

Corporation of the Township of
Algonquin Highlands
By-Law 2023-11

**Being a By-law to Provide for Maintaining Land in a Clean, Clear and Safe
Condition within the Township of Algonquin Highlands**

Whereas Subsection 5(3) of the Municipal Act, 2001 S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

And Whereas Section 127 of the Municipal Act, 2001 S.O. 2001, c.25, as amended, provides that a 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 for regulating when and how such matters shall be done and for defining "refuse";

And Whereas Section 128 of the Municipal Act, 2001 S.O. 2001, c.25, as amended, provides that a municipality may 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 any person who contravenes a by-law of the municipality passed under the Municipal Act, 2001 is guilty of an offence and section 429 thereof provides that a municipality may establish a system of fines for offences under a by-law;

And Whereas Section 436 of the Municipal Act, 2001 S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out inspections to determine compliance with a by-law, or an order made under a by-law, or court order made under Section 431 of the Municipal Act, 2001 S.O. 2001, c.25, as amended;

And Whereas Sections 444 and 445 of the Municipal Act, S.O. 2001, c.25, as amended, provide that, if a municipality is satisfied that a contravention of a by-law passed under the Municipal Act, 2001 has occurred, the municipality may 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 to do work to correct the contravention;

And Whereas Section 446 of the Municipal Act, 2001 S.O. 2001, 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 Section 391 of the Municipal Act, 2001 S.O. 2001, c.25, as amended, provides that a municipality may impose fees or charges on persons for services or activities provided by or on behalf of it, and for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board;

Now Therefore the Council of the Township of Algonquin Highlands hereby enacts the following:

Part 1 - Short Title

1.1 The short title of this By-law is the "Clean & Clear By-law".

Part 2 - Definitions

In this By-law:

- 2.1 **Accessory Building or Structure:** means a detached building or structure, not used for human habitation that is subordinate to the primary use of the same property; but does not include a dwelling.
- 2.2 **Act:** means an enactment or Statute of the Province of Ontario.
- 2.3 **Artificial Body of Water:** means a body of water created by human activity and may include a swimming pool, hot tub, wading pool or artificial pond, but does not include a natural body of water.
- 2.4 **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 established by the Township's Fees and Charges By-law.
- 2.5 **Composting:** is a controlled, aerobic (oxygen-required) process that converts organic materials into dark soil like material (humus) or mulch through biological decomposition.
- 2.6 **Council:** shall mean the Council of the Corporation of the Township of Algonquin Highlands.
- 2.7 **Derelict or Inoperable Vehicle:** means a vehicle that is inoperable, in a wrecked, dismantled, partially dismantled, or abandoned condition, having missing parts, including, but not limited to: tires, damaged or missing glass, deteriorated or removed metal components, which prevents its mechanical function, or which does not have a valid licence plate issued by the Ministry of Transportation. This includes commercial and industrial vehicles and equipment, snowmobiles, motorcycles, all-terrain vehicles, recreational travel trailer, boats, marine equipment, and utility trailers.
- 2.8 **Farm:** means any farming or agricultural use as defined in the Township of Algonquin Highlands Comprehensive Zoning By-law, as amended.
- 2.9 **Fence:** means any structure, wall or barrier, for the purpose of defining boundaries of property, separating open space, restricting ingress to or egress from property, providing security or protection to property or acting as a visual or acoustic screen.
- 2.10 **Forested:** means a full or partial cover of land with forest; plants and trees.
- 2.11 **Ground Cover:** means organic or non-organic material and includes concrete, flagstone, gravel, asphalt, grass or other form of landscaping.
- 2.12 **Naturalized Area:** means land or portion of lands, or yard containing vegetative growth which may or may not have been previously maintained by the owner, which has been allowed to, or has been deliberately implemented to, re-establish a reproducing population of native species, through natural regeneration and/or deliberate plantings of species or other species to emulate a natural area other than regularly mown grass.
- 2.13 **Natural Body of Water:** means a creek, stream, bog, marsh, river, pond or lake created by the forces of nature, and which contains water.

