

THE CORPORATION OF THE MUNICIPALITY OF EAST FERRIS

BY-LAW NO. 2023-20

BEING A BY-LAW TO PROVIDE REGULATIONS FOR MAINTAINING LAND IN A CLEAN AND CLEAR CONDITION (CLEAN YARDS BY-LAW).

WHEREAS Section 10(2)(6) 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 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, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may prohibit and regulate the use of any land for the storage of used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts from them for sale or other disposition;

AND WHEREAS Section 446 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, 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 owner's expense and the costs added to the tax roll and collected in the same manner as property taxes;

AND WHEREAS the Council of the Corporation of the Municipality of East Ferris deems it necessary for the health, safety and welfare of the inhabitants to enact a by-law requiring owners and occupants of land to maintain their land free from refuse, debris, excessive growth of grass and weeds and conditions which may pose an unsafe condition;

NOW THEREFORE, the Council of the Corporation of the Municipality of East Ferris hereby enacts as follows:

1. Definitions

1.1 In this By-law:

“Compost” means the natural decomposition, in a composter, heap or digester, of organic material to produce humus, and is comprised of the following materials only: leaves, grass, shrub and hedge clippings, house and garden plants, branches, all fruits and vegetable matter, coffee ground and filters, tea bags, egg shells, pasta and bread.

“Council” means the Council of the Corporation of the Municipality of East Ferris.

“Debris” or **“Refuse”** or **“Rubbish”** means any waste material of any kind whatsoever and without limiting the generality of the foregoing includes: inoperative or unlicensed vehicles or boats and mechanical equipment, automobile and mechanical parts, tires, furnaces, water and fuel tanks, furniture, glassware, plastic, cans, garden refuse, grass clippings, trees, tree branches, 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, containers of any kind and unmaintained garden fixtures and any objects or conditions that might create a health, fire or accident hazard. shall mean any material whatsoever capable of holding water, and without limiting the generality of the foregoing, includes, but is not limited to, tires, motor vehicles, boats, bird baths, wheelbarrows, containers of any kind and garden fixtures.

“Derelict Motor Vehicle” shall mean a vehicle having missing bodywork components or parts, including tires or damaged components, parts, bodywork, glass or deteriorated or removed adjuncts, which prevents its mechanical function, and includes a motor vehicle that is not licensed for the current year.

“Designate” shall mean a person who is an employee of the Municipality of East Ferris, and who has been appointed by Council to administer and enforce all or part of this By-law on behalf of the Municipality and shall include any and all appointed municipal law enforcement officers.

“Domestic Waste” means any non-putrescible waste, consisting of combustible materials, such as paper, cardboard, yard clippings, wood, or similar materials, generated in a dwelling, including the real property upon which it is situated.

“Good Repair” means not unsightly by reason of deterioration, neglect, damage or defacement and free from injury accident hazard or health hazard.

“Grass” shall include all forms, types and species of grass, weeds and or any other plant material.

“Ground Cover” means organic or non-organic material applied to prevent soil erosion such as concrete, flagstone, gravel, asphalt, grass or other landscaping.

“Industrial Waste” shall mean any debris, refuse, sewage, effluent, discard or garbage of a type arising from industrial waste 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, materials or things exposed to the elements, and deteriorating or decaying on a property due to exposure to the weather.

“Inoperative Motor Vehicle” means a motor vehicle having missing bodywork, components or parts, including tires or damaged components, parts, bodywork, glass or deteriorated or removed adjuncts, which prevents its mechanical function, and may include any vehicle that does not display a vehicle permit number plate with evidence of the current validation of the permit affixed to it, issued under the *Highway Traffic Act*, or as issued by another provincial, state or national government.

“Land” includes any part of a yard or lot within the Municipality of East Ferris.

“Motor Vehicle” includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electric steam railways, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road building machine within the meaning of the *Highway Traffic Act*.

“Municipality” means the Municipality of East Ferris.

“Nuisance” means that which causes offence, annoyance, trouble or injury.

“Occupant” means any person or persons over the age of eighteen (18) years occupying a lot.

