

THE CORPORATION OF THE TOWN OF SHELBURNE

BYLAW NUMBER 72 -2021

Being a Bylaw to Provide for the Maintenance of Private Property in a Clean and Clear Condition Within the Town of Shelburne

WHEREAS Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended provides that the powers of a municipality under any act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their 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 Act;

AND WHEREAS Section 11(2)6 of the Municipal Act provides that a municipality may pass bylaws in the interest of the health, safety, and well-being of its persons;

AND WHEREAS Section 127 of the Municipal Act provides that a municipality may require the owners or occupants of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings;

AND WHEREAS Section 131 of the Municipal Act 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 398 of the Municipal Act states that fees and charges imposed by a municipality on a person constitute a debt of the person to the municipality;

AND WHEREAS Section 425 of the Municipal Act authorizes the municipality to pass bylaws providing that a person who contravenes a bylaw of the municipality passed under this Act is guilty of an offence;

AND WHEREAS Section 446 of the Municipal Act, authorizes a municipality to require a person to do a matter or thing and in default of it being done by the person directed or required to do it, the matter or thing shall be done at the owners' expense and add the cost to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS it is the opinion of the Council of the Corporation of the Town of Shelburne that vacant buildings not secured against unauthorized entry may create a public nuisance by attracting vandals and creating fire and safety hazards;

AND WHEREAS the Corporation of the Town of Shelburne deems it necessary to prevent public nuisances and the accumulation of waste material within Shelburne;

NOW THEREFORE the Council of the Corporation of the Town of Shelburne enacts as follows:

Interpretation

1. This bylaw shall be known and may be cited as the "Clean Yards Bylaw"

Definitions

1. "Boulevard" means that part of the highway situated between the curb line and the property line of the lot abutting the highway, but does not include a sidewalk, shoulder, centre median strip or island separating two (2) roadways.
2. "Buffer Strip" means cutting, trimming, and maintaining a three (3) metre wide area of grass, weeds, and vegetation, whether dead or alive, along all property lines.
3. "Council" means the Council of the Town.
4. "Domestic Storage" means storage of objects incidental to a residential use, which includes but is not limited to firewood, compost heaps, building materials, and garden equipment.
5. "Domestic Waste" means any debris, rubbish, refuse, sewage, effluent, discard, or garbage of a type arising from a residence, belonging to or associated with a house or residential property, which for greater certainty includes all garbage, discarded material or things, broken or dismantled things, and materials or things exposed to the elements, deteriorating or decaying on a property due to exposure or the weather; and for even greater certainty, it is hereby declared that "domestic waste" includes but is not limited to the following classes of materials regardless of the nature or condition of the material, article or thing:
 - a) broken or torn bits of twigs, splinters or rags, tree cuttings or cut limbs and brush from any shrub or tree, waste lumber, except only cut and stacked firewood;
 - b) paper, paper cartons and other paper products;
 - c) rotting vegetable matter, or rotting animal matter, unless it is contained in an appropriate composting container;
 - d) disconnected appliances, including refrigerators, stoves, dishwashers, microwaves, freezers, washers, dryers or any part or parts of such things;
 - e) electronic devices, including televisions, computers and related components, radios, amplifying devices, speakers, audio and visual players and any parts of such things;
 - f) furnaces, air conditioners, ducting, pipes heat pumps, fittings, pipes, wire and parts or accessories of such items;
 - g) damaged water or fuel tanks;
 - h) inoperative motor vehicles, inoperative vehicles, and vehicle parts;
 - i) inoperative lawnmowers, engines, and other mechanical tools or devices;
 - j) accumulations, deposits, leavings or sweeping of litter, remains, rubbish, or trash of any sort, whether animal, mineral or vegetable;
 - k) broken or indoor furniture;
 - l) crockery, dishes, pots and pans, and small kitchen appliances;
 - m) animal waste products, hides, bones, feathers, or other animal parts or carcasses;
 - n) construction, demolition, repair or renovation debris or leftover materials from such work; and
 - o) accumulations of rubble or broken materials such as brick, concrete or asphalt.

