

**THE CORPORATION OF THE
TOWNSHIP OF WAINFLEET**

BY-LAW NO. 016-2021

Being a By-law for Maintenance of Yards
in the Township of Wainfleet.

WHEREAS sections 8, 9 and 11 of the *Municipal Act, 2001*, S.O 2001, c. 25 (“*Municipal Act, 2001*” or “the statute”) authorize a municipality to pass by-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, the protection of persons and property and waste management;

AND WHEREAS section 127 of the *Municipal Act, 2001* authorizes a municipality to define “refuse”;

AND WHEREAS section 127 of the *Municipal Act, 2002* further provides that a municipality may require an owner or occupant of land to clean and clear the land, to clear refuse or debris from land and to regulate when and how such matters shall be done;

AND WHEREAS section 127 of the *Municipal Act, 2001* further provides that a municipality may prohibit the depositing of refuse or debris on land without consent of the owner or occupant of land;

AND WHEREAS section 128 of the *Municipal Act, 2001* 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 public nuisances;

AND WHEREAS section 129 of the *Municipal Act, 2001* provides that a municipality may prohibit and regulate with respect to noise, vibration, odour and dust;

AND WHEREAS section 131 of the *Municipal Act, 2001* 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 425 of the *Municipal Act, 2001* provides that a municipality may pass by-laws providing that any by-law of the municipality passed under the statute is guilty of an offence;

AND WHEREAS section 429 of the *Municipal Act, 2001* provides that a municipality may establish a system of fines for offences under a by-law of the municipality passed under the statute;

AND WHEREAS section 434.1 of the *Municipal Act, 2001* provides that a municipality may require a person to pay an administrative monetary penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the statute;

AND WHEREAS section 444 of the *Municipal Act, 2001* provides that if a municipality is satisfied that a contravention of a by-law passed by the municipality under the statute has occurred, it 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 land on which the contravention occurred, to discontinue the contravening activity;

AND WHEREAS section 445 of the *Municipal Act, 2001* provides that if a municipality is satisfied that a contravention of a by-law passed under the statute has occurred, it 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 land on which the contravention occurred, to do work to correct the contravention;

AND WHEREAS section 446 of the *Municipal Act, 2001* provides that where a municipality has authority under the statute or any other Act or under a by-law under the statute or any other Act 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 to do it, the matter or thing shall be done at the person's expense;

AND WHEREAS the Council of the Corporation of the Township of Wainfleet has deemed it to be in the public interest to enact this by-law;

NOW THEREFORE the Council of the Corporation of the Township of Wainfleet enacts as follows:

1. **Short Title**

1.1 This by-law shall be known as the "Clean Yards By-law".

1.2 **Definitions**

1.2.1 In this by-law:

- (1) **"Administrative Monetary Penalty"** means a monetary penalty applied to a Person for failing to comply with any section or part of this by-law.
- (2) **"Agricultural Operation"** means an agricultural operation as defined by the *Farming and Food Production Protection Act, 1998*, S.O. 1998, c. 1 ("*Farming and Food Production Protection Act, 1998*").
- (3) **"Buffer Strip"** means a minimum 6 metre (19.69 foot) wide strip immediately adjacent to the lot lines of any lot or parcel of land and along all boundaries of the whole lot or parcel of land.
- (4) **"Domestic Waste"** means any debris, rubbish, Sewage, effluent, discard, or garbage of any type that arises from, belongs to or is associated with a house or residential property, including but not limited to all garbage, discarded material or things, broken or dismantled things, materials or things exposed to the elements for which they were not designed, and materials deteriorating or decaying on a property due to exposure or the weather. Domestic Waste

does not cease to become Domestic Waste by reason that it may be commercially saleable or recyclable or hold potential value.