“Officer” means a municipal law enforcement officer, inspector or other person appointed or employed by the Municipality to enforce by-laws, statutes and/or regulations.

“Owner” includes:

- (a) The registered owner of the lot;
- (b) The person, for the time being, managing or receiving the rent from a building on the lot, whether on the person’s own account or as agent or trustee of any other person, or who would receive the rent if the building on the lot were let; and,
- (c) A lessee or occupant of a building on the lot who, under the terms of a lease, is required to repair and maintain the lot in accordance with the standards set out in this by-law;

“Person” means an association, corporation, firm, individual, partnership, trust organization, trustee or agent and the heirs, executors, administrators and other legal representatives of a person to whom the context can apply according to law.

“Pests” means rodents, vermin or insects.

“Standing or Stagnant Water” includes but is not limited to water that is void of movement by either natural or artificial means and includes moisture or water that may cause health hazards as identified by the North Bay-Parry Sound District Health Unit.

“Undesirable Material” includes:

- (a) Refuse, rubbish, garbage, brush, grass clippings, tree cuttings, branches, leaves, garden refuse, dead trees, bones, feathers, waste, litter and debris;
- (b) Injurious insects, termites, rodents, vermin and other pests;
- (c) Growth of grass or weeds in excess of 20 centimetres (8”);
- (d) Household items, including, but not limited to refrigerators, freezers, stoves, furnaces, wood/gas/electric fireplaces, water or fuel tanks, or other appliances and furniture or parts thereof.

“Vegetation” shall mean all the plants or plant life of a place or area taken as a whole.

“Yard” shall mean the land within the boundary lines of a property not occupied by a principal building, if any, and shall include grounds and / or vacant property.

“Waste” means garbage, special collection materials, recyclable materials, organic materials, yard waste.

“Weeds” means all noxious and local weeds designated as such under the *Weed Control Act* R.S.O. 1990, c. W.5.

2. SCOPE AND APPLICATION

- 2.1 This By-law shall apply to all land within the Municipality of East Ferris.
- 2.2 Where a provision of this By-law conflicts with a provision of another By-law in force and effect in the Municipality, the provision that established the higher standard shall prevail in order to protect the health, safety and welfare of the general public.

3. CLEAN AND CLEAR YARDS

- 3.1 Every owner, lessee or occupant shall keep their ground, yard or vacant land clear and free from holes and excavations, adequately draining, graded, clean or cleared up and free from conditions that may be considered a health hazard or nuisance by the surrounding lands and neighbourhood.
- 3.2 For the purpose of subsection 3.1, “keeping clear” includes:
- a) The removal of dead, decayed or damaged trees or other natural growth and the branches or limbs thereof which create an unsafe condition in relation to their environment;
 - b) The removal, trimming, or cutting of weeds or grass more than 20 centimeters (8 inches) in height, unless the land is in a “natural heritage” area or Area of Natural and Scientific Interest (ANSI) areas, or lands used for agricultural purposes;
 - c) The removal of standing, ponding and stagnant water;
 - d) The removal of objects or conditions that create or might create a health, fire or accident hazard;
 - e) The removal of any domesticated animal excrement;
 - f) The removal of all garbage, debris, refuse, rubbish and domestic or industrial waste of any kind, unless in compliance with the Municipality of East Ferris zoning by-law, site plan agreement and/or licensing by-laws and regulations.
 - g) The general maintenance and up keeping of a property including keeping various household items in a tidy manner.
- 3.3 Every owner, lessee or occupant shall ensure that his or her land is free and clear of infestation.

4. UNSAFE OR HAZARDOUS CONDITIONS

- 4.1 An Owner shall not cause or permit an unfenced or unprotected pit, excavation or other downward slope which causes a safety hazard on their property.
- 4.2 An Owner shall not permit any well which is unprotected or which the presence of which creates a risk, accident or injury.
- 4.3 An Owner shall not fail to comply with an order issued by the Officer to take remedial action and carry out remedial work to remove any standing or stagnant 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.
- 4.4 An Owner shall keep a swimming pool, hot tub, wading pool or artificial pond in good repair and working condition.

