

The Corporation of the Town of Parry Sound

By-law 2012 - 6074

Clean Yards By-law

Consolidated By-law - Reference copy only

Being a By-law to regulate the filling, draining, cleaning and clearing of premises within the municipality and to repeal By-laws 2007-5058 and 2009-5350.

Whereas pursuant to section 10(2) of the Municipal Act, S.O. S001, c.25 as amended, provides that a single-tier municipality may pass by-laws respecting to health, safety and well-being of persons; also, for the economic, social and environmental well-being of the municipality;

And Whereas pursuant to section 127 of the Municipal Act, S.O. S001, c.25 as amended provides that a local municipality may:

- a) 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;
- b) regulate when and how matters required under clause (a) shall be done
- c) define "refuse" for the purpose of section 127 of the Act.

And Whereas pursuant to section 446 of the Municipal Act, S.O. S001, c.25 as amended, a municipality may enact a by-law to require that a matter or 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;

And Whereas pursuant to section 445 of the Municipal Act, S.O. S001, c.25 as amended, a municipality may make an order requiring a person who contravene the by-

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law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention. The order shall set out:

- a) Reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred ; and
- b) The work to be done and the date by which the work must be done.

And Whereas pursuant to section 390 of the Municipal Act, S.O. S001, c.25 as amended, authorize a municipality to impose fees or charges on persons for services or activities provided or done by or on behalf of it.

And Whereas the Corporation of the Town of Parry Sound declares that “refuse” as defined in this by-law is a public nuisance and health and safety concern within the definition of section 128 of the Municipal Act, S.O. S001, c.25 as amended and this opinion is arrived at in good faith;

And Whereas the Corporation of the Town of Parry Sound deems it necessary to pass a By-law to provide for maintaining lands in a drained, clean and clear condition.

Now Therefore The Council Of The Corporation Of The Town Of Parry Sound Enacts As Follows:

Part 1 - Definitions

- a) “Clean” shall mean the removal and disposal of refuse as defined in this By-law, from any property within the boundaries of the Town of Parry Sound.

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- b) "Clear" shall have the same meaning as "Clean", as defined in this By-law.
- c) "Debris" shall have the same meaning as "Refuse", as define in this By-law.
- d) "Domestic Waste" means any article, thing matter or any effluent belongings to or associated with a house or household or concerning or relating to the home or family and for greater certainty, but not so as to restrict the generality of the foregoing includes:
- Accumulation, deposits, leavings, litter, remains, rubbish, garbage, trash;
 - Refrigerators, freezers, or other appliances, or any part thereof;
 - Furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks or any part thereof;
 - Motor vehicles, motor cycles, snowmobiles, bicycles, trailers, boat or vessels, all terrain vehicles which are in a wrecked discarded, inoperative or dismantled condition, in whole or in part and their components parts;
 - Paper, cartons, fabrics or carpets
 - Furniture such as beds, bed springs, mattresses, tables, chairs and their components parts;
 - Crockery;
 - Sewage;
 - Salvage materials;
 - Waste materials.
- e) "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 materials or salvage material; and for greater certainty, but not so as to restrict the generality of the foregoing includes:

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- Articles, things, matters, 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, steel, aluminum, or other ferrous or non ferrous materials or alloy, or chemical products, whether or not the products are manufactured or otherwise processed.
 - Automotive parts, inoperative motor vehicles, batteries, vehicle parts, mechanical equipment, mechanical parts, accessories or adjuncts to the vehicles and mechanical equipment or any part thereof;
 - Piping, tubing, conduits, cable and fittings or other accessories, or adjuncts to the piping, tubing conduits or cable.
 - Containers of any size, any type or any composition
 - Material resulting from, or as part of, construction or demolition projects;
 - Rubble, inert fill;
 - Bones, feather, hides;
 - Sewage;
 - Salvage material;
 - Waste material
- f) “Inoperative motor vehicle” means a vehicle having missing parts, including tires or damaged or missing glass or deteriorated or removed metal adjunctions, which prevent its mechanical functions or which does not have a current valid permit issued by the Ministry of Transportation.
- g) “Municipality” shall mean the Corporation of the Town of Parry Sound.
- h) “Natural Garden” shall mean any vegetation growth that has been deliberately planted to produce ground cover, including one or more species of wildflower,

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shrubs, perennials, grasses or any combination whether native or non-native, consistent with a managed and natural landscape other than regularly mown grass.

