

**THE CORPORATION OF THE
TOWNSHIP OF SOUTH GLENGARRY
BY-LAW 11-2020
FOR THE YEAR 2020**

***BEING A BY-LAW TO PROVIDE FOR THE MAINTENANCE OF LAND
IN A CLEAN, CLEAR AND SAFE CONDITION***

WHEREAS, the *Municipal Act*, 2001, c.25 S 5 (1) provides that the powers of a municipal corporation are to be exercised by its council;

AND WHEREAS the *Municipal Act*, 2001, c. 25 S. 5(3) provides that the powers of every council are to be exercised by by-law.

AND WHEREAS Section 8 of the *Municipal Act*, 2001, S.O. 2001, c.25 (hereinafter referred to as the "*Municipal Act*") provides that the powers of a municipality under the *Municipal Act* or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 9 of the *Municipal Act* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the *Municipal Act* or any other Act;

AND WHEREAS pursuant to Section 11(2) of the *Municipal Act*, a municipality may pass by-laws respecting the environmental well-being of the municipality, the health, safety and well-being of the persons and the protection of persons and property;

AND WHEREAS pursuant to Section 127 of the *Municipal Act*, a municipality may define what constitutes debris and refuse and may require the owner or occupant of land to clean and clear land, to clear refuse or debris from the land, to regulate how cleaning and clearing is to be done and to prohibit the depositing of refuse or debris without the consent of the owner or occupant of the land;

AND WHEREAS pursuant to Section 128 of the *Municipal Act*, 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 pursuant to Section 131 of the *Municipal Act*, 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 pursuant to Section 425 of the *Municipal Act*, 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;

AND WHEREAS pursuant to Section 426 of the *Municipal Act*, 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 Act or under a by-law passed under this Act;

AND WHEREAS pursuant to Section 436 of the *Municipal Act*, a By-Law Enforcement Officer may enter upon any land at any reasonable time for the purpose of carrying out an inspection to determine compliance with this by-law;

AND WHEREAS pursuant to Section 446(1) of the *Municipal Act*, a municipality may direct or require a person to do a matter or thing and that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

AND WHEREAS pursuant to Section 446(3) of the *Municipal Act*, a municipality may recover the costs of doing a matter or thing under subsection (1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

NOW THEREFORE the council of the Corporation of the Township of South Glengarry hereby enacts the following as a by-law;

SHORT TITLE

This by-law may be referred to as the "Clean Yard By-Law".

PART 1 - DEFINITIONS

1.1 In this by-law;

- a) "Boulevard" means that portion of a highway between the Town property line and roadway, which is not used or intended for use for vehicular travel by the general public and includes any landscaped areas that are separated from private property by sidewalks.
- b) "Buffer Strip" means a maintained clearance of 1.5m from the property line.
- c) "Compost" means the natural decomposition of organic materials to produce humus in a compost container, pile or digester.
- d) "Council" means the Council for the Corporation of the Township of South Glengarry
- e) "Derelict Motor Vehicle" means a motor vehicle having, missing, or damaged components or parts, including tires, bodywork or glass or a motor vehicle that does not bear a valid licence plate including a current validation sticker.
- f) "Domestic Waste" means any debris, rubbish, refuse or garbage of any type arising from the subject residence, belonging to or associated with the subject house or use of the subject house or residential property, including but not limited to garbage, discarded material or things, yard waste, broken or dismantled things and materials or things exposed to the elements and deteriorating or decaying on a property due to exposure to the weather.
- g) "Forested" means a full or partial cover of land with forest; plants and trees.
- h) "Ground Cover" means one or more species of grass or suitable vegetation.
- i) "Industrial Waste" means any debris, rubbish, refuse or garbage of any type arising from an industrial or commercial operation, or belonging to or associated with industry or commerce or industrial or commercial property including but not limited to garbage, discarded material or things, broken or dismantled things, yard waste, materials or things exposed to the elements and deteriorating or decaying on a property due to exposure to the weather.
- j) "Landscape Feature" means a fence, retaining wall, gazebo, trellis and similar decorative features.

