

**The Corporation of
The Township of Smith-Ennismore-Lakefield
By-law No. 2012-023**

**Being a By-law to Require and Regulate the
Cleaning and Clearing of Land in the Township of
Smith-Ennismore-Lakefield "Clean Property By-law"**

Whereas the Ontario Municipal Act, 2001, S.O. 2001, c. 25, Section 2, as amended, states that municipalities are created by the Province of Ontario to be responsible and accountable governments with respect to matters within their jurisdiction, and as such, municipalities are given powers and duties under this Act, and many other Acts, for the purpose of providing good government with respect to those matters; and

And Whereas the Ontario Municipal Act, 2001, S.O. 2001, c. 25, Section 5.3, as amended, states that a municipal power shall be exercised by By-law unless the municipality is specifically authorized to do otherwise;

And Whereas the Municipal Act, 2001, S.O. 2001 c. 25, Section 127, 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) prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land; and
- (d) define "refuse" for the purpose of this section. 2001, c. 25, s. 127; 2006, c. 32, Sched. A, s. 67.

And Whereas the Municipal Act, 2001, S.O. 2001 c. 25, section 128(1), as amended provides that a local 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, the Council of the Corporation of the Township of Smith-Ennismore-Lakefield deems it necessary to pass such a By-law;

Now Therefore, the Council of the Corporation of the Township of Smith-Ennismore-Lakefield **Enacts as follows**:

Short Title:

1. This By-law shall be cited as the 'Clean Property By-law'.

Definitions:

2. In this By-law:
 - (a) "Buffer Strip" shall mean the cleared Land between any property line and a Naturalized Area or Meadowland, measuring at least 1.0m (3'-3") wide, for the purpose of delimiting such an area;
 - (b) "Discarded Motor Vehicle" shall mean any snowmobile, motorcycle, automobile, truck, recreational vehicle, self-propelled implement of husbandry, golf cart or other similar mechanical device abandoned

or in a state of disrepair or not operative and is not licensed with a current validated license plate pursuant to the provisions of the *Highway Traffic Act*;

- (c) "Domestic Waste" shall mean any article, thing, matter or effluent belonging to or associated with a residence, household or dwelling unit and includes but is not limited to the following examples:
- (i) grass clippings, tree cuttings, brush, leaves, garden refuse and seaweed, except when placed in a composting container;
 - (ii) paper, cardboard, clothing;
 - (iii) all organic waste, of animal or vegetable origin resulting from the preparation or consumption of food except any material of vegetable origin placed in a composting container;
 - (iv) cans, glass, plastic containers, dishes;
 - (v) new or used material resulting from or once used for the purpose of the construction, alteration, repair or demolition of any building or structure;
 - (vi) refrigerators, freezers, stoves or any other appliance or furniture;
 - (vii) furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks;
 - (viii) discarded motor vehicles, vehicle parts and accessories, vehicle tires mounted or unmounted on rims, mechanical equipment;
 - (ix) fill or fencing materials;
 - (x) rubble & ruins, including concrete, bricks, asphalt, patio or sidewalk slabs;
 - (xi) human or animal waste;
 - (xii) old decayed lumber;
 - (xiii) discarded machinery;
 - (xiv) discarded material of any kind;
- (d) "Industrial Waste" shall mean any article, thing, matter or 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 material and includes but is not limited to the following examples:
- (i) piping, tubing, conduits, cable, fittings or other accessories, or adjuncts to the piping, tubing, conduits or cable;
 - (ii) containers of any size, type or composition;
 - (iii) rubble, ruins or fill;
 - (iv) mechanical equipment, mechanical parts, accessories or adjuncts to mechanical equipment;
 - (v) articles, things, matter, or effluent or any part thereof derived from or made or consisting of: agricultural, animal, vegetable, paper, lumber, or wood products, or mineral, metal or chemical products, lubricants, oils or hydrocarbons whether or not the products are used, manufactured or otherwise processed;
 - (vi) bones, feathers, hides;
 - (vii) paper, cardboard, packaging or wrapping;
 - (viii) material resulting from, or as part of, construction or demolition of buildings or other structures;
 - (ix) discarded motor vehicles, vehicle parts and accessories, vehicle tires mounted or unmounted on rims, mechanical equipment;
 - (x) old decayed lumber;
 - (xi) discarded machinery;
 - (xii) discarded material of any kind;