- i) "Officer" shall mean a Municipal Law Enforcement Officer appointed or directed by Council for the enforcement of the By-laws of the municipality.
- j) "Owner" shall mean the person or persons appearing on the municipal tax assessment roll or property tax account and persons having lawful title to the land and includes "person" as defined in this By-law.
- k) "Person" in addition to its regular meaning, includes a business, corporation or any director, officer, or manager of a business or corporation and includes the owner or tenant or lessee or person in charge or person collecting the rent of any property, or any other person who is the occupier of the property.
- l) "Premises" means any grounds, yard or vacant lot.
- m) "Property" means a building or structure or part of a building or structure and includes lands and premises appurtenant thereto.
- n) "Remedial Action" shall mean the pickup, removal, and disposal of refuse from any property within the boundaries of the Town of Parry Sound by the municipality or its agent, including all associated costs.
- o) "Refuse" includes "Debris", "Domestic Waste", "Industrial Waste" and "Waste Material" as defined in this By-law.
- p) "Waste Material" means material or effluent that in the opinion of the Officer:

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- Appears to have been cast aside or discarded or abandoned, whether it is or not; or
- Appears to be worthless or useless or of no practical value whether it is or not; or
- Appears to be used up, in whole or in part, or expended or worn out in whole or in part;

Notwithstanding that the owner of such material intends to repair or render it fit for a useful purpose.

Part 2 - General Provisions

1. Every owner shall keep his/her premises drained of standing or stagnant and free, clean and clear of all refuse, of any kind.
2. For the purpose of subsection 2.1 “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, trimming, cutting of vegetation other than weeds and grass that have become unreasonably overgrown in a fashion that may affect safety, visibility or the passage of the general public.
3. Notwithstanding section 2.2 a natural garden shall be exempt from the provisions in this By-law
4. Subsection 2.1 does not apply to:
 - a) land or structures used by the municipality or any other government authority for purpose of dumping or disposing of garbage or refuse;
 - b) the outdoor storage of articles or things which are included in the definition of refuse when such articles or things are permitted to be stored outside by the Town of Parry Sound Zoning By-law.

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Part 3 - Notice of Violation

1. An Officer may require the owner by a Notice of Violation, sent by registered mail, to the owner of the premise, or posting the Notice of Violation in a conspicuous place at the premise or by delivering the Notice of Violation personally to the owner:
 - a) To clean, clear or remove from the premise refuse of any kind;
 - b) To cease using the premise for the dumping or disposing of refuse of any kind;
 - c) To cover over, screen, shield or enclose refuse in the manner prescribed by the Officer;
 - d) To drain, or fill up any hole, excavation or depression on the premise.
2. Every Notice of Violation sent, shall be sent to the address shown on the last revised assessment roll or the last known address.
3. Every Notice of Violation sent by the Officer shall identify the premise, land or structure.
4. Where a person is served with a Notice of Violation and wishes to appeal the contents of the Notice, they may file an appeal by sending a Notice of Appeal by registered mail or in person to the secretary of the Property Standards Committee within 14 days of the Notice of Violation being issued.
5. The Property Standards Committee shall hear the appeal of appellant in regards to the Notice of Violation issued under this By-law and upon hearing all the evidence at the Appeal may:
 - a) Confirm the Notice of Violation
 - b) Modify or rescind the Notice of Violation
 - c) Extend the time for complying with the Notice of Violation

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Part 4 - Entry on Premises

1. An Officer may enter at all reasonable times upon any premises or property to ascertain whether the provisions of this By-law are obeyed and to enforce and carry into effect the provisions of this By-law.
2. No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer from carrying out inspections of premises or property to ensure compliance with this By-law.
3. An Officer must upon request, display or produce proper identification.

Part 5 - Default

1. Where the owner is in default of doing the matter required to be done under this By-law, the Director or his designate, may have the matter done and the cost thereof, including an administration fee, shall be added to the property tax rolls of the owner and collected in the same manner as municipal taxes.
2. Where the owner is in default of doing the matter required to be done under this By-law, the Officer may impose fees for inspections in accordance with Fees and Service Charge By-law.

Part 6 - Penalty

1. Every person convicted of a breach of the provisions of this By-law shall be guilty of an offence.
2. Every person who is convicted of an offence under this By-law shall be subject to a fine of not more than five thousand dollars (\$5,000.00) for each offence. Such fines shall be recoverable under the Provincial Offences Act, R.S.O. 1990, Chapter P.22, as amended.

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Part 7 - Liability

1. The municipality 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 8 - Severability

1. If a court of competent jurisdiction declares any section or part of this By-law invalid, the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

Part 9 - Repealed

1. By-laws 2007-5058 and 2009-5350 and are hereby repealed.
2. This By-law shall come into force and take effect upon the final passing thereof.

Read a First time this 7th day of February, 2012

Mayor

Clerk

Read a Second and Third time, Passed, Signed and Sealed

this day of _____, 2012

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Mayor

Clerk