5. OUTSIDE STORAGE OF REFUSE, COMPOST OR RECYCLABLE MATERIAL

- 5.1 Where refuse, compost or recyclable material is stored outside of the enclosed walls of a building, the refuse, compost or recyclable material shall be stored, by an owner or occupant, in a container suitable for such a purpose and in a manner that does not attract pests or wildlife or create a health or safety hazard due to the nature of the storage or through deterioration or misuse of the storage facility.
- 5.2 Every owner or occupant shall carry out all composting in accordance with the following requirements:
- a) Only in a container or digester and only on land on which a dwelling unit is located;
 - b) Any compost containers or digesters used for composting shall be kept covered tightly at all times, except when being emptied or filled;
 - c) Compositing in a pile is prohibited;
 - d) No feces shall be placed in a compost container or digester used for composting;
 - e) No offensive odour shall be permitted to emanate from the compost container, or digester used for composting;
 - f) Any compost container or digester used for composting shall be set back at least two (2) feet from any lot line;
 - g) No bones, meat, dairy or other fat products are permitted to be composted.

6. VEHICLES

- 6.1 Except as provided in the Municipality of East Ferris Zoning By-law and amendments thereto, no person shall use any land in the Municipality of East Ferris for storing inoperative motor vehicles or used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal.
- 6.2 No machinery, vehicle, boat, trailer or part thereof which is in an unusable, wrecked, discarded, dismantled, partially dismantled or abandoned condition, shall be stored or allowed to remain on any land by an owner or occupant unless otherwise permitted by the Municipality of East Ferris Zoning By-law.
- 6.3 No person shall store a vehicle which is under maintenance in a residentially zoned area for more than 30 days unless the vehicle maintenance is done in an enclosed building or workshop.
- 6.4 No person shall store more than 5 motor vehicles on a residentially zoned property within the Municipality of East Ferris at any time.

7. EXCEPTIONS

- a) Nothing in this by-law applies to prevent:

A lawfully licensed premises operating within the scope of a license that specifically permits that which is prohibited by this by-law;

- i. Construction proceeding under a valid building permit;
- ii. The lawful outside storage of materials or things if this use is permitted under and in compliance with the Municipality of East Ferris Zoning By-law.

8. INSPECTIONS

- 8.1 The Municipality's designate shall be responsible for the administration and enforcement of this by-law, and in accordance with Schedule "A", if applicable.
- a) The Municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- i. This by-law; or,
 - ii. An order made under Section 431 of the *Municipal Act, 2001*.

b) For the purpose of conducting an inspection pursuant to Section 7 (a) of this by-law, the Municipality may, in accordance with the provisions of Section 436 of the *Municipal Act, 2001*:

- i. Require the production for inspection of documents or things relevant to the inspection;
- ii. Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- iii. Require information from any person concerning a matter related to the inspection; and,
- iv. Alone or in conjunction with a person possessing special or expert knowledge, make examination or take tests, samples, or photographs necessary for the purpose of the inspection.
- v. No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this by-law.

9. NOTICE OF REMEDY

9.1 An Officer may, by personal service or by notice sent by registered mail to the owner of the land or structure, require the Owner within twenty-one (21) calendar days:

- a) To clean, clear or remove from the land or structure: garbage, refuse or domestic or industrial waste of any kind;
- b) To cease using the land or structure for the dumping or disposing of garbage, refuse, or domestic or industrial waste of any kind;
- c) To temporarily cover over, screen, shield or enclose the garbage, refuse of the domestic or industrial waste until such time as the garbage is removed in the manner prescribed by the Officer;
- d) To pull down, repair or renew any structure, including but not limited to fences and retaining walls, but not including buildings, that by reason of its ruinous or dilapidated state is an unsafe condition;
- e) To remove the inoperative motor vehicle(s);
- f) To eliminate or remove any object or conditions that creates or might create a health, fire or accident hazard;
- g) To eliminate or remove the excrement of any domesticated animal.