- 2.14 **Occupant:** means any Person over the age of eighteen (18) years in possession of the Property.
- 2.15 **Officer:** means a Municipal Law Enforcement Officer, a Police Officer, Chief Building Official, or any other Person appointed by By-law to enforce the provisions of this By-law.
- 2.16 **Owner:** means the owner, authorized agent, lessee, or the occupier of the premises.
- 2.17 **Person:** means and includes any person, firm, partnership, corporation, company, association, or organization of any kind.
- 2.18 **Portable Garage Shelter:** means a collapsible structure covered with plastic or fabric, used for the purpose of temporarily storing vehicles and/or covering of articles.
- 2.19 **Property:** means a building or structure or part of a building or structure and includes the lands and premises appurtenant thereto including a yard and vacant land.
- 2.20 **Refuse:** means any waste, debris, article, thing, matter or effluent that: has been cast aside, discarded or abandoned; or is used up or worn out in whole or in part, or appears to be worthless, useless or of no practical value; and for greater certainty, but not so as to restrict the generality of the foregoing terms, refuse extends to the following classes:
- (a) branches, brush, cut limbs, tree clippings, decaying wood;
 - (b) paper, paper cartons, and other paper products;
 - (c) appliances, including refrigerators, stoves, dishwashers, microwaves, freezers, washers, dryers or any part or parts of such things;
 - (d) electronic devices, including televisions, computers and related components, radios, amplifying devices, speakers, audio and visual players and any parts of such things;
 - (e) furnaces or furnace parts, air-conditioners, ducting, pipes, heat pumps, fittings and wire;
 - (f) water or fuel tanks;
 - (g) inoperative or derelict motor vehicles, motor vehicle parts or accessories of such items;
 - (h) inoperative bicycles, lawnmowers, engines and mechanical equipment, and tools;
 - (i) accumulations, deposits, leavings, litter, remains, rubbish or trash of any sort, whether animal, mineral or vegetable;
 - (j) broken, dilapidated or discarded furniture and/or indoor furniture;
 - (k) crockery, dishes, pots and pans, and small kitchen appliances;
 - (l) animal feces and waste products, hides, parts of carcasses other than those arising from industrial or agricultural businesses legally operating on the property;
 - (m) sewage;

- (n) construction, demolition, repair or renovation debris, scrap lumber and/or left over debris from such work;
- (o) accumulation of broken concrete, asphalt pavement, brick pavers and sidewalk slabs;
- (p) miscellaneous plastic, wood or metal parts, or combinations of such materials; and
- (q) discarded clothing.

Refuse as defined in this By-law does not cease to become Refuse by reason only that it may be commercially saleable or recyclable.

- 2.21 **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.
- 2.22 **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.
- 2.23 **Sewage:** including grey water, means any liquid waste, containing human, animal, vegetable or mineral matter in suspension or solution but does not include roof water or runoff.
- 2.24 **Township:** means the Corporation of the Township of Algonquin Highlands.
- 2.25 **Turfgrass:** shall mean ground cover of various perennial grasses grown for lawns, of a type that forms a dense, uniform turf if mown.
- 2.26 **Vacant Land:** means lands with no building(s) or having no land use established.
- 2.27 **Vehicle:** includes a motor vehicle, trailer, boat, motorized snow vehicle or other mechanical power-driven equipment, whether operational or not.
- 2.28 **Vehicle Parts:** means and shall include any component or element, whether operatable or not, used in assembly, construction, maintenance, or repair of a vehicle.
- 2.29 **Yard:** means land, other than publicly owned land, around and appurtenant to the whole or any part of a building and used or capable of being used in connection with the property.
- 2.30 **Yard Maintenance:** means keeping a portion of a yard containing vegetative growth, in a healthy, clean, and safe condition, which includes, turfgrass and lawn areas that have been historically mowed or deliberately manicured using hand labour and light equipment to carry out ground cover management, undertaken by a person in connection with the normal maintenance and repair of property. Yard Maintenance may include but is not limited to, lawn mowing, pruning, weeding, natural fertilization and planting.
- 2.31 **Zoning By-law:** means the Comprehensive Zoning By-law, as amended, of the Township of Algonquin Highlands.

Part 3 – General Provisions Applicable to all Properties

- 3.1 Every owner or occupant of property within the Township of Algonquin Highlands shall keep and maintain the property in a clean and clear condition, free from refuse of any kind.
- 3.2 No person shall permit refuse to remain on any property within the Township.
- 3.3 No person shall throw, place or deposit any refuse on Township property without the written authority of the Township of Algonquin Highlands.

