



Memorandum

Corporate By-law Number BL XX/2022

TO: Office of the City Clerk **FILE: XXXX-2022**

FROM: Gordon Stover
Development & Emergency Services - Licensing & Enforcement

DATE: xx/xx/2021

SUBJECT: BL XX/2021 - xxxxxxxxxxxx

MEETING DATE: City Council – xx/xx/2022 (mm/dd/yyyy)

By-law Description: A By-law to require Owners and Occupants of Land to clean and clear the Land

Authorization: Committee of the Whole - xxxxx, xx, 2022

By-law Explanation: The purpose of this By-law is to xxxxxxxxxxxx

Schedules and Attachments:

Amended/Repealed By-law Number(s):



THE CORPORATION OF THE CITY OF THUNDER BAY
BY-LAW NUMBER BL XXX/2022

A By-law authorizing the City of Thunder Bay to require Owners and Occupants of Land to clean and clear the Land, and to provide authority to authorize work to be undertaken by the City on the Land in certain circumstances.

WHEREAS, Section 10 (1) of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws respecting the health, safety and well-being of persons;

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 property to clean and clear the property, not including buildings, or to clear refuse or debris from the property, not including buildings;

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 local municipality may prohibit and regulate the use of any property 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 446 of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, provides that, where a municipality has the authority to direct or require a person to do a matter or thing, the municipality may also provide 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;

NOW, THEREFORE, THE COUNCIL OF THE CORPORATION OF THE CITY OF THUNDER BAY ENACTS AS FOLLOWS:

1. SHORT TITLE

That this By-law may be cited as the "Clean & Clear Yards By-law".

2. SCOPE OF THIS BY-LAW

That this By-law shall apply to all land within the geographic boundaries of the Corporation of the City of Thunder Bay, including residential, non-residential and vacant land, except those lands owned or controlled by the City that are not otherwise then leased or under control of another person(s) or party.

3. DEFINITIONS

In this By-law,

- a) "City" means the Corporation of the City of Thunder Bay;
- b) "Buffer" means external perimeter area of land that abuts other lands, including a public-right-of-way, that requires a maintenance standard.

- c) “Front-Yard” means the area of a property as defined in the City’s Zoning By-law, as a Front-Yard;
- d) “hazard” A hazard is a source or a situation with the potential for harm in terms of human injury or ill-health, damage to property, damage to the environment, risk of fire or a combination of these and includes unsafe containers with has a closing or locking mechanism such that something or someone inside could be trapped and unable to be released without external assistance.
- e) “Highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle under the jurisdiction of the City, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
- f) “Inoperative vehicle” means any vehicle, vessel, trailer or camping trailer which, that appears by reason of its appearance, mechanical, functional or structural condition not to be operative and can include those vehicles that require a valid license plate be displayed to operate on a highway, pursuant to the provisions of the Highway Traffic Act and amendments thereto, regardless, whether it is required at the time of inspection, and includes all vehicles or vessels that are wrecked, discarded, dismantled or abandoned, or a vehicle/vessel which has had part or all of its superstructure or motor power removed;
- g) “Land” includes a yard or vacant lot;
- h) “Motor vehicle” includes an automobile, motorcycle, snowmobile, and any other vehicle propelled or driven otherwise than by muscular power;
- i) “Municipal Act 2001” means the Municipal Act, 2001 S.O. 2001, c25, as amended.
- j)
- k) “Naturalized Area” means a clearly delineated section or a portion of a yard, containing vegetative growth that has been deliberately implemented to produce ground cover, including one or more species of wildflowers, shrubs, perennials, grasses or combinations of them, whether native or non-native, consistent with a managed and natural landscape, other than regularly mown grass;
- l) “Nuisance Litter” means any waste material that is found or stored upon lands, that is likely to create an immediate hazard or nuisance to other persons or lands by entrapment, odour or by attracting animal/vermin; including natural or intentional accumulations of fruit, vegetables and other discarded materials, including compost, not kept in accordance with this by-law, or other waste materials that migrate from the owners’ lands onto other surrounding lands including public lands, by any reason including wind or other environmental factors;
- m) “Officer” means a Municipal Law Enforcement Officer for the City or a police officer;
- n) “Open Yard Area” means any portion of a rear-yard, side-yard or front-yard, as defined in the City’s Zoning By-law, that is available for plantings or vegetative growth and is not otherwise occupied by a permanent and alternate use including; buildings, structures, patios, decks, walk-ways, driveways or similar coverings;
- o) “Owner” means an owner, lessee or occupant of any land in the City of Thunder Bay;