For greater certainty, Domestic Waste includes but is not limited to the following classes of material regardless of the nature, condition, value or potential of the material, article or thing:

- a) Accumulations of grass clippings, tree cuttings, brush, leaves and garden refuse;
- b) Paper, paper cartons, and other paper products;
- c) Rotting vegetable matter or rotting animal matter, unless it is being composted in accordance with generally accepted composting practices;
- d) Disconnected appliances including refrigerators, stoves, dishwashers, microwaves, freezers, washers, dryers, water coolers, or any part or parts of such items;
- e) Electronic devices including televisions, computers, tablets and related components, radios, amplifying devices, speakers, audio visual players and any parts or accessories of such items;
- f) Furnace or furnace parts, air conditioners, ducting, pipes, heat pumps, fittings, pipes and wiring;
- g) Derelict water or fuel tanks;
- h) Inoperative Vehicles and any parts and/or accessories of such items;
- i) Inoperative Motor Vehicles and any parts and/or accessories of such items;
- j) Inoperative bicycles, lawnmowers, engines and mechanical tools, including hand tools and power tools and any parts and/or accessories of such items;
- k) Broken or discarded furniture being kept out of doors;
- l) Crockery, dishes, pots and pans and small kitchen appliances;
- m) Animal waste products, hides and parts of carcasses other than those arising from commercial, industrial or agricultural businesses in legal operation on the property;
- n) Animal excrement; and

- o) Construction, demolition, repair or renovation material and/or debris accumulated or left over from such work.
- (5) **“Fill”** means any soil, dirt, asphalt, concrete, bricks, branches or roots of trees or bush or any other like materials.
- (6) **“Highway”** has the same meaning as in the *Highway Traffic Act*, R.S.O. 1990, c. H.8 (*“Highway Traffic Act”*) and, for greater certainty, includes all municipal, regional and provincial highways within the boundaries of the Township of Wainfleet.
- (7) **“Inoperative Motor Vehicle”** includes any Motor Vehicle situated, stored or kept on a Property other than a Motor Vehicle that is licensed and displays a valid and current validation sticker, but does not include a Motor Vehicle that is required for the operation of an Agricultural Operation or business enterprise lawfully situated on the Property.
- (8) **“Inoperative Vehicle”** includes any machinery, trailers, boats, recreational vehicles and similar items situated, stored or kept on a Property and any such items that are unable to operate as a result of being dismantled, broken or incomplete, decayed or dilapidated, but does not include a Motor Vehicle or other Vehicle that is licensed and displays a valid and current validation sticker where applicable or machinery, trailers, boats, recreational vehicles or similar items that are required for the operation of an Agricultural Operation or business enterprise lawfully situated on the Property.
- (9) **“Last Known Address”** means the address which appears on the latest revised assessment roll of the Township.
- (10) **“Medical Officer of Health”** means the Medical Officer of Health for the Regional Municipality of Niagara.
- (11) **“Motor Vehicle”** means a motor vehicle as defined in the *Highway Traffic Act*.
- (12) **“Municipally-Owned Lands”** means Property owned or maintained by the Corporation of the Township of Wainfleet shown on the latest revised assessment roll of the Township and shall include all municipal road allowances and rights of way.
- (13) **“Naturalized Area”** means lands or a portion of lands covered by vegetation which is landscaped and maintained with a variety of flowers or plants, with or without grasses, or left to naturally grow a variety of indigenous plants.
- (14) **“Non-Residential Waste”** means any debris, rubbish, Sewage, effluent, discard or garbage of any type that arises from, belongs to or is associated with non-residential uses, including but not limited to all garbage, discarded

material or things, broken or dismantled things and materials or things exposed to the elements, and materials deteriorating or decaying on the property due to the exposure or the weather. Non-Residential Waste does not cease to become Non-Residential Waste by reason that it may be commercially saleable or recyclable or hold potential value.

For greater certainty, Non-Residential Waste includes but is not limited to the following classes of materials regardless of the nature, condition, value or potential of the material, article or thing:

- a) Debris, discarded things or matter, or effluent which in whole or in part are derived or are constituted from or consist of:
 - (i) Animal or vegetable matter, paper, lumber or wood; or
 - (ii) Mineral, metal or chemical or fill contaminated with petrochemical or petroleum products;
 - b) Piles of miscellaneous plastic, wood or metal parts, or combinations of such materials;
 - c) Inoperative Vehicles and any parts and/or accessories of such items;
 - d) Inoperative Motor Vehicles and any parts and/or accessories of such items;
 - e) Vehicle Parts;
 - f) Piping, ducting, tubing, conduits, cable, wire and fittings or related accessories, with or without adjuncts and not packaged for immediate shipment;
 - g) Material resulting from or as part of, construction, demolition, repair or renovation projects including dust, debris and left over material;
 - h) Rubble or Fill;
 - i) Bones, feathers, hides or other animal parts or carcasses;
- (15) **“Noxious Weed”** means a noxious weed designated by or under the *Weed Control Act*, R.S.O. 1990, c. W.5, including any weed designated as a local noxious weed under a by-law of the Township passed under that Act.