Part 4 – Property Maintenance

Yards

- 4.1 Every owner or occupant of property shall ensure the property, including vacant land is maintained free of:
 - (a) refuse, household garbage, rubbish, litter, waste and other debris;
 - (b) dead, decaying or damaged trees, branches, hedges, limbs and brush or other similar growth where it may create an unsafe condition;
 - (c) objects, holes or conditions that might create a health, fire, or accident hazard;
 - (d) injurious insects, termites, rodents, vermin and other pests; and any condition which may promote an infestation;
 - (e) noxious weeds pursuant to the Weed Control Act;
 - (f) garden refuse, trimmings, weeds and composting heaps that are not appropriately contained including tree and brush cuttings;
 - (g) turfgrass and lawn areas shall be kept trimmed, not to be overgrown or in an unsightly condition; and shall not exceed 20 cm (8 inches) in height, whether dead or alive;
 - (h) accumulation of animal excrement;
 - (i) wrecked, dismantled, inoperative, discarded, unlicensed or abandoned vehicles, trailers, boats, machinery or parts thereof; except in an establishment licensed or authorized to conduct a salvage, wrecking or repair business and then only if such establishment conforms with any relevant By-laws, Chapters or Statutes;
 - (j) dilapidated or collapsed portable garage shelters;
 - (k) all furniture or appliances used for exterior use that become dilapidated; and
 - (l) all furniture or appliances designed for interior use.

4.2 Composting

- 4.2.1 No owner or occupant of a property shall permit:
 - (a) composting to emit odours on a property, which would reasonably disturb neighbouring properties;
 - (b) composting to attract animals, rodents, or vermin.

4.3 Naturalized Areas

- 4.3.1 Every owner or occupant of property that contains a naturalized area shall ensure that the naturalized area does not encroach over or onto any adjacent property.

Part 5 – Surface Water and Drainage

- 5.1 Every owner or occupant shall ensure that exterior property areas are graded and maintained in such a manner so as to prevent the excessive or recurrent ponding of storm water or surface water.
- 5.2 Every owner shall keep the land free of containers or debris capable of holding standing water in such a manner as to be exposed to the breeding of and/or larvae growth of insects.
- 5.3 Every owner shall ensure that any artificial body of water is maintained in proper operating condition, and in good repair.

Part 6 - Vacant Land

- 6.1 Every owner of vacant land shall ensure lands are maintained to the standards as described in Part 4 of this By-law.
- 6.2 Every owner shall ensure that vacant lands are graded, filled, or otherwise drained to prevent recurrent ponding of water.
- 6.3 Every owner shall ensure that no vehicles or vehicle parts, machinery, mechanical parts, trailers, recreational vehicles, boats, and any parts thereof, are left or stored on vacant lands.

Part 7 - Exemptions

- 7.1 The following exemptions apply with respect to the requirements of this By-law:
- (a) Section 4.3 does not apply to a naturalized area such as shoreline vegetation, property zoned for agricultural use or normal farming practices, township property including road allowances when dealing with grass greater than 20 cm (8 inches);
 - (b) Shoreline areas shall remain in a naturalized state where applicable under federal, provincial and/or municipal legislation, as amended;
 - (c) Section 4.1 (g) does not apply to vacant lands which are in an unspoiled, natural state when dealing with turfgrass greater than 20 cm (8 inches);
 - (d) Section 4.1 (i) does not apply to a maximum of two (2) derelict vehicles from being repaired on a Rural (RU) Zone property provided that, there are only two (2) vehicles being actively repaired and; they are not visible from the street or from abutting lots.
 - (e) Section 5.0 does not apply to a natural body of water;
 - (f) Section 6.2 does not apply to natural, undisturbed vacant land;

- (g) Property located in the following zones, as designated in the Township Zoning By-law, shall be exempt from the provisions of this By-law except for Section 3.0 when dealing with Refuse;
- I. Farm and agricultural uses within a permitted zone;
 - II. Environmentally protected areas zoned, EP1, EP2 and EP3;
 - III. Forested areas.
- (h) Township owned property zoned M1, M2, M2A, and M3 shall be exempt from the provisions of this By-law;
- (i) This By-law does not apply to land owned by the Government of Canada, Province of Ontario, or the County of Haliburton.