- k) "Manager" means the Township's Manager of Municipal Law Enforcement and his or her designate or successor;
- l) "Motor Vehicle" means an automobile, truck, motorcycle, snowmobile, trailer, recreational vehicle and any other vehicle propelled or driven by other than muscular power, but does not include the cars of an electric or steam railway or other vehicles running solely upon rails or a traction engine, farm tractor, self-propelled implement of husbandry or road building machine within the meaning of the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended.
- m) "Naturalized Area" means a natural or ecological succession when land is not mowed, ploughed or cut, with the absence of noxious weeds. For the purposes of this By-Law a Naturalized area refers to vacant lots.
- n) "Normal Farm Practice" refers to the definition in the Farming and Food Production Act.
- o) "Noxious weed" means a plant that has been listed in the Schedule of Noxious Weeds found in Regulation 1096 made under the Weed Control Act.
- p) "Officer" means an officer of the Township responsible for enforcement of by-laws.
- q) "Owner" means the registered owner of land, the owner in trust, a mortgagee in possession and includes a person, firm, partnership, corporation, company, association or organization of any kind and its principal(s).
- r) "Principal Building" means a building which, by reason of its use, constitutes the primary purpose for which the lot is used.
- s) "Property" means any land within the Township of South Glengarry including yards and vacant lots.
- t) "Rural Settlement Areas" means all areas as defined by the Township's Comprehensive Zoning By-Law.
- u) "United Counties" means the United Counties of Stormont, Dundas and Glengarry.
- v) "Urban Settlement Area" means all areas as defined by the Township's Comprehensive Zoning By-Law.
- w) "Waste" means a substance or material that is unusable or unwanted and includes but is not limited to:
 - (i) animal feces;
 - (ii) broken or discarded material;
 - (iii) disconnected appliances and parts of such appliances;
 - (iv) firewood not stacked neatly;
 - (v) indoor furniture;
 - (vi) inoperative machinery, inoperative motor vehicles, parts of such machinery not packaged for immediate shipment or parts of vehicles not packaged for immediate shipment;
 - (vii) material resulting from construction, demolition, repair or renovation projects,
 - (viii) piping, ducting, tubing, conduits, cable, wire and fittings or related accessories not packaged for immediate shipment;
 - (ix) torn or cut twigs or branches;
 - (x) waste lumber,

- (xi) domestic, yard, or industrial waste.
- x) "Yard" means the land other than publicly owned land around or appurtenant to the whole or any part of a residential or non-residential property and used or capable of being used in connection with the property.
- y) "Yard Waste" includes grass clippings, trees or parts thereof, brush and leave.

PART 2 - GENERAL PROVISIONS

Vegetation

- 2.1** Every owner or occupant of property shall keep vegetation in the yard of their property clean and cleared up.
- a) Paragraph 2.1 does not apply to any normal farm practice.
 - b) For the purposes of paragraph 2.1, to "clean" or "clear up" means:
 - i. For property located inside Rural and Urban Settlement Areas to keep all vegetation cut to a height of equal to or less than 20 cm, except:
 - 1. ornamental plants;
 - 2. shrubs or trees;
 - 3. cultivated fruits or vegetables;
 - 4. plants buffering or otherwise protecting a natural feature such as
 - a watercourse; or
 - 5. naturalized areas.
 - ii. Notwithstanding section 2.1 b) i all Naturalized areas shall maintain a buffer strip equal to or more than 1.5m from all property lines cut to a maximum of 20cm.
 - iii. For property of 2.5 hectares or less that is developed or a vacant property of 4000m² or less, located in any zone outside of those mentioned in subparagraph 2.1 b) i. to keep all vegetation within 1.5m of the property line cut to a height of equal to or less than 20cm, except;
 - 1. ornamental plants;
 - 2. shrubs or trees;
 - 3. cultivated fruits or vegetables; or
 - 4. plants buffering or otherwise protecting a natural feature such as a watercourse;
 - 5. forested area of property.
 - iv. to remove all noxious weeds; and
 - v. to maintain the yard so as to prevent instability including but not limited to the erosion of the soil.

Waste

- 2.2** Every owner or occupant of a property shall keep the yard of their property free and clear of all waste.