Domestic waste as defined in this by-law does not cease to be domestic waste by reason only that it may be commercially salable or recyclable.

6. "Fill" includes soil, subsoil, topsoil, stone, sod, turf, clay, sand, gravel, or other such similar material, either singly or in combination, capable of being removed from or deposited on lands.
7. "Graffiti" means one or more letters, symbols, marks, etchings, pictorial representations, scribbled, messages, or slogans, applied on a surface that disfigures or defaces a building or property, but does not include:
 - a) a sign, public notice, or traffic control mark authorized by the Town;
 - b) a sign authorized pursuant to a permit issued by the Town or County;
 - c) a sign, public notice or traffic control mark authorized by the County, provincial or federal governments.

8. "Ground Cover" means organic material that covers the ground and includes grass and other forms of soft landscaping.
9. "Indoor Furniture" means and includes any furniture intended for and made of such material that would require the furniture be sheltered from the natural elements such as rain and snow and shall include but not be limited to items such as couches, sofas, love seats, fabric covered chairs and mattresses.
10. "Industrial Waste" means debris, rubbish, refuse, sewage, effluent, discard or garbage of a type arising from industrial or commercial operations, or belonging to or associated with industry or commerce or industrial or commercial property, which for greater certainty includes all garbage, discarded material or things, broken or dismantled things, and materials or things exposed to the elements, deteriorating or decaying on the property due to exposure or the weather, and for even greater certainty it is hereby declared that "industrial waste" includes but is not limited to the following classes of material regardless of the nature or condition of the material, article or thing:
 - a) debris discarded things or matter, or effluent which in whole or in part are derived from or are constituted from or consist of:
 - b) animal or vegetable matter, paper, lumber, or wood; or
 - c) mineral, metal or chemicals or fill contaminated with petrochemical or petroleum products;
 - d) piles of miscellaneous plastic, wood or metal parts, or combinations of such materials;
 - e) inoperative motor vehicles, inoperative vehicles, and vehicle parts;
 - f) piping, ducting, tubing, conduits, cable, wire and fittings or related accessories, with or without adjuncts and not packaged for immediate shipment or sale;
 - g) material resulting from or as a part of, construction, demolition, repair, or renovation projects including debris and leftovers;
 - h) accumulations of rubble or broken materials such as brick, concrete or asphalt;
 - i) bones, feathers, animal waste products, hides or other animal parts or carcasses; and
 - j) dust or ashes emanating from the operation of the enterprise.
11. "Infestation" means the overrunning of a property by vermin, rodents, and insects.
12. "Inoperative Motor Vehicle" means and includes any motor vehicle other than a motor vehicle which is currently licensed, and operable and regularly driven by an owner or occupant of the property on which it is stored.
13. "Inoperative Vehicle" means an automobile, motorcycle, motor assisted bicycle, traction engine, farm tractor or farm machinery, road building machine, construction vehicle, bulldozer, backhoe, excavator, grader, asphaltter, earth mover, compactor, crane, lift, skid steer, generator, welder, street car or other vehicle, trailer, boat, bicycle, or any vehicle drawn, propelled or driven by any kind of power, including but not limited to mechanical power, muscular power or wind power, where such items are unable to operate as a result of being dismantled, broken or incomplete, decayed or dilapidated, and in particular includes missing parts, wheels, tires, engines, drive train, body components windows, or any other component necessary for the vehicle to properly operate and shall also include a vehicle that has been branded by the Ministry of Transportation as salvage or irreparable.
14. "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 electric or steam railways, or other motor 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.
15. "Officer" means an employee of the Town who has been appointed by bylaw to enforce the provisions of the Town's Bylaws.
16. "Order" means an order issued by an Officer, or an assistant to the Officer, to a person under this bylaw requiring such person to perform work to correct a contravention of this bylaw.