9.2 Every notice sent by the Officer shall identify the land or structure.

9.3 Every notice to an Owner shall be sent to the address shown on the last revised assessment roll or to the last known address.

9.4 In the event the Officer is unable to serve such notice under the provisions of this Section, the notice may be posted in a conspicuous place on the property, and the placing of the notice shall be deemed to be sufficient service of the notice on the property owner.

10. RIGHT OF ENTRY

10.1 The Municipality, for the purpose of inspection and/or remedial action, may enter upon the land and into structures other than a place actually used as a dwelling house, at any reasonable time, without notice.

10.2 A person exercising a power of entry on behalf of the Municipality of East Ferris under this By-law must, on request, display or produce proper identification.

11. REMEDIATION

11.1 Where the owner is in default of doing any matter or thing directed or required to be done under this by-law, an Officer may direct the completion and enforcement of such at the owner's expense.

- 11.2 Where any matters or things are removed in accordance with subsection 11.1, such matters or things may be immediately disposed of by the Officer.
- 11.3 The Municipality may recover the remedial action and enforcement costs incurred under subsection 11.1 by action, or by adding them to the tax roll and collecting them in the same manner as taxes in accordance with Section 446 of the *Municipal Act, 2001*.
- 11.4 The Municipality may, prior to recovering costs incurred in subsection 11.1 pursuant to Section 446 of the *Municipal Act, 2001* by adding costs to the municipal taxes, invoice owners requesting voluntary payment of said remedial action costs.
- 11.5 The Municipality may place a lien on the property as per Section 446 of the *Municipal Act, 2001* on any remedial action.

12. OFFENCES

- 12.1 Every person who contravenes any provisions of this by-law, including an order issued under this by-law, is guilty of an offence and upon conviction is liable to a fine pursuant to the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.
- 12.2 Every person who is convicted of an offence under this by-law shall be subject to a fine of not more than one thousand dollars (\$1,000.00) for each offence. Such fines shall be recoverable under the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

13. PENALTIES

- 13.1 The provisions of this by-law may be enforced pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990 c. P. 33 as amended, and where any provision of this by-law is contravened and a conviction entered, in addition to any other remedy and to any other penalty may also be prohibited from continuing or repeating the offence in accordance with the provisions of Section 444 of the *Municipal Act, 2001* S.O. 2001, as amended.
- 13.2 Every person who is guilty of an offence under this by-law may, if permitted under the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended, pay a set fine, and the Chief Judge of the Ontario Court, Provincial Division, shall be requested to establish set fines as set out in Schedule "B" to this by-law.

14. OBSTRUCTION

- 14.1 In accordance with the provisions of the *Municipal Act* S.O. 2001, c. 25, as amended, Section 426 (1), no person shall hinder, interfere with or otherwise obstruct, either directly or indirectly, an officer, employee of the Municipality of East Ferris and/or agent in the lawful exercise or power or duty under this by- law.

15. MUNICIPALITY NOT LIABLE

- 15.1 The Municipality assumes no liability for property damage or personal injury resulting from remedial action, remedial work and enforcement undertaken with respect to any person or property that is subject of this by-law.

16. VALIDITY AND SEVERABILITY

- 16.1 Should any section, subsection, clause, paragraph or provision of this by-law 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 by-law, or of the by-law as a whole.
- 16.2 Where other by-laws, regulations, or statutes prescribe standards of maintenance and provisions of another by-law in force in the Municipality of East Ferris, the provisions that establish the higher standard shall prevail.

17. SEPARATE OFFENCE

- 17.1 For the purpose of this by-law, each day of a continued offence shall be deemed to be a separate offence.

18. SHORT TITLE

18.1 The short title of this by-law is the “Clean Yards By-law”.

19. REPEAL

19.1 The Council of the Corporation of the Municipality of East Ferris hereby repeals By-law No. 1836.

READ A FIRST AND SECOND TIME this 9th day of May, 2023.

READ A THIRD TIME AND FINALLY PASSED this _____ day of _____, 2023.

Mayor
Pauline Rochefort

Deputy Clerk
Kari Hanselman