Part 8 - Administration and Enforcement

- 8.1 This By-law shall apply to all property within the limits of the Township.
- 8.2 A Municipal Law Enforcement Officer, Police Officer, Chief Building Official or any other person as appointed under By-law by the Council of the Township, shall enforce the provisions of this By-law.
- 8.3 The imperial measurements contained in this By-law are given for reference only.
- 8.4 An Officer may, at any reasonable times, enter upon land and into buildings (excluding dwellings unless consent or a search warrant is granted) for the purpose of carrying out an inspection, taking photographs and obtaining evidence to determine whether the property complies with this By-law under the authority of Section 436 of the Municipal Act. An Officer may seek a search warrant under extraordinary circumstances and in consultation with management and the CAO. An Officer may be accompanied by other Township of Algonquin Highlands employees or an agent for this purpose.
- 8.5 Where an Officer has confirmed that a property is not maintained in accordance with the requirements of this By-law, the Officer may, in addition to verbally directing the owner to bring the property into compliance, serve the owner or occupant with a notice of violation or an order in writing directing the owner to bring the property into compliance with the By-law requirements and a copy of the order may be posted on the property. Every Person shall comply with an order issued under the authority of this By-law.
- 8.6 Notwithstanding Section 8.5, the Officer may make an order indicating:
- (a) to clean and clear-up the property and bring the property into compliance with this By-law;
 - (b) the time for complying with the order;
 - (c) the required action(s) for compliance;
 - (d) notice that if the order is not complied with, within the prescribed time noted in the order, the Township may carry out the required remedial action at the owner's expense; and
 - (e) notice that the cost of the remedial work plus any administration fees may be recovered by adding the amount to the tax roll for the property.
- 8.7 A written notice or order to the owner or occupant of a property may be served personally upon the owner or occupant of the property or sent by registered mail to the last known address of the owner or occupant according to the current tax assessment rolls. If sent by registered mail, the notice shall be deemed to have been served on the fifth (5th) day after mailing.

- 8.8 Where an owner or occupant, having been served with an order in the manner described in Section 8.5, fails to comply with the notice or order within the time specified, an officer, employee or agent may, upon producing appropriate identification when so requested, enter onto the property at a reasonable time and carry out any or all of the work required to bring the property into compliance with this By-law and every owner or occupant shall comply.
- 8.9 Where the owner or occupant fails to comply with an order, the Corporation of the Township of Algonquin Highlands may cause the property to be repaired in accordance with such order, and the Township or a person acting on its behalf is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the Township in the reasonable exercise of its powers.
- 8.10 Any items, articles or materials removed from a property during a clean-up conducted by the Township, or an agent of the Township may be immediately disposed of by the Township or the agent of the Township without further notice to the property owner or occupant.
- 8.11 Upon completion of the work necessary for compliance with the order under Section 8.5, the Township of Algonquin Highlands shall have a lien on the property for the amount spent on the remedial work and such costs, including an administration fee. The amount including the administrative fee shall have priority lien status, which means the total amount may be added to the tax roll for the property and collected in the same manner as property taxes.

Part 9 – Continuing Offence

- 9.1 Each day that a situation as described in Sections 3 through 6 of this By-law is allowed to continue, shall constitute a separate offence under this By-law and any Judge or Justice of the Peace adjudicating on such matter may assess a separate fine for each and every day that such situation has been allowed to continue.

Part 10 - Obstruction

- 10.1 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.
- 10.2 Any 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 identify upon request shall be deemed as obstruction of the officer.

Part 11 - Penalty Provisions

- 11.1 Every person who contravenes any provision of this By-law:
- (a) may be given a Penalty Notice in accordance with the Township of Algonquin Highlands Administrative Monetary Penalty By-law (AMPS By-law) and be liable to pay the Township the Administrative Penalty on the amount specified by the Administrative Penalty By-law, for each day or part of a day which the contravention continues; or
 - (b) Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction be liable to fines as provided for in the Provincial Offences Act R.S.O. 1990, c. P. 33, as amended.
- 11.2 If this By-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

Part 12 - Validity and Severability

- 12.1 If a court of competent jurisdiction declares any provision or provisions of this By-Law invalid, such provision or provisions are deemed severable, and it is the intention of Council that the remainder of the By-law remain in full force and effect.
- 12.2 Where a provision of this By-Law conflicts with the provision of another By-Law in force within the Township, the provisions that establish the higher standards to protect the health, safety and welfare of the general public shall prevail.

Part 13 - Transitional Rules

- 13.1 After the date of the passing By-Law 2001-26 is hereby repealed.
- 13.2 Any notice or order issued, proceeding being conducted, or other action being carried out under By-Law 2001-26 is deemed to continue under this By-Law.
- 13.3 This By-Law shall come into force and effect on the 20th day of April 2023.

READ a First, Second and Third time and finally passed this 20 day of April 2023.

Mayor Liz Danielsen

Clerk Dawn Newhook