- a) Every owner or occupant of property shall keep the boulevard adjacent to their property free and clear of all domestic waste.
 - b) Every owner or occupant of a property shall keep all hedges and trees adjacent to a public sidewalk or roadway cut and trimmed to allow safe unhindered passage.
- 2.3** No person shall use the yard of any property within the Township for depositing of any waste.
- 2.4** Subject to paragraph 2.4 paragraphs 2.2 and 2.3 do not apply to:
- a) property used by the Township for the purpose of depositing waste; or
 - b) property used for the purpose of depositing waste under federal, provincial or municipal authority.
- 2.5** No person other than the Township or a person with federal, provincial or municipal authority shall deposit waste on property described in subparagraph 2.4 b).
- 2.6** Every owner or occupant of a property shall ensure that all waste which accumulates on their property is:
- a) when not placed out for collection in accordance with applicable Township by-laws, in containers:
 - i. made of rigid, watertight construction;
 - ii. provided with a tight-fitting cover, which may be removed only when the container is empty or is being actively loaded;
 - iii. maintained in good condition without holes or spillage; and
 - iv. closed, or emptied, rinsed and cleaned when not in use, to prevent the escape of offensive odour or waste; and
 - v. kept in a side or rear yard located against a building, structure, fence or retaining wall and arranged in an orderly manner; and
 - b) not allowed to accumulate for longer than 14 days.
 - c) Notwithstanding section 2.6, all waste accumulated on a property due to construction may be properly disposed of in a dumpster or similar container for the duration of a building permit or to a maximum of 3 months for construction where a permit is not required; unless otherwise authorized by the Manager due to the type of construction.

Compost

- 2.7** No owner shall establish one or more compost piles or structures except in accordance with the following:
- a) the compost pile or structure is for the sole use of the owner or occupant of the property on which the compost pile or structure is located;
 - b) that only acceptable compostable material as outlined by the Ontario Ministry of the Environment and local health authorities are placed within the compost pile or structure;

- c) the compost pile or structure is no larger than 1 square metre (10 square feet) in area or 1.8 metres (6 feet) in height;
- d) the compost pile or structure is not located in any front yard as defined in the Township Zoning By-Law and not located closer than 0.6 metres (2 feet) from any side or rear property line;
- e) the compost pile or structure is enclosed on all sides by concrete block or lumber or a similar material or within a commercial plastic container designed for composting;
- f) the compost material is kept covered with yard waste, soil or humus at all times;
- g) the compost pile or container is maintained so as to not attract vermin or animals or create a nuisance by way of offensive odours.

Drains

- 2.8 Every owner or occupant of property on which there is a private drain shall keep their drain operational and in good repair.
- 2.9 No owner or occupant of property shall obstruct or permit the obstruction of a private drain on their property.
- 2.10 No owner or occupant of property shall obstruct, or cause or permit the obstruction of a watercourse on their property.

Swimming Pool, Hot Tub, Artificial Ponds

- 2.11 Every owner or occupant of property shall ensure that water from a swimming pool, hot tub, artificial pond, rain barrel or similar water container is not drained on to an adjacent property.
- 2.12 Every owner or occupant of property containing a swimming pool, hot tub, wading pool or artificial pond shall maintain such swimming pool, hot tub, wading pool or artificial pond in good repair and working condition and free of standing water.

Unsafe or Hazardous Conditions

- 2.13 Every owner or occupant of property shall ensure that any well, cistern, cesspool, privy vault, pit or excavation:
 - a) in active use, is secured by a fence with a warning sign;
 - b) not in active use, is permanently sealed or secured by a fence, cover or other means.
- 2.14 Every owner or occupant of property shall keep the surfaces of steps, walks, driveways, parking spaces and similar areas of their property maintained and free of snow and ice so as to afford safe passage under their normal use.
- 2.15 Every owner or occupant of property shall keep the yard of their property clean and free from any objects or conditions that might create a health, fire or accident hazard or an unsafe condition.