- (e) "Land" includes yards, vacant lots or any part of a yard or lot which is not beneath a building;
- (f) "Meadowlands" means a specialized habitat within a natural area, which is dominated by flowers and grasses;
- (g) "Municipality" means the Corporation of the Township of Smith-Ennismore-Lakefield and its geographical boundaries thereof;
- (h) "Naturalized Area" means Land where a lawn or perennial garden has been allowed to establish vegetation through a combination of natural regeneration and deliberate plantings of vegetation to emulate a natural area monitored and maintained by the owner;
- (i) "Officer" shall mean a By-law Enforcement Officer, Provincial Offences Officer, Peace Officer or any other person appointed or employed by the Council of the Corporation of the Township of Smith-Ennismore-Lakefield for the purposes of enforcing By-laws;
- (j) "Owner" when used in relation to property means:
 - (i) the assessed Owner of the property;
 - (ii) where the property is included in a description registered under the Condominium Act, the board of directors of the condominium corporation;
 - (iii) a Person authorized in writing by the owner as defined in Clause (i), or (ii) to act on the owner's behalf;
 - (iv) includes a leasee, tenant or occupant of the property;
- (k) "Perennial Gardens" means an area planted to produce ground cover, including wild flowers, shrubs, perennials, ornamental grasses or combinations of them, but does not include a meadowland or a naturalized area;
- (l) "Person" includes a corporation, partnership, sole proprietorship and municipality;
- (m) "Standing Water" means any water, other than a natural body of water that exists on a permanent basis or contained within a municipally owned stormwater management facility that is found either on the ground or in debris;
- (n) "Turf Grass Area" means a regularly maintained area to a maximum height of 15 centimetres (6 inches) consisting of desirable turf grass species such as but not limited to blue grass, fescues, perennial ryes, ryegrasses, bentgrasses and tall fescues.

General Provisions:

3. No Owner or Person shall throw, place, deposit, or permit anyone to throw, place or deposit Domestic or Industrial Waste; as defined herein; on any Land within the Municipality.
4. No Owner or Person shall use land for the storage of Discarded Motor Vehicle(s) or parts thereof except in accordance with the following:
 - (1) the vehicle and parts are stored in an enclosed building;
 - (2) the vehicle and parts are fully and completely covered with a canvas or similar opaque, weather resistant tarpaulin in good repair, in which case no more than one (1) such covered vehicle shall be permitted in a yard;

- (3) notwithstanding the above, this section shall not apply to the storage of motor vehicles and parts which are reasonably necessary for the conduct of a bona fide business, lawfully conducted on the property, provided the number of discarded motor vehicles stored on the property shall not exceed six (6) at any given time;
 - (4) notwithstanding the above, this section shall not apply to land that permits such uses as per the Municipality's Comprehensive Zoning By-law 2009-021, as amended.
5. Every Owner of land shall:
- (1) keep his or her Land and structures clean, clear and free of any and all Domestic and Industrial Waste as defined herein;
 - (2) fill up any hole, excavation or depression in or on the premises unless it is completely enclosed by a barrier at least 122 centimeters (48 inches) in height and sufficient to prevent any natural person from falling into the hole, excavation or depression, with the understanding that the hole, excavation or depression is temporary;
 - (3) keep his or her Land free of accumulations of water or other liquid, including standing water; except as permitted by law; that exceed 15 centimetres (6 inches) in depth unless the accumulation is entirely enclosed by a barrier of at least 122 centimetres (48 inches) in height and sufficient to prevent a natural person from falling into the accumulation with the understanding that the accumulation is temporary, and unless such accumulation is a storm water management pond approved in writing by the municipality;
 - (4) ensure that no Person shall use any Land or structure within the Municipality for the dumping, disposing, storing or keeping of garbage, refuse or Waste of any kind.
6. No Owner or Person shall keep lands or buildings in the condition that could create a fire or accident hazard.
7. Every Owner of Land shall:
- (1) keep his or her Land and Turf Grass Areas clean and clear of weeds or turf grass more than 15 centimeters (6 inches) in height and stock piles of soil or other aggregate material not required to complete the grading of the lot on which the stock pile is located;
 - (2) on private property, maintain a clear buffer strip around the perimeter of his or her Land such that the length of the plant material does not exceed 15 centimeters (6 inches);
 - (3) keep all hedges and trees adjacent to a public sidewalk or roadway cut and trimmed so as to allow safe unhindered pedestrian and vehicular traffic.