17. “Owner” means the registered owner of land and any person, firm or corporation in charge, management or control of such land and shall include the occupant, tenant, lease, or the person for the time being managing or receiving the rent of the property.
18. “Person” means an individual, property owner, multiple persons, a corporation, firm, partnership, unincorporated association or organization, or other legal representatives of a person with or without share capital, any association, firm, partnership, or private club of a person to whom context can apply accordingly.
19. “Property” means a building or structure or part of a building or structure and includes the lands and premises appurtenant thereto and all structures and erections thereon, and includes yards, lots, or vacant lots, but excludes public property.
20. “Public Property” means property that is owned by the Town or any of its boards and agencies, the Municipality of the County of Dufferin, the Crown in Right of Ontario or any of its agencies or property of the Crown in Right of Canada or any of its agencies.
21. “Refuse” or “Debris” means any waste material of any kind whatsoever and includes but is not limited to: rubbish, animal carcasses, animal waste, fill, dirt soil, inoperative or unlicensed vehicles or boats and mechanical equipment, automobile and mechanical parts, inoperative mechanical equipment, tires, furnaces, water and fuel tanks, bottles, cans, food and beverage containers, newspapers, electronic waste, televisions, computers, lumber, packing materials, worn tires mounted or unmounted, used oil, droppings, ashes, furniture, glassware, plastic, cans, garden refuse, grass clippings, stumps, trees, tree branches, and similar natural vegetable waste, earth or rock fill, animal feces, materials from construction or demolition projects, old clothing and bedding, refrigerators, freezers, or similar appliances, whether operable or inoperable, clothing, fabric, furniture whether for indoor or outdoor use, containers of any kind and un-maintained garden fixtures and any objects or conditions that might create a health, fire or accident hazard. For greater clarity refuse and debris shall include all manner of waste, debris and sewage as provided for or defined in this by-law but does not include a building or buildings on a property, but does include parts or pieces of such structures on the property that are dismantled or are rubble, or which have become detached from a building whether by construction, demolition, damage or deterioration and any article, thing, matter, substance, or effluent that:
- a) has been cast aside, discharged or abandoned;
 - b) is disused from its usual and intended use;
 - c) is used up, expended, or worn out, in whole or in part, or
 - d) is determined to be domestic waste and / or industrial waste.
22. “Standing Water” means non flowing, uncirculated, motionless, or stale water but does not include water that is in a covered rain barrel, a swimming pool, hot tub, wading pool, or artificial pond or water fountain maintained in good repair and in working condition.
23. “Structure” means any building or accessory building or any property, or any part thereof, or any part of whole or any structure of building not actually used as a dwelling house.
24. “Town” means the Town of Shelburne.
25. “Vacant Building” means any property which either is or appears to an Officer to be vacant, partially vacant, or unoccupied for more than ninety (90) days.
26. “Yard” includes side yard, front yard, rear yard has the same corresponding meaning as the Town’s Zoning By-law.