- p) “Public land” means any land under the ownership, management or jurisdiction of the City or a provincial or federal government authority;
- q) “Rear-Yard” means the area of a property as defined in the City’s Zoning By-law, as a rear-Yard;
- r) “Side-Yard” means the area of a property as defined in the City’s Zoning By-law, as a Side-Yard;
- s) “vacant land” means a lot that does not have a structure situated on it and/or does not contain an established principal use;
- t) “Waste material” includes refuse, garbage, debris, litter, domestic waste, industrial waste of any kind whatsoever and, without limiting the generality of the foregoing, includes:
 - (i) weighty or bulky items such as appliances or furniture;
 - (ii) discarded or unusable vehicles, vessels, motor vehicles in their present state and any parts thereof;
 - (iii) broken concrete, patio stones, bricks or pallets;
 - (iv) unused building material or material resulting from construction or demolition;
 - (v) yard waste, brush, fallen trees or tree limbs and branches;
 - (vi) animal and human feces;
 - (vii) unused tire or accumulations of unused tires;
 - (viii) unused or derelict lawnmowers, lawn tractors or similar mechanical devices and mechanical or electrical parts
 - (ix) any discarded item that is not specifically designed for outdoor use or storage; and
- u) “Yard” means any open space on the same lot with a main building or structure, unoccupied and unobstructed from the ground to the sky.

4. MAINTENANCE OF LAND

- 4.1 Every owner of land shall keep the land clean and cleared of waste material at all time.
- 4.2 Section 4.1 does not apply to lands or portions of land to the extent necessary, where work is actively proceeding under a building permit issued by the City and the waste materials are a direct result of those approved works .
- 4.3 No person or owner shall place or store, or permit to be placed or stored, any objects or material of any kind whatsoever, on vacant land within areas of the City that are zoned for residential purposes, except where expressly permitted, pursuant to City’s applicable Zoning By-law.
- 4.4 Outdoor storage, when authorized by section 4.3 above, shall only be permitted in twenty-five (25%) of the rear-yard and/or side-yard(s) and must be neatly arranged or stored and in a manner that contains litter, does not attract vermin and is not degraded by exposure to the elements that could affect future use for its’ original purpose.
- 4.5 No person or owner shall fail to keep land clean and clear of waste material or store items contrary to this by-law.

- 4.6 No person or owner shall cause or permit any nuisance litter to arise from the use of land.
- 4.7 Notwithstanding section 4.3 and 4.4 above, composting may occur when it is neatly contained in a purpose built or manufactured container and screened from view of adjoining lands, does not create offensive odours, attract vermin or other animals and is not larger than one cubic metre (1m³) in volume and not to exceed one point five (1.5m) in height.

5. LITTERING AND DUMPING

- 5.1 No person shall throw, place, deposit or dump or permit or cause to be permitted, the throwing, placing, depositing or dumping of waste material on private land or public land.
- 5.2 Notwithstanding the above, nothing in this by-law shall be deemed to interfere with the filling or raising of land with earth or rock fill or with the disposal of waste on any lands which have been designated for that purpose by By-law of the City.

6. MAINTENANCE OF GRASS AND WEEDS

- 6.1 No person shall permit the growth of grass and/or weeds on private land to exceed twenty (20) centimetres in height.
- 6.2 Section 6.1 of this by-law does not apply to vacant land that abuts residential land or a public-right-of way, provided there is a buffer strip, a minimum of three (3) metres in width, wherein the grass or ground cover is trimmed or cut to a height of twenty (20) centimetres or less.
- 6.3 Section 6.1 of this by-law does not apply to vacant land that is no larger than .5 of an acre (XX ha) in size, provided there is a buffer strip, a minimum of three (3) metres in width, wherein the grass or ground cover is trimmed or cut to a height of twenty (20) centimetres or less.
- 6.4 Section 6.1 of this by-law does not apply to vacant land that is larger than .5 of an acre (XX ha) in size but less than 6 ac. (2.43 ha), provided there is a buffer strip, a minimum of one (1) metre in width, wherein the grass or ground cover is trimmed or cut to a height of twenty (20) centimetres or less.
- 6.5 Section 6.1 of this By-law does not apply to lands exceeding four acres (1.66 ha), that are zoned residential and contain a residence, except those front-yard areas within one hundred feet (30m) of an adjacent public-right-of-way, shall comply to Section 6.1, as well as requiring a one metre (1 m) buffer on all remaining front-yards and side-yards and rear-yards that abut other yards, that are also subject to section 6.1.
- 6.6 Section 6.1 of the By-law does not apply to lands exceeding four acres (1.66 ha), that are not zoned for residential use and are not vacant lands, except in those front-yard areas within one hundred feet (30 m) of an adjacent public-right-of-way, that serves as the public access way to the land.

