal Act, 2001.
- 10.2 An officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the Municipal Act, 2001 where he or she has been prevented or is likely to be prevented from carrying out an inspection under section 10.1.

## 11 ORDER TO DISCONTINUE ACTIVITY

- 11.1 When any **property** is not maintained to the requirements of this **By-law**, the **Officer** may notify the **owner** or other **person** responsible for the maintenance of the **property**, by issuing an Order directing the **owner** to comply with the provisions of this **By-law** within a defined period of time, but not less than seventy-two (72) hours.
- 11.2 Said Order shall be sent to the last known address as shown on the last revised assessment roll of the **Township**, or posted on the subject property in a conspicuous location, or delivered personally to the **owner** or **person** responsible for the **property**.

## 12 WORK ORDER

- 12.1 Where an Order has been sent pursuant to Section 11 and the requirements of the Order have not been complied with, the **Township** may direct that **Remedial Work** be done at the expense of the Owner.

## 13 WORK DONE BY THE TOWNSHIP

- 13.1 The **Township** may recover its **Costs** of remedying a violation of this **By-law** by invoicing the **owner**, by initiating court proceedings or by adding the **costs**, including interest, to the tax roll in the same manner as municipal taxes in accordance with section 446 of the Municipal Act, 2001 and the exercise of any one remedy shall not preclude the exercise of any other available remedy.
- 13.2 The **Township** may charge a fee for inspection and administration services pursuant to the **Township's Fees and Charges By-law**.

## 14 ENFORCEMENT AND PENALTY PROVISIONS

- 14.1 The enforcement of this **By-law** shall be conducted by an **Officer**.
- 14.2 An **Officer** may enter on **land** at any reasonable time for the purposes of carrying out an inspection to determine whether or not the **By-law** is complied with.
- 14.3 Every **person** who contravenes any provision of this **By-law** or every director or officer of a corporation, who knowingly concurs in the contravention by a corporation is guilty of an offence and upon conviction

is liable to:

- (a) on a first offence, to a fine, not more than \$1,000.00; and
- (b) on a second offence and each subsequent offence, to a fine of not more than \$5,000.00

- 14.4 Every **person** who is issued a Part 1 offence notice or summons upon conviction is guilty of an offence under this By-law shall be subject to a fine, to a maximum as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.
- 14.5 No **person** shall hinder or obstruct, or attempt to hinder or obstruct, any **Officer** exercising a power or performing a duty under this By-law.
- 14.6 Every **person** who is alleged to have contravened any of the provisions of this By-law shall identify themselves to an **officer** upon request, failure to do so shall be deemed to have hindered or obstructed an **officer** in the execution of his or her duties.
- 14.7 Upon conviction, any penalty imposed under this By-law may be collected under the authority of the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.
- 14.8 If a **person** is convicted of an offence under this By-law, the court in which the conviction has been entered and any court of competent jurisdiction may, in addition to any other remedy and to any penalty imposed, make an order prohibiting the continuation or repetition of the offence by the **person** convicted.

## 15 SCHEDULES

- 15.1 Schedule "A" (Short Form Wording and Set Fines) attached hereto does not form part of this By-law.

## 16 SEVERABILITY

- 16.1 Notwithstanding any section, subsections, clause, paragraph or provision of this **By-law**, or parts thereof may be declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or beyond the powers of **Council** to enact, such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this **By-law** are separate and independent therefrom and enacted as such as a whole. The same shall not affect the validity or enforceability of any other provisions of this **By-law** or of the **By-law** as a whole.

## 16 ENACTMENT

- 16.1 This **By-law** shall come into full force and effect on the day it is passed.

READ three times and finally passed  
this 19<sup>th</sup> day of **May, 2020**.

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Chris White, Mayor

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Amanda Knight, Clerk

## SCHEDULE 'A' TO BY-LAW NO. 26/2020

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### PART 1, PROVINCIAL OFFENCES ACT

**BEING** a by-law respecting cleaning up of yards and property maintenance.

<b>Short Form Wording</b>	<b>Provision Creating or Defining Offence</b>	<b>Set Fine</b>
Fail to keep property in a neat and tidy condition	Section 6.1	\$150.00
Fail to keep property free of waste	Section 6.1(a)	\$150.00
Fail to keep property free from injurious insects, termites, rodents, vermin and other pests.	Section 6.1(b)	\$150.00
Fail to keep property free from a condition that may promote an infestation.	Section 6.1(b)	\$150.00
Fail to keep property free from noxious weeds	Section 6.1(c)	\$150.00
Fail to keep property free from excessive long grass	Section 6.1(c)	\$150.00
Fail to maintain trees/brush/hedge	Section 6.1(d)	\$150.00
Fail to keep property free from dead, decayed or damaged trees or other natural growth.	Section 6.1(e)	\$150.00
Fail to keep property free from Standing Water	Section 6.1(f)	\$150.00
Fail to keep property free from Animal excrement	Section 6.1(g)	\$150.00
Fail to provide suitable Ground Cover	Section 6.2	\$150.00
Fail to provide adequate cover for abandoned or unused wells, septic tanks or a hole.	Section 6.5	\$150.00
Fail to remove all doors and locks from ice-box, refrigerators, freezer or other containers.	Section 6.8	\$150.00
Place, cause or permit the placement of graffiti on property.	Section 8.1	\$150.00
Fail to keep property free of graffiti.	Section 8.1	\$150.00
Obstruct, hinder or otherwise interfere with an Officer	Section 14.5	\$500.00
Fail to comply with an Order	Section 11.1	\$400.00

The penalty provision for the offences indicated above is Section 61 of the *Provincial Offences Act*. R.S.O 1990. C.P.33