General Provisions

23. Every owner of property shall maintain a clear and clean yard and shall also keep their property:
- a. and the abutting boulevard free and clear of all garbage, refuse, debris, domestic waste, or industrial waste of any kind, and
 - b. from any objects or conditions that may create a health, fire, or accident hazard; and
 - c. free from dilapidated, deteriorating, rotting, unfinished, or incomplete structures, including, but not limited to gates, trellises, ornamental fixtures; and
 - d. is free and clear of infestation;
 - e. free from dead, decayed, or damaged trees, hedges, bushes, or tree limbs.
24. Every owner shall ensure to store waste material in rigid covered containers when stored outdoors. Where possible, waste storage shall be in a side or rear yard.
25. Every owner shall ensure that waste and recyclables containers, placed out for collection by the County, are located on the grassed portion of the boulevard abutting their property or are located on their driveway apron so as not to interfere with road maintenance or vehicle traffic.
26. Every owner shall maintain their property clear of all inoperable motor vehicles, inoperable vehicle or inoperative machinery, or parts of a vehicle or machinery, unless permitted in the Town's Zoning Bylaw.
27. No person shall use a property for the parking or storage of an inoperative motor vehicle, inoperable vehicle or inoperative machinery, or parts of a vehicle or machinery.
28. Every owner shall trim, cut and maintain the grass and weeds on their property and any abutting boulevard so as to ensure that the grass and weeds do not exceed 20 cm.
29. Notwithstanding the aforementioned section, where a property is greater than 0.4 ha in area, a buffer strip shall be cut, trimmed, and maintained to a height equal to or less than 20 cm.
30. Every owner shall remove all graffiti, stains, or other defacement on their property to restore the surface and adjacent areas to, as near as possible, their appearance before the markings, graffiti, stains, or other defacement occurred.
31. No person shall erect, install, or use, or permit, to be erected, installed, or used, an outdoor light fixture which is not shielded, so as to prevent the light from travelling upwards or trespass beyond the property from which it is emitting.
32. Every owner shall keep their property clear of objects or conditions that create or might create a health, fire, or accident hazard.
33. No owner shall cause or permit the storage, keeping or placement, either on a temporarily or permanent basis, freezers, refrigerators, appliances, or other containers that could trap a child.
34. No person shall cause or permit freezers, refrigerators, appliances, or other containers to be placed, out for collection without first removing any doors, lids, or other attachment which serves as a lid or closing mechanism.
35. No owner shall cause or permit an unfenced or unprotected pit, or excavation which causes a safety hazard on their property.
36. Every owner shall remove all standing water from high-risk areas, which includes but is not limited to birdbaths, boat covers, eavestroughs and rain gutters, excavations capable of holding standing water, empty buckets, wheelbarrows and pots, vehicle tires, abandoned wells, pool, pool covers, plastic containers and bottles, uncovered rain barrels, uncut grass and weeds and untrimmed shrubs, bushes, and hedges.

37. No owner shall fail to comply with an order issued by the Officer to remedy any standing water. Not limiting the foregoing, such order may include a direction to fill or drain off the water or the treatment of the same with larvicide.
38. No person shall dump, throw, place, deposit, bury, dispose, or permit to be dumped, thrown, placed, deposited, buried, or disposed, waste material on a highway within the Town except when placed out in accordance with the County of Dufferin's Waste Bylaws respecting garbage collection.
39. Every owner or occupant of property shall ensure that fill shall not remain in an unlevelled state on the property for longer than seven (7) days, unless the property is:
- a construction site for which a building permit is in effect;
 - the subject of an agreement with the Town for site plan agreement, subdivision agreement, development permit agreement or any other matter entered into in accordance with the requirements of the Planning Act R.S.O. 1990 c. P. 13, as amended;
 - has a valid site alteration permit issued by the Town in accordance with the Site Alteration Bylaw;
 - property upon which material is being stored with the approval of an authority having jurisdiction in connection with a public works project; or
 - property upon which material is being stored with the approval of an authority, having jurisdiction in conjunction with an active agricultural, commercial, or industrial operation.
40. No person shall keep firewood on a property unless, it is used for wood burning on the property.
41. No person shall keep, store or place firewood unless the following provisions are met:
- the firewood is located in a rear or interior side yard;
 - the firewood is used for wood burning on the property;
 - the area of property occupied by the firewood is not more than the (15%) of the total area of the yard area where it is situated;
 - the firewood is neatly piled and located a minimum of 1.2 meters (3.93 ft.) away from lot lines; and,
 - the firewood pile is not to exceed a total height of 2.43 meters (8 ft.) in a rear yard or 1.82 meters (6 ft.) in an interior side yard.