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- (16) **“Occupant”** means any Person or Persons in possession of a Property, whether such possession arises from ownership, leasing or renting the Property.
- (17) **“Officer”** means a By-law Enforcement Officer appointed by the Township, a member of the Niagara Regional Police Service, a member of the Ontario Provincial Police, a member of the Royal Canadian Mounted Police, a member of the Canadian National Police Service or any other provincial offences officer designated under the *Provincial Offences Act*, R.S.O. 1990, c. P.33 (*“Provincial Offences Act”*).
- (18) **“Order”** means any notice of non-compliance issued under this by-law.
- (19) **“Owner”** means a Person or Persons registered as the owner of a Property on the latest revised assessment roll of the Township.
- (20) **“Person”** means an individual, firm, corporation, association or partnership and includes an Owner and an Occupant.
- (21) **“Property”** means any land, grounds, Yard or Vacant Lands.
- (22) **“Refuse”** includes all manner of waste, debris or Sewage and also includes all Domestic Waste and Non-Residential Waste.
- (23) **“Regionally-Owned Lands”** means Property owned or maintained by the Regional Municipality of Niagara shown on the latest revised assessment roll of the Township and shall include all regional road allowances and rights of way.
- (24) **“Sewage”** includes any liquid waste containing human, animal, vegetable, or mineral matter, waste that is in suspension whether Domestic Waste, Non-Residential Waste, and any other liquid waste whether in suspension or precipitated, but does not include roof water or storm run-off.
- (25) **“Standing Water”** means any water on a Property other than Treated Water or a natural body of water that exists on a permanent basis or is contained within a municipally-owned storm water management facility.
- (26) **“Township”** means the Corporation of the Township of Wainfleet.
- (27) **“Treated Water”** means water that has been treated with a larvicide or otherwise so as to minimize any potential health, safety or medical hazard to any person and includes water that is continuously passed through a filter system to remove contaminants and water that is otherwise continuously circulated by mechanical means.

- (28) **“Turf Grass Area”** means the ground cover comprised of one or more species of growing grass with or without trees, shrubbery or maintained planting beds for other vegetation.
- (29) **“Vacant Land”** means land with no building(s) or having no land use established.
- (30) **“Vehicle”** means a Vehicle as defined in the *Highway Traffic Act*.
- (31) **“Vehicle Parts”** means any part, component, element or accessory used in the assembly, construction, maintenance or repair of a Vehicle, whether operable or not.
- (32) **“Yard”** means land, Municipally-Owned Lands and Regionally-Owned Lands, around and appurtenant to the whole or part of a building and used, or capable of being used, in connection with a building.

2. Exemption

- 2.1 Nothing in this by-law applies to prevent an Agricultural Operation from carrying out a normal farm practice under the *Farming and Food Production Protection Act, 1998*.
- 2.2 This by-law does not apply to:
- (1) Municipally-Owned Lands;
 - (2) Regionally-Owned Lands; and/or
 - (3) Building materials and equipment directly related to active and ongoing construction at a Property that is proceeding in accordance with a permit issued in accordance with the *Building Code Act, 1992, S.O. 1992, c. 23* or other applicable law.