- 6.7 Notwithstanding the requirement to cut and maintain the first one hundred feet (30 m) of front-yard, in Section 6.5 and 6.6 above, a naturalized area as set out in the By-law, that is clearly delineated, may be permitted within that required maintenance area and further, where adjacent land owners agree in writing, to abut any naturalized areas along a shared property boundary, a buffer strip shall not be required.
- 6.8 Notwithstanding the requirements to cut and maintain a side-yard or rear-yard buffer strip as set out in 6.2, 6.3, 6.4 & 6.5 above, the requirement shall only apply to the portions of those yards, where the adjacent owner of land is required to comply with section 6.1.

7. NATURALIZED AREAS

- 7.1 Section 6.1 of this By-law shall not apply to a naturalized area provided there is a buffer strip, a minimum of one (1) metre in width, wherein the grass or ground cover is trimmed or cut to a height of twenty (20) centimetres or less between the naturalized area and an abutting property not owned or occupied by the person keeping the naturalized area.
- 7.2 Notwithstanding section 7.1 of this By-law, where adjacent land owners agree in writing, to abut any naturalized areas along a shared property boundary, a buffer strip shall not be required.
- 7.3 Notwithstanding section 7.1 of this by-law, no property shall have a naturalized area(s) that is larger than fifty percent (50%) of the total Open Yard Area for each front-yard, side-yard and rear-yard areas.

8. INOPERATIVE MOTOR VEHICLE STORAGE/END DATE JULY 1, 2025

- 8.1 No person, or owner shall permit the outdoor storage of more than one (1) inoperative motor vehicle on private land that is zoned and used for residential purposes.
- 8.2 It is a condition of storage of an inoperative vehicle permitted in Section 8.1, that it be fully and completely covered with a weather-resistant canvas or similar opaque cover, specifically designed for vehicles, and that the cover is maintained from deterioration and secured from flapping in a windy environment, that creates a noise nuisance.
- 8.3 Notwithstanding the above, Section 8.1 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.
- 8.4 Notwithstanding Section 8.1 above, no person or owner shall permit the outdoor storage of any inoperative vehicle on any private land that is zoned for residential purposes, after July 1, 2025, except under the authority of a short-term storage permit that will be enabled at that time.

9. GRADING AND FILLING OF LAND, HAZARDS

- 9.1 All lands shall be graded, filled up or otherwise drained so as to prevent recurrent pooling of storm water.

- 9.2 No person shall permit or allow on property owned or occupied by such person any holes, pits, excavations or trenches constituting a health, fire or safety hazard.
- 9.3 Every owner of property shall prevent, correct or remedy any conditions found thereon that could reasonably create a health, safety or fire hazard to any persons who may enter that land or any users of adjacent City lands or highways.

10. WORK ORDER

- 10.1 Where the officer has reasonable grounds to believe that a contravention of this by-law has occurred, the officer may make an order requiring the person who contravened this by-law to do work to correct the contravention.
- 10.2 An order under section 10.1 of this by-law 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 or remedial action required to be done and the date by which the work or remedial action must be done.
- 10.3 An order under section 10.1 of this by-law may require work or remedial action to be done even though the facts which constitute the contravention of this by-law were present before this by-law came into force.
- 10.4 Any person who fails to comply with an order issued under section 10.1 of this by-law, is guilty of an offence.

11. STOP WORK ORDER

- 11.1 Where the officer has reasonable grounds to believe that a contravention of this by-law has occurred, the officer may make an order requiring the person who contravened this by-law to do work to discontinue the contravening activity.
- 11.2 An order under section 11.1 of this by-law shall set out:
- c) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
 - d) the date by which there must be compliance with the order.
- 11.3 11.3 Any person who fails to comply with a stop work order issued under section 11.1 of this by-law, is guilty of an offence.

12. SERVICE OF ORDER

- 12.1 An order may be delivered in person to an owner or occupant, at the address of lands that are subject of the order or left with an inmate therein that is over that apparent age of eighteen years, or
- 12.2 An order may be sent registered mail to the last known address supplied to the corporation's tax office and shall be deemed to be delivered on the fifth (5th) day after the date mailed, or

- 12.3 An order may be posted in a conspicuous place on the property or placed in any open mail receptacle in proximity to the main entrance and shall be deemed to be delivered on the seventh (7th) day after being affixed/deposited.
- 12.4 It is an offence for any person to remove or tear down or interfere with any Notice or Order posted on the property, except by the owner or agent thereof, of the property posted.