Vacant Buildings and Property

42. Every owner of an abandoned or vacant building shall protect the building against the risk of fire, storm, neglect, intentional damage, or damage by other causes by effectively preventing the entrance of the elements, unauthorized persons, or the infestation of pests by boarding up and securing any openings to the abandoned buildings.
43. Every owner of a vacant or abandoned building shall undertake the following actions to secure the building:
- all boarding must be ½ inch S.P.F. (Spruce-Pine-Fir) exterior grade plywood (not particle board, fiberboard, or other forms of board sheathing);
 - boarding must be cut to completely and securely fit within all exterior structural openings;
 - all boarding shall be maintained in good repair;
 - all boarding shall be installed from the exterior in a manner that minimizes damage to the building fabric, and is reversible;
 - all boarding shall be fitted securely and in a watertight manner to fit within the side jambs, the head jamb and the exterior bottom sill of the door or window opening so the exterior trim and cladding remains uncovered and undamaged by the boarding, so as not to be easily detached by hand;

- f) no window, door or other opening shall be secured by brick, concrete blocking or masonry units held in place by mortar, unless approved by the Officer.

44. The owner of a vacant property shall ensure that:

- a. all utilities serving the building are properly disconnected, terminated, drained, or capped to prevent accidental or malicious damage, with the exception of those utilities necessary for the safety, maintenance and security of the property;
- b. appropriate utilities serving the building remain connected and used to provide, maintain, and monitor proper heating and ventilation to prevent damage caused to the building by humidity, fluctuating temperatures, including the negative effects associated with freeze-thaw cycles, and other environmental conditions;
- c. the exterior of the building, including eavestrough and downspouts, are maintained in order to prevent moisture penetration and damage from the elements.

45. The owner of a vacant property shall ensure that the following additional security measures are taken with respect to the building or structure:

- a) close all basement hatches, openings, walkways and windows;
- b) remove ladders, tool, and other materials that might be used to gain interior access;
- c) remove waste material, furniture, appliances, machinery and debris from inside buildings and structures, and from around the property;
- d) significant trees, plantings, grass, lawns, flower beds, hedgerows, ivy, bushes, vines, and other vegetation on the grounds of properties shall be maintained and protected, at all times in accordance with all relevant Town bylaws.

Administration and Enforcement

46. The Director of Legislative Services/Clerk is hereby authorized to administer the provisions of this bylaw and Officers are hereby authorized to enforce the provisions of this Bylaw.

47. The provisions of this bylaw shall apply to all lands and premises within the Town of Shelburne, save and except for property owned or maintained by the Town.

48. Notwithstanding the above, this bylaw does not apply to activities or matters undertaken by a Public Authority, including, but not limited to the Conservation Authority, or to land owned by the Government of Ontario or the Government of Canada.

49. The provisions and regulations of this bylaw shall not apply to inhibit or prohibit normal farm practices protected under the *Farming and Food Production Protection Act, 1998*.

50. Where a provision of this Bylaw conflicts with a provision of any other Bylaw statute or regulation in force, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall be applicable.

51. Any action taken under this bylaw in relation to standing water in no way precludes the Medical Officer of Health from taking action with regard to standing water, as provided for in the *Health Protection and Promotion Act*, R.S.O. 1990, c.H7, or any regional bylaws, as amended.

Power of Entry, Inspection and Prohibitions

52. An Officer, or any other individual authorized to enforce this bylaw on behalf of the Town, may at any reasonable time enter upon any land for the purpose of carrying out an inspection to determine whether the following are being complied with:

- a) this bylaw;
- b) any direction or order under this bylaw; or

c) an order issued under Section 431 of the *Municipal Act*.

53. Where an inspection is conducted pursuant to this section, an Officer or any other individual authorized to enforce this bylaw on behalf of the Town, may:

- 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 from any person concerning a matter related to the inspection including their name, address, phone number and identification;
- 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; and,
- e) order the owner of the property to take and supply at the owner's expense such tests and samples as are specified.

54. No person shall hinder, obstruct, or attempt to hinder or obstruct the Town, its employees, officers, agents, or contractors from carrying out any powers or duties under this bylaw.