3. Maintenance of Vegetation

- 3.1 Every Owner and/or Occupant of a Property shall keep all trees, shrubbery, plants, grasses and/or other vegetation on the Property clean and clear.
- 3.2 For the purposes of section 3.1, “clean and clear” means:
- (1) Noxious Weeds shall be removed from all Turf Grass Areas, Naturalized Areas and Buffer Strips;
 - (2) In Turf Grass Areas, grass shall be cut and maintained at a height of not greater than 200 mm (8 in);

- (3) In Naturalized Areas, vegetation other than trees or shrubbery within a Buffer Strip shall be cut so that the vegetation is maintained at a height of not greater than 200 mm (8 in).
- (4) All trees, shrubbery, plants, grasses and other vegetation shall be maintained to ensure that they do not affect the safety, visibility or passage of the general public, cause a visual obstruction of any road or intersection, or cause or potentially cause damage or injury to any persons or property.

4. **Standing Water**

- 4.1 No Owner and/or Occupant of a Property shall permit an excavation, swimming pool, hot tub, wading pool, fountain, artificial pond, bird bath or debris located on the Property to contain Standing Water for a period in excess of four (4) days.
- 4.2 Every Owner and/or Occupant of a Property shall ensure that any swimming pool, hot tub, wading pool, fountain or artificial pond on the Property is maintained in proper operating condition and in good repair.
- 4.3 No Owner and/or Occupant of a Property shall discharge, or cause or permit to be discharged, any water or Sewage onto an adjacent or neighbouring Property, including any Municipally-Owned Lands or Regionally-Owned Lands

5. **Property Condition**

- 5.1 Every Owner and/or Occupant of a Property shall keep the Property clean, free and clear of Domestic Waste, Non-Residential Waste and/or any other thing that may constitute a health, fire or safety hazard.
- 5.2 No Person shall use, or cause or permit the use of any Property or structure within the Township for dumping or disposing of Domestic Waste, Non-Residential Waste or any other thing that may constitute a health, fire or safety hazard.
- 5.3 Subject to paragraph 2.2(3), every Owner and/or Occupant of a Property shall keep the Property clean, free and clear of new or used building materials other than the temporary storing of building materials intended for use during imminent construction at the Property.
- 5.4 Where new or used building materials are temporarily stored at a Property in accordance with section 5.3, they shall be:
 - (1) Situated, stored or kept not less than three (3) metres from any lot line or boundary between the Property and any adjacent or neighbouring property, including Municipally-Owned Lands and Regionally-Owned Lands; and

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- (2) Fully covered or otherwise screened from view from any adjacent or neighbouring property, including Municipally-Owned Lands and Regionally-Owned Lands, and using a screening method that does not contravene this or any other by-law of the Township.
- 5.5 No Owner and/or Occupant of a Property shall cause or permit an accumulation of Fill to be situated, stored or kept on the Property unless the accumulation of Fill and its placement on the Property are reasonably necessary for the Property to comply with this by-law, any other by-law of the Township and/or any applicable law.
- 6. Inoperative Vehicles and Inoperative Motor Vehicles**
- 6.1 Subject to section 6.2, every Owner and/or Occupant of a Property shall keep the Property clean, free and clear of Inoperative Vehicles and Inoperative Motor Vehicles.
- 6.2 Despite section 6.1 and subject to sections 6.7, 6.8 and 6.9, the Owner and/or Occupant of a Property may situate, store and/or keep a maximum combined total of two (2) Inoperative Vehicles or Inoperative Motor Vehicles on the Property in accordance with sections 6.3, 6.4, 6.5 and 6.6.
- 6.3 Any Inoperative Vehicle or Inoperative Motor Vehicle that is situated, stored or kept on a Property must be situated, stored or kept not less than one hundred and fifty (150) metres from any residential dwelling located on any adjacent or neighbouring property and not less than one hundred (100) metres from any lot line or boundary between the Property and any adjacent or neighbouring property, including Highways, Municipally-Owned Lands and Regionally-Owned Lands.
- 6.4 Where an Inoperative Vehicle or Inoperative Motor Vehicle that is situated, stored or kept on a Property in accordance with section 6.3 is missing any exterior components, including but not limited to its hood, doors, fenders, wheels or tires, it shall be fully covered with an appropriate cover or otherwise screened from view from any adjacent or neighbouring property, including Highways, Municipally-Owned Lands and Regionally-Owned Lands, and using a screening method that does not contravene this or any other by-law of the Township. For the purposes of this section, a tarpaulin does not constitute an appropriate cover.
- 6.5 Where an Inoperative Vehicle or Inoperative Motor Vehicle that is situated, stored or kept on a Property in accordance with section 6.3 is not missing any exterior components, it may be, but is not required to be, covered or screened from view. Any Inoperative Vehicle or Inoperative Motor Vehicle that is covered or screened from view must use an appropriate cover and/or a screening method that does not contravene this or any other by-law of the Township. For the purposes of this section, a tarpaulin does not constitute an appropriate cover.
- 6.6 Where a Vehicle or an Inoperative Vehicle that is situated, stored or kept on a Property in accordance with section 6.3 is a trailer that contains cargo or other items, the trailer shall be fully covered with an appropriate cover. For the purposes

