



THE CORPORATION OF THE TOWNSHIP OF AUGUSTA BY-LAW NUMBER **xxxx-2019**

A BY-LAW RESPECTING MAINTENANCE AND CARE OF PROPERTY IN THE TOWNSHIP

WHEREAS Sections 10(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;

ANDWHEREAS 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;

AND WHEREAS it is deemed desirable to enact this by-law to enhance the quality of communities and neighbourhoods, to protect the safety, health and well-being of the public and promote economic development in the Township of Augusta;

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

1. Scope

This by-law shall apply to all lands within the Township of Augusta with the exception of lands zoned and used for agricultural purposes, whereby the provisions of the by-law would apply to the residential portions.

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. Nothing in this by-law prevents the spreading of nutrients on farm fields in accordance with acceptable farm practices.

2. Definitions

- a) Administration fee means the costs incurred by the Township for the administration and enforcement of this by-law.
- b) Derelict vehicles means any car, trailer, boat, machinery any other recreational vehicle or objects or parts thereof that are inoperative, unused, discarded, in disrepair or unlicensed.
- c) Economic Development means an effort that seek to improve economic wellbeing and quality of life for a Augusta Township by creating and/or retaining jobs and supporting or growing incomes and the tax base.
- d) Infestation means the overrunning of a property by vermin, rodents and insects.
- e) Notice/Order means any notice or order of non-compliance issued under this by-law.
- f) Occupant means the registered owner of property or person for the time being managing or receiving the rent from the property, whether on his own account or on account of an agent or trustee of any person, or any one of the aforesaid.
- g) Officer means a Municipal By-Law Enforcement Officer appointed by Council of the Township of Augusta, an agent and/or his or her designate assigned the responsibility for enforcing and administering this by-law.
- h) Property means any parcel of land or registered water lot and, without limiting the generality of the foregoing, shall mean lands whether residential, commercial, industrial or institutional, and includes vacant property.
- i) Refuse or Debris means any article, thing or matter that;
 - i. 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.
 - ii. Is visible to the naked eye to the extent it is identifiable from the road or adjacent property.
 - iii. Is likely to encumber economic development.Without restricting the generality of the foregoing, refuse or debris may include:
 - i. garbage, rubbish, junk or litter.
 - ii. excessive accumulations or piles of grass clippings, tree and garden cuttings, brush and leaves which are not part of a horticultural or composting process.
 - iii. discarded weighty or bulky materials such as stoves, refrigerators and other such appliances, furniture, furnace parts, pipes, water or fuel tanks.
 - iv. any unused, abandoned, dismantled, wrecked or inoperative vehicle or automotive parts or accessories, mechanical parts, unmounted or mounted tires, accessories or adjuncts to any vehicle or mechanical equipment
 - v. broken concrete or asphalt pavement, patio/sidewalk slabs, unusable building materials.
 - vi. 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.
- vii. any material or conditions that may create a health, environment, fire or accident hazard.
 - j) Excessive Vegetation means grass, weeds and other plant growth which is unsightly and causes hazard due to fire or is a harborage for insects and vermin.
 - k) Vehicle means an automobile, motorcycle, motor assisted bicycle, traction engine, farm tractor or farm machinery, road building machine, construction vehicle, bulldozer, backhoe, excavator, grader, asphalter, earth mover, compactor, crane, lift, skid steer, generator, welder, street car or other vehicle running only on rails, motorized snow vehicle, off road vehicle, trailer, boat, bicycle, or any vehicle drawn, propelled or driven by any kind of power, including but not limited to mechanical power, muscular power or wind power.
 - l) Weeds means a plant that is deemed to be a noxious weed under the Weed Control Act, 1990.