55. No person shall contravene any order or direction issued by the Town pursuant to this bylaw or the *Municipal Act*.

56. No person shall decline or neglect to give, produce or deliver any access, information, document, or other thing that is requested by the Town pursuant to this bylaw.

Orders

57. If after an inspection an Officer is satisfied that one or more non-conformities with the standards set out in this bylaw exist on the property, the Officer may issue an order to the owner and such other persons affected by it, as the Officer determines, requiring that the property be brought into compliance with the provisions of this bylaw.

58. An order as described shall:

- a. state the municipal address or the legal description of the property on which the non-conformity or infraction has occurred;
- b. give reasonable particulars of the contravention adequate to identify the contravention and the location on the property on which the contravention has occurred;
- c. indicate the date or dates by which compliance with the order must be achieved;
- d. give notice that, if the required actions are not carried out within the time specified, the Town may carry out the necessary actions to resolve the non-compliance at the expense of the owner; and
- e. be served in accordance with this bylaw.

59. The order may be served:

- a. personally upon the owner;
- b. mailed by regular mail to the last known address of the owner according to the current assessment rolls; or
- c. posted on site.

60. If served by regular mail, an order under Subsection 13.3(b) of this bylaw shall be deemed to have been served on the fifth day after mailing.

Remediation

61. Wherever this bylaw or an order issued under this bylaw directs or requires any matter or thing to be done by the person directed or required to do it. The action may be taken under the direction of the Town, its officers, agents, contractors or employees at the owner's expense and the Town may recover the costs incurred through a legal action or by recovering the costs in the same manner as taxes.

62. An Officer or the Town's employees or agents authorized for this purpose may, upon producing appropriate identification when requested, enter onto property at a reasonable time and carry out any or all of the work described in the Order.
63. Where any matters or things are removed in accordance with Subsection 14.1 of this Bylaw, such matters or things may be immediately disposed of by the Officer.
64. The Town may recover the remedial action and enforcement costs incurred under Subsection 14.1 of this Bylaw by legal action and/or by adding them to the tax roll and collecting them in the same manner as property taxes in accordance with Section 446 of the Municipal Act.

Service Fees

65. The municipal service fees for the administration of this bylaw shall be in accordance with the Town's User Fees and Charges Bylaw and any revisions thereto.
66. Municipal service fees for the administration of this bylaw may be applied when a contravention has been confirmed by an Officer.
67. Pursuant to Section 398 of the Municipal Act, the Treasurer or their designate may add any part of a municipal service fee subject to Subsection 15.1 or 15.2, to the tax roll for the for any property in the Town of which all of the owners are responsible for paying the fee.

Offences and Penalties

68. Every person who contravenes any provision of this bylaw, including an order issued under this bylaw, is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c.P.33, as amended.
69. If a corporation has contravened a provision of this bylaw, including an order issued under this bylaw, every director and officer who knowingly concurred such a contravention is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c.P.33, as amended.
70. When a person has been convicted of an offence under this bylaw, 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.
71. Upon conviction, any fine imposed under this bylaw may be collected under the authority of the Provincial Offences Act, as amended.

Presumption

72. An owner of a property on which a contravention has occurred shall be presumed to have carried out or caused or permitted to be carried out the contravention, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

Town Not Liable

73. The Town assumes no liability for property damage or personal injury resulting from remedial action, remedial work undertaken with respect to any owner or property that is subject of this bylaw.

Validity and Severability

74. Should any section, subsection, clause, paragraph, or provision of this bylaw be declared by a Court of competent jurisdiction to be invalid or unenforceable, the same shall not

affect the validity of the enforceability of any other provision of this bylaw, or of the bylaw as a whole.

Force and Effect

75. This bylaw shall come into force and take effect on the 16th day of April, 2022.

BY-LAW READ A FIRST, SECOND and THIRD TIME in Open Council, and enacted this 13th day of December 2021.

MAYOR

CLERK