PART 3 - ADMINISTRATION AND ENFORCEMENT

- 3.1** This by-law shall be enforced on a basis of written complaints, unless the Manager is aware of an obvious unsafe condition warranting correction.
- 3.2** The Manager will not inspect the entire premises or suite but will inspect only those items which are the subject of the written complaint.
- 3.3** Notwithstanding 3.2, the Manager may inspect other areas or items believed to be unsafe.
- 3.4** The Manager is authorized to administer and enforce this By-law including but not limited to:
- a) arranging for:
 - i. the assistance or work of Township staff, or Township agents;
 - ii. the making of orders or other requirements and the imposition of conditions as authorized under this By-law;
 - iii. the obtaining of court orders or warrants as may be required;
 - iv. the commencement of such actions on behalf of the Township to recover costs or restrain contravention of this By-law as deemed necessary; and
 - b) prescribing the format and content of any forms or other documents required under this By-law.
- 3.5** The Manager may assign Officers to enforce this By-law and Officers so assigned or appointed by Council to enforce this By-law shall have the authority to:
- a) carry out inspections;
 - b) make orders or other requirements as authorized under this By-law; and
 - c) give immediate effect to any orders or other requirements made under this By-law.
- 3.6** The Manager may assign duties or delegate tasks under this By-law to be carried out in the Manager's absence or otherwise.

Entry and Inspections

- 3.7** An Officer may enter on land at any reasonable time and in accordance with the conditions set out in sections 435 and 437 of the *Municipal Act, 2001* for the purpose of carrying out an inspection 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;
 - c) an order made under s. 431 of the *Municipal Act, 2001*.
- 3.8** An Officer may, for the purposes of the inspection under Section 3.7 and in accordance with the conditions set out in section 436 of the *Municipal Act, 2001*:
- a) require the production for inspection of documents or things relevant to the inspection;
 - b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - c) require information in writing or otherwise as required by the Officer from any person concerning a matter related to the inspection; or
 - d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 3.9** 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*, in accordance with the conditions set out in that section, where he or she has been prevented or is likely to be prevented from carrying out

an inspection under Sections 3.7 and 3.8.

- 3.10** No Person shall interfere with or obstruct an Officer while performing their duties under this by-law.

Orders including Delivery

- 3.11** If an Officer is satisfied that a contravention of this By-law has occurred, he or she 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 property on which the contravention occurred to do work to correct the contravention.

- 3.12** An order under Section 3.11 shall set out:

- a) reasonable particulars of the contravention adequate to identify the contravention and the location of property on which the contravention occurred;
- b) the work to be completed;
- c) the date or dates by which the work must be completed; and
- d) notice that if the order is not complied with, then the work may be done at the expense of the owner;
- e) notice that if the cost of work plus administration fees are not paid in time, they may be recovered by adding the amount to the tax roll for the Property.

- 3.13** Delivery of an order to discontinue a contravening activity made under Section 3.11 or an order to do work made under Section 3.12 may be given personally or by registered mail to the last known address of:

- a) the owner; and
- b) such other persons affected by the order as an Officer determines.

Delivery by registered mail shall be deemed to have taken place on the fifth day after the date of mailing.

- 3.14** In addition to delivery in accordance with Section 3.13, an order to discontinue contravening activity made under Section 3.11 or an order to do work made under Section 3.9 may be delivered by an Officer placing a placard containing the order in a conspicuous place on the property where the contravention occurred.

- 3.15** Where a time frame is set out in an order for carrying out any action, an Officer may extend the time for compliance beyond the established time frame provided such extension is required and is acceptable to the Officer.

Township Carrying Out Work

- 3.16** Where a person does not comply with a direction or a requirement within an order, under this By-law to do a matter or thing, the Manager, in addition to all other remedies, may cause the Property to be brought into compliance with this by-law. For this purpose, the Manager with such assistance by others as may be required, may enter onto the Property at any reasonable time without further notice to the Owner in order to do such work necessary to achieve compliance with this by-law at the person's expense.

- 3.17** In the event that an order has been served on a person in accordance with Section 2.1 of this by-law, such order shall serve to be notice requiring compliance with this by-law for the entire calendar year.