3. General Provisions

- a) Every owner of property shall comply with this standard with the exception of the Township's waste transfer stations.
- b) Every owner or occupant of land shall keep land free and clear of:
 - I. Any refuse, debris and waste of any kind.
 - II. Commercial waste bins or dumpsters on residential properties bins except on a temporary basis during construction or demolition projects which have been properly permitted by the Municipality.
 - III. Excessive vegetation and noxious weeds.
 - IV. Derelict vehicle including a trailer or any part of such vehicle shall be parked, stored or left outdoors on any property in the Township with the following exceptions:
 - i. unlicensed vehicles used primarily for agricultural purposes on lands zoned agricultural with an ongoing agricultural operation;
 - ii. if the vehicle is properly enclosed in a garage or shed or other suitable enclosure.
 - iii. Property is licenced by the Municipality as a salvage shop or yard.
 - iv. Where it is a part of an automotive repair establishment on lands permitted for such under the Zoning By-law.
 - v. Where vehicle is operative and has an up-to-date license plate that has been registered.
 - V. Excavations or holes in land or accumulation of standing water that may create an accident or health hazard to any member of the public
 - VI. The accumulation of building material visible to the

- public for more than 15 days without a valid permit;
- VII. A fence, retaining wall, or wood ties to become unstable or unsafe, or be rotting, crumbling, cracking, leaning, peeling or rusting;
- VIII. Infestation of any part of the property by rodents, vermin or destructive insects; and
- IX. The accumulation of uncontrolled growth, cut tree branches, dead trees, leaves, dead bushes or other growth, unstacked firewood, dirt piles or uncontained compost material.

4. Enforcement and Inspection

- a) This by-law shall be complaint driven.
- b) This By-law shall be enforced by Municipal By-law Enforcement Officers and is authorized and empowered to enforce the provisions of the By-law.
- c) The Municipality's goal is always to work with the property owner to achieve compliance.
- d) Upon receipt of a complaint:
 - I. An Officer acting under this By-law will determine any one or both of the following:
 - i. Whether there is compliance with this by-law
 - ii. Whether there is compliance with any order made under this By-law.
- e) The Officer may enter on land at any reasonable time for the purpose of carrying out an inspection for the purposes of making a determination of whether or not this by-law or notice of violation made under this By-law are being complied with.

Pursuant to Section 435 and 436 of the Municipal Act, SO 2001, c.25 as amended, an officer may enter upon property, at any reasonable time, for the purpose of carrying out inspections of or on such property to determine whether or not the provisions of this by-law are being complied with in accordance with the provisions of Section 426(1) of the Municipal Act, RSO 2001, c.25 as amended, no person shall hinder, interfere with, or otherwise obstruct, either directly or indirectly, an officer in the lawful exercise or power or duty under this by-law.
- f) If the By-law Enforcement Officer is satisfied that a violation or contravention this By-law has occurred, the Officer may contact the owner and will determine whether a time allowance for voluntary compliance will be sought or whether a Notice to Comply will be issued. The Officer may serve written notice upon the owner of the property, directing that the violation be remedied within a specific period and what needs to be done. Said Notice shall be sent by registered mail to the last known address as shown on the last revised assessment rolls of the municipality or delivered personally to the registered owner or person responsible for the property.
(Appendix A)

- g) Where a Notice has been sent pursuant to and the requirements of the Notice have not been complied with, the officer may order that the work be done at the expense of the registered owner. An Order shall be sent by registered mail to the last known address as shown on the last revised assessment rolls of the municipality, or delivered personally to the registered owner or person responsible for the property. (Appendix B) An invoice will be sent to the owner for reimbursement of work done to be paid within an allotted time. If not paid the expense incurred may be recovered by action or by adding the costs to the tax roll and collecting them in the same manner as taxes, pursuant to Section 446(3) of the Municipal Act, SO 2001, c. 25, as amended. The municipality has the option to apply a reasonable administration fee to this process should it be necessary.
- h) In the case of a health, safety or fire hazard, an officer may order that the hazard be removed forthwith without the Notice.
- i) In the event an officer is unable to serve a Notice and/or Order by registered mail or personally, the Notice and/or Order may be posted in a conspicuous place on the property, and the placing of the Notice and/or Order shall be deemed to be sufficient service of the Notice and/or Order on the property owner.
- j) The Officer shall have the right to enter in and upon the lands and to restore the lands and carry out remedial action specified in the Order at the owner's expense; and
 - i) shall not be liable to compensate such owner or occupant or any other person having interest in the property by reason of anything done by or on behalf of the Township under the provisions of this Section; and
 - ii) where any materials or things are removed in accordance with this Section, the materials or things may be immediately disposed of by the officer and any recovered salvage value or other actual recovery of money made upon such disposal shall be credited against costs; and
 - iii) where a vehicle has been removed, impounded, restrained or immobilized according to Section 170(15) of the Highway Traffic Act, RSO 1990, as amended, in violation of this by-law, all costs associated with the removal, impoundment, restraining or immobilization will be the responsibility of the registered owner of the vehicle.
- k) For clarity, where the owner fails to comply with an Order issued under this by-law within the time specified for compliance, the Township in addition to all other remedies:
 - i. shall have the right to enter in and upon the lands and to restore the lands and carry out remedial action specified in the Order at the owner's expense; and
 - ii. shall not be liable to compensate such owner or occupant or any other person having interest in the property by reason of anything