Compliance:

8. Every Owner of Land shall, within (7) days after the delivery of a notice in writing from an Officer regarding Sections 3, 4 & 5 shall bring his or her property into compliance by completing the required work as stated in the notice.
9. Every Owner of Land shall, within (72) hours after the delivery of a notice in writing from an Officer regarding Sections 6 & 7 shall bring his or her

property into compliance by completing the required work as stated in the notice.

10. (1) The notice in Sections 8 & 9 shall be delivered to the Owner or mailed by registered mail to the address of the Owner as shown on the last revised assessment roll, and within 5 days of the sending of the above mentioned notice it shall be deemed to be good and sufficient delivery of the notice upon the Owner within the meaning of Sections 8 & 9 of this By-law.
- (2) Alternatively, the Officer may post the notice in a conspicuous place on the property, and the placing of the notice shall be deemed to be sufficient service of notice on the Owner within the meaning of Section 8 & 9 of this By-law.

Exemptions:

11. Section 7 of this By-law shall not apply to land designated as Provincially Significant Wetlands in the Official Plan.
12. Outdoor storage
Sections 5. (1) of this By-law does not apply to land which is lawfully used for outdoor storage of materials.
13. Construction sites
Section 5. (2) of this By-law does not apply to land on which construction is proceeding under a current valid building permit.
14. Natural bodies of Water
Section 5. (3) of this By-law does not apply to natural bodies of water.
15. Agricultural lands
Section 5. (3) and Sections 7. (1&2) of this By-law does not apply to lands zoned for agricultural purposes.
16. Perennial Gardens
Perennial Gardens are permitted provided that the gardens are managed in accordance with this By-law and provided that the gardens do not contain noxious weeds as defined by the *Weed Control Act*, or waste, except for the purpose of composting.
17. Ecological Gardening
Meadowlands or Naturalized Area is permitted provided that those areas are managed in accordance with this By-law and provided the areas do not contain noxious weeds as defined by the *Weed Control Act*, or waste, except for composting purposes, and provided that the buffer strip required by this By-law is maintained.

Enforcement:

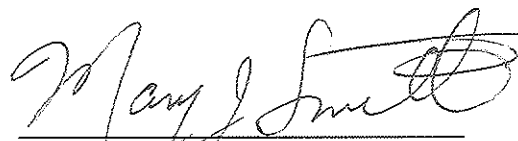
18. (1) An Officer may enter upon any Land at any reasonable time for the purpose of inspecting the property to determine:
 - (a) whether the property conforms with the standards prescribed in this By-law; or
 - (b) whether the Owner has complied with any notice sent by the Officer.
- (2) Every Owner or Person shall permit the Officer to inspect any Land or structure for the purpose of Sections 8 & 9.

- (3) No obstruction of Officer
No Owner or Person shall obstruct, hinder or in any way interfere with any Officer while that Officer is inspecting for compliance with the provisions of this By-law.
19. Every Owner or Person who contravenes any provision of this By-law is guilty of an offence and, upon conviction is liable to a penalty subject to the provisions of the *Provincial Offences Act* and every such penalty shall be recoverable pursuant to the said Act.
20. Where any Owner or Person is in default on any of the provisions of the By-law, the Municipality or its servants or agents may carry out, or cause to be carried out, on behalf of the Municipality the work required to be done by this By-law at the expense of the Owner or Person and the Municipality may recover the expense incurred in doing it in like manner as municipal taxes as per the *Municipal Act*.
21. In the event of any conflict between this By-law and any other By-law of the Township of Smith-Ennismore-Lakefield, the more restrictive provision shall prevail unless the context requires otherwise.


Repeal – Enactment:

22. By-law 2001-129 is hereby repealed in its entirety.
23. That this By-law shall come into force and effect immediately upon the final passing thereof.

Read a first, second and third time and finally passed this 27th day of March A.D., 2012.



Reeve Mary Smith



Angela Chittick, Clerk

Corporate Seal