- 3.18** The Township may recover the costs of doing a matter or thing under Section 2.1 by action or by adding the costs to the tax roll and collecting

them in the same manner as property taxes and such costs shall include an administration fee of 30 per cent (30%). The amount of the Township's costs, including interest to the date payment is made in full, constitutes a lien upon the land, upon the registration of a notice of lien upon the land.

Penalties

- 3.19 Every person who contravenes any provision of this by-law is guilty of an offence and, upon conviction, is liable to:
 - a) a set fine as set out in Schedule "A"; or
 - b) a fine as provided for in section 61 of the Provincial Offences Act, R.S.O 1990, c. P.33.

- 3.20 Where a person is convicted of an offence under this by-law, the Ontario court of Justice or any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, make an order prohibiting the continuation or repetition of the offence by the person convicted.

Validity and Severability

- 3.21 If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law, and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

- 3.22 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.

Repeal

- 3.23 On the date this by-law comes into effect, By-Law 28-03 as amended shall be hereby repealed.

- 3.24 This By-law shall come into force upon the date of passing by Council.

READ A FIRST TIME THIS 2ND DAY OF MARCH, 2020

READ A SECOND TIME THIS 6TH DAY OF APRIL, 2020.

READ A THIRD TIME, PASSED, SIGNED AND SEALED IN OPEN COUNCIL THIS 20TH DAY OF APRIL, 2020.

MAYOR: CLERK:

SCHEDULE 'A'

**CORPORATION OF THE TOWNSHIP OF SOUTH GLENGARRY
Set Fine Schedule
Part 1 Provincial Offences Act**

By-Law No.11-2020: Clean Yard By-law

Item	Short Form Wording	Provision Creating or Defining of Offence	Set Fine
1	Fail to keep vegetation less than 21 cm.	2.1 b) i	\$250.00
2	Fail to keep vegetation less than 21 cm within 1.5m of property line.	2.1 b) ii	\$250.00
3	Fail to keep vegetation less than 21 cm within 1.5m of property line.	2.1 b) iii	\$250.00
4	Fail to remove noxious weeds.	2.1 b) iv.	\$250.00
5	Fail to keep yard free of waste.	2.2	\$250.00
6	Fail to keep waste stored in containers.	2.6 a)	\$250.00
7	Allow waste to accumulate for more than 14 days.	2.6 b)	\$250.00
8	Fail to keep compost pile to less than 1sqm in area.	2.7 c)	\$250.00
9	Fail to keep compost pile to less than 1.8m in height.	2.7 c)	\$250.00
10	Fail to keep compost pile at least 0.6m from property line.	2.7 d)	\$250.00
11	Fail to keep compost pile enclosed.	2.7 e)	\$250.00
12	Fail to keep compost pile maintained.	2.7 g)	\$250.00
13	Obstruct or permit to obstruct a private drain on property.	2.9	\$250.00
14	Allow water to drain from a swimming pool, hot tub, wading pool, or similar water container onto an adjacent property.	2.11	\$250.00
15	Fail to maintain swimming pool, hot tub, wading pool, or similar water container in good repair.	2.12	\$250.00
16	Fail to protect pit, excavation, or well in active use.	2.13 a)	\$350.00

17	Fail to protect pit, excavation, or well not in active use.	2.13 b)	\$350.00
18	Obstructing an Officer.	3.10	\$350.00

Note: The general penalty provision for the offences listed above is Section 3.19 of By-law no. 11-20, a certified copy of which has been filed.

SCHEDULE 'B'

**CORPORATION OF THE TOWNSHIP OF SOUTH GLENGARRY
By-Law No.11-2020: Clean Yards By-law**

Service Use and Activity Charges

Item	Service or Activity Fee	Fee
1.	1st Order. Where the informal notice has not been complied with, for the first Order issued in respect to any property.	\$ 50.00
2.	Subsequent Orders. Where there has been a previous Order issued, each subsequent Order issued thereafter.	\$ 350.00
3.	Township undertakes to complete the work. Where the Township undertakes to complete the work required to comply with any final order.	Cost of the work performed plus an administrative fee of 30%
4.	Certificate of Compliance. Where after inspecting a property, an Officer, may on the request of the Owner, issue the Owner a certificate of compliance.	\$25.00