13. WHERE ORDER TO FOLLOW COMPLIANCE ACTION

- 13.1 Where the condition of Land is such that it does, or is likely to constitute a safety hazard to the public and/or a health hazard from nuisance litter or waste materials, the Officer may institute remedial actions, without first giving an order, and may pursue cost recovery in the same manner had an order been issued in advance and not complied with.
- 13.2 Where remedial actions are carried out prior to an order being issued; the Officer shall at the earliest reasonable opportunity, issue and supply the order to the owner of property.

14. INSPECTIONS / ENTRY POWER

- 14.1 An Officer, in accordance with the powers of entry set out in section 435(1) and 436(1) of the Municipal Act 2001, may enter onto land at any reasonable time for the purpose of carrying out an inspection to determine whether or not compliance exists for:
- a) any requirements of this by-law and/or the conditions of any permit issued thereunder.
 - b) any direction or order issued by the municipality, under this by-law.
 - c) any court order, issued pursuant to section 431 of the Municipal Act 2001

15. OBSTRUCTION PROHIBITED

- 15.1 No person, including the owner, shall impede, interfere or obstruct an Officer in the execution of their duties and the inspection of property required under Section 14, by doing any act or refusing an Officer direction, that includes request for access to enter and inspect any property or structure thereon, except those actual areas used as a dwelling unit.
- 15.2 It is an Offence for any person to obstruct an Officer in the discharge of their duties

16. PENALTIES

- 16.1 Any person who fails to comply with any requirement of this By-law is guilty of an offence, and shall upon conviction be liable to a penalty as set out in Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended from time to time, or any successor thereof.
- 16.2 Any person who contravenes a provision of this By-law is also subject to a system of fines set out in section 429 of the Municipal Act, 2001, any and all contraventions of this by-law are designated as continuing offences for each day they continue.
- 16.3 Every person, who is convicted of an offence is liable to a minimum fine of three hundred dollars (\$300.00) and a maximum fine of five thousand dollars (\$5,000.00) for the first offence and a maximum fine of ten thousand dollars (\$10,000.00) for any subsequent conviction under the By-law, to the maximum prescribed in the Municipal Act 2001.

- 16.4 In addition to the fine amounts set out in section 16.1 and 16.3, for each day or part of a day that an offence continues, the minimum fine shall be three hundred dollars (\$300) per day or part day for the first conviction, but the total of all daily fines, shall not exceed five thousand dollars (\$5,000) for the first conviction, where the convictions are registered to a person, that is not a corporation.
- 16.5 Where a corporation is convicted of a second and subsequent conviction, the minimum fine shall not be less than five thousand dollars (\$5,000) for each subsequent conviction to a maximum fine of one hundred thousand dollars (\$100,000).

17. ADDITIONAL COURT ORDER

17.1 Additionally, section 431 of the Municipal Act allows, if any by-law of a municipality or by-law of a local board of a municipality under this or any other Act is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order,

- (a) prohibiting the continuation or repetition of the offence by the person convicted.

18. REMEDIAL ACTION

- 18.1 If a person fails to do a matter or thing as directed or required by this By-law, including to comply with an order under this By-law, the City may, in default of it being done by the person directed or required to do it, do the matter or thing at the person(s) expense. The City may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll for the property and collecting them in the same manner as property taxes.
- 18.2 The costs outlined in section 13.1 of this By-law shall include any fees and charges imposed by the City in accordance with this By-law, in relation to the matters identified in section 13.1.
- 18.3 The amount of the costs, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date the payment is made. Upon receiving payment of all costs payable plus interest accrued to the date of payment, the City shall register a discharge of the lien in the proper land registry office.

19. GENERAL PROVISIONS

- 19.1 In the event of any conflict between this By-law and any other by-law of the City, the more restrictive shall prevail unless the context requires otherwise

19.2 Should any provision of this By-law be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the part which was declared to be invalid.

19.3 By-law 068-2008, and any amendments thereto, is hereby repealed.

19.4 Despite Sections 19.3 and 19.5 of this By-law, after the passage of this By-law, By-law 068-2008 shall remain in effect for the purposes of concluding any legal and/or court processes that commenced under its provisions that had not been concluded upon enactment of this By-law.

19.5 This By-law shall come into force and take effect upon final passing thereof.

Enacted and passed this xxx day of XXX, A.D. 2022 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

Mayor

City Clerk