of this section, a tarpaulin constitutes an appropriate cover if it fully covers the cargo or other items contained in the trailer, is adequately secured to the trailer and is kept in good repair.

6.7 Notwithstanding any other provisions of this by-law, no Person shall situate, store or keep, or cause or permit to be situated, stored or kept, any Inoperative Vehicles or Inoperative Motor Vehicles on any Vacant Land.

6.8 Nothing in this section authorizes or permits any Owner and/or Occupant of a Property to situate, store or keep Vehicle Parts on the Property.

6.9 No Person shall use, cause or permit the use of any Property or structure in the Township to situate, store or keep Inoperative Vehicles, Inoperative Motor Vehicles or Vehicle Parts for the purpose of wrecking or dismantling them or salvaging parts from them for sale or other disposition unless such use is permitted by Township Zoning by-law no. 034-2014 or Township Zoning by-law no. 582-78.

7. **Enforcement**

7.1 An Officer may enter a Property at any reasonable time for the purpose of carrying out an inspection to determine whether:

- (1) The Property is being maintained in accordance with this By-law;
- (2) The Property or any structure on the Property is being used for the dumping or disposing of garbage, Refuse, Fill, Domestic Waste or Non-Residential Waste of any kind;
- (3) The Property or any structure on the Property is being used for the storage of Motor Vehicles or for the purpose of wrecking or dismantling said Motor Vehicles and/or for salvaging parts thereof for sale or disposal;
- (4) The Owner and/or Occupant of the Property has complied with any Order made by an Officer; or
- (5) There is compliance or non-compliance with any other provision of this by-law.

7.2 An Officer may make an Order requiring the Owner and/or Occupant of a Property to bring the Property into compliance with the provisions of this by-law.

7.3 An Order made under section 7.2 shall prescribe the time period for complying with the Order and shall notify the Person to whom the Order is issued that if the Property is not brought into compliance with the Order within the prescribed time, the Township may issue a Penalty Notice for every day that the Property is not in compliance and further that the Township may carry out any required remedial action at the Person's expense or, in the case of an Occupant, at the expense of the Occupant and/or the Owner of the Property.

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- 7.4 An Order made under section 7.2 may be:
- (1) Sent by registered mail to the Last Known Address of the Person to whom it is issued and shall be deemed served after five (5) business days;
 - (2) Posted on the Property in a conspicuous location and shall be deemed served immediately upon such posting; or
 - (3) Personally delivered to the Person to whom it is issued and shall be deemed served immediately upon such personal service.
- 7.5 Every Person shall permit an Officer, upon the production of identification and for the purpose of inspection by the Township, to inspect the Property and any structure on the Property for any purpose contained in this by-law.
- 7.6 Every Person shall comply with an Order issued under this by-law within the time specified for compliance.
- 7.7 Where a Person fails to comply with an Order issued under this by-law within the time specified for compliance, the Officer with such assistance by the Township and/or its agents as may be required and upon reasonable notice may, at the expense of the Person to whom the Order was issued:
- (1) Take the action necessary to bring the Property into compliance with the applicable sections of this by-law;
 - (2) Clean, clear or remove from the Property or any structure on the Property any and all garbage, Refuse, Fill, Sewage, Domestic Waste, Non-Residential Waste, Noxious Weeds, long grass, trees, shrubs, other vegetation or any other thing that may constitute a health, fire, or safety hazard;
 - (3) Remove from the Property any Inoperative Vehicle or Inoperative Motor Vehicle that does not comply with this section 5 of this by-law;
 - (4) Remove from the Property and any Motor Vehicle or Vehicle Parts stored for the purpose of wrecking or dismantling the Motor Vehicle, or for salvaging parts for sale or other disposition.
- 7.8 No Person shall hinder or obstruct an Officer from inspecting a Property or hinder or obstruct an Officer, the Township and/or its agents from carrying out work authorized by an Order made under this by-law.
- 7.9 Where any action is taken to bring a Property into compliance with this by-law or where items, materials or things are removed from any Property pursuant to this by-law, the Township shall not be liable to compensate the Owner, Occupant or any other Person by reason of anything done by or on behalf of the Township in the reasonable exercise of its powers under this by-law.