done by or on behalf of the Township under the provisions of this Section; and

- iii. where any materials or things are removed in accordance with this Section, the materials or things may be immediately disposed of by the officer and any recovered salvage value or other actual recovery of money made upon such disposal shall be credited against costs; and
- iv. where a vehicle has been removed, impounded, restrained or immobilized according to Section 170(15) of the Highway Traffic Act, RSO 1990, as amended, in violation of this by-law, all costs associated with the removal, impoundment, restraining or immobilization will be the responsibility of the registered owner of the vehicle.

5. Liability

Pursuant to Section 448 of the Municipal Act, RSO 2001, c. 25 as amended, no proceeding for damages or otherwise shall be commenced against a member of Council or an officer, employee or agent of the municipality or a person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this by-law for any alleged neglect or default in the performance in good faith of the duty or authority.

6. Penalty

Any person who jeopardizes the health or safety of the inhabitants of the municipality or creates a public nuisance in violation of the provisions of this by-law shall be liable to a fine up to \$5,000.00 per occurrence, maximum penalty. Each calendar day a violation continues is deemed to a separate offence.

b) Where this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, pursuant to Section 431 of the Municipal Act, SO 2001, c. 25, as amended.

7. Validity

a) Should a court of competent jurisdiction declare a part or whole of any provisions of this by-law to be invalid or of no force and effect, the provision or part is deemed severable from this by-law. It is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under the law so as to protect the public by ensuring a minimum standard for maintenance of yards is maintained.

b) Where a provision of this by-law conflicts with the provisions of another by-law, Act or Regulation in force within the Township of Augusta, the provisions that establish the higher standards to protect the health and safety of persons shall prevail.

Any By-law inconsistent with this By-law are hereby repealed.

This by-law shall be in force and effect upon passing.

Read a first, second, and third time and finally passed this 24 day of June, 2019

MAYOR

CLERK

DRAFT

NOTICE

Township of Augusta
By-law Enforcement
3560 Cty Rd 26
Prescott, ON KOE 1X0

DATE ISSUED: _____

ISSUED TO: _____

ADDRESS: _____

An inspection has revealed that a provision(s) of a municipal by-law is being contravened. You are hereby directed to correct the following violation(s) within _____ days/hours. Charges MAY be forthcoming if the violation is not corrected within the time shown above. This Notice DOES NOT authorize continuance of the violation(s).

MUNICIPAL BY-LAW	VIOLATION(S)

If you wish to discuss this matter further with the officer, please contact the undersigned at (613)925-4231.



Appendix B

TOWNSHIP OF AUGUSTA Maintenance and Care of Property BY-LAW xxxx-2019

ORDER

Township of Augusta
 By-law Enforcement
 3560 Cty Rd 26
 Prescott, ON KOE 1X0

DATE ISSUED: _____

ISSUED TO _____

ADDRESS: _____

An inspection has revealed that a provision or provisions of a municipal by-law is being contravened. You are hereby directed to correct the following violation(s) within _____ days/hours. Charges MAY be forthcoming if the violation is not corrected within the time shown above. This Order DOES NOT authorize continuance of the violation(s).

MUNICIPAL BY-LAW	VIOLATION(S)

If you wish to discuss this matter further with the officer, please contact the undersigned at (613)925-4231.