- 7.10 The Owner of any Property against which any proceedings are brought or against which any action is taken in accordance with this by-law shall pay the applicable fees and charges of the Township.
- 7.11 The Owner shall pay the applicable fees and charges described in section 7.10 within thirty (30) days of the date on which an Order becomes final or the date on which a conviction is pronounced or the date on which an action is taken.
- 7.12 Fees and charges imposed in accordance with this by-law that are not paid within the prescribed time period shall be added to the tax roll of the Owner and collected in the same manner and with the same priority as municipal taxes.

8. **Offences and Penalties**

- 8.1. Every Person who contravenes any provision of this by-law is guilty of an offence and upon conviction is subject to a fine or fines in accordance with the *Provincial Offences Act*.
- 8.2. Where an Officer is satisfied that a Person has failed to comply with this by-law and/or with an Order issued pursuant to this by-law, the Officer may issue a penalty notice imposing an Administrative Monetary Penalty. The Administrative Monetary Penalties for failures to comply with this by-law are set out in Schedule "A", which is attached hereto and forms part of this by-law.
- 8.3. Township by-law no. 027-2019, as amended by by-law nos. 079-2019 and 005-2020, AMPS By-law for Non-Parking Offences, applies to each Administrative Monetary Penalty issued pursuant to this by-law.

9. **Validity**

- 9.1. Should a court of competent jurisdiction declare any provision of this by-law to be invalid or of no force and effect, the provision is deemed severable from this by-law and it is the intention of the Township the remainder of this by-law shall survive and be applied and enforced in accordance with its terms to the extent possible under the law.

10. **Repeal and Enactment**

- 10.1. Township by-law No. 073-2019 any amendments thereto, is hereby repealed and replaced.

11. **Date of Enactment**

- 11.1. This by-law shall come into force on the date that it is passed.

BY-LAW READ A FIRST TIME THIS 11th DAY OF MAY, 2021.

BY-LAW READ A SECOND TIME THIS 11th DAY OF MAY, 2021.

BY-LAW READ AND PASSED THIS 11th DAY OF MAY, 2021.

K. Gibson, MAYOR

M. Ciuffetelli, DEPUTY CLERK

Schedule "A" to By-law No. 073-2019

Clean Yards By-law
Short Form Wording and Administrative Penalties

Section	Short Form Wording	Penalty
3.1	Fail to keep vegetation on Property clear and cleaned up	\$100.00
4.1	Fail to keep Property free of Standing Water	\$100.00
4.2	Fail to maintain swimming pool/hot tub/wading pool/fountain/artificial pond	\$100.00
4.3	Discharge water/sewage on a neighboring property	\$150.00
5.1	Fail to keep Property clear of Domestic Waste/Non-Residential Waste or item constituting a health, fire, or safety hazard	\$150.00
5.2	Use or permit use of Property for dumping	\$250.00
5.3	Fail to keep land clear of new or used building materials	\$150.00
6.1	Fail to keep property free and clear of inoperative vehicles	\$150.00
6.8	Fail to keep property free and clear of vehicle parts	\$150.00
6.9	Use land for wrecking, dismantling or salvaging parts for sale or repair	\$150.00
7.2	Fail to comply with Order	\$300.00
7.8	Hinder or obstruct an Officer conducting inspection	\$250.00