



BY-LAW NO. 2014-002

**A BY-LAW OF THE CORPORATION OF THE TOWN OF
BRACEBRIDGE TO PROVIDE FOR THE MAINTENANCE
OF LAND IN A CLEAN, CLEAR AND SAFE CONDITION**

WHEREAS Section 8 of the *Municipal Act, 2001, S.O. 2001, c.25* (hereinafter referred to as the “Municipal Act”) provides that the powers of a municipality under the Municipal Act or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's 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 Municipal Act or any other Act;

AND WHEREAS pursuant to Section 11(2) of the Municipal Act, a municipality may pass by-laws respecting the environmental well-being of the municipality, the health, safety and well-being of the persons and the protection of persons and property;

AND WHEREAS pursuant to Section 122 of the Municipal Act, a municipality may require the owner or occupants of buildings to remove snow and ice from the roofs of the buildings and may regulate when and how the removal shall be undertaken;

AND WHEREAS pursuant to Section 127 of the Municipal Act, a municipality may define what constitutes debris and refuse and may require the owner or occupant of land to clean and clear land, to clear refuse or debris from the land, to regulate how cleaning and clearing is to be done and to prohibit the depositing of refuse or debris without the consent of the owner or occupant of the land;

AND WHEREAS pursuant to Section 128 of the Municipal Act, 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 pursuant to Section 131 of the Municipal Act, 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 pursuant to Section 425 of the Municipal Act, a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence;

AND WHEREAS pursuant to Section 426 of the Municipal Act, 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 Act or under a by-law passed under this Act;

AND WHEREAS pursuant to Section 436 of the Municipal Act, a By-Law Enforcement Officer may enter upon any land at any reasonable time for the purpose of carrying out an inspection to determine compliance with this by-law;

AND WHEREAS pursuant to Section 446(1) of the Municipal Act, a municipality may direct or require a person to do a matter or thing and 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;

AND WHEREAS pursuant to Section 446(3) of the Municipal Act, a municipality may recover the costs of doing a matter or thing under subsection (1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS maintaining a green, mindful and environmentally sustainable community has been identified as a key strategic objective in the Town of Bracebridge community based strategic plan;

AND WHEREAS by motion 13-GC-305, the Council of the Corporation of the Town of Bracebridge deems it expedient to pass a by-law to provide for the maintenance of land in a clean, clear and safe condition;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF BRACEBRIDGE ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law;
 - 1.1. **Boulevard** means that portion of a highway between the Town property line and roadway, which is not used or intended for use for vehicular travel by the general public, and includes any landscaped areas that are separated from private property by sidewalks.
 - 1.2. **Compost** means the natural decomposition of organic materials to produce humus in a compost container, pile or digester.
 - 1.3. **Council** means the Council for the Corporation of the Town of Bracebridge;
 - 1.4. **Derelict Motor Vehicle** means a motor vehicle having missing or damaged components or parts, including tires, bodywork or glass or a motor vehicle that does not bear a valid licence plate including a current validation sticker.
 - 1.5. **District** means the District Municipality of Muskoka.
 - 1.6. **Domestic Waste** means any debris, rubbish, refuse or garbage of any type arising from a residence, belonging to or associated with a house or use of a house or residential property, including but not limited to garbage, discarded material or things, yard waste, broken or dismantled things and materials or things exposed to the elements and deteriorating or decaying on a property due to exposure to the weather.
 - 1.7. **Graffiti** means one or more letters, symbols, marks, pictorial representations, messages or slogans howsoever made on any property, but does not include a sign or traffic control marking when authorized by the Government of Canada, the Province of Ontario, the District or the Town.
 - 1.8. **Ground Cover** means one or more species of grass or weeds.
 - 1.9. **Industrial Waste** means any debris, rubbish, refuse or garbage of any type arising from an industrial 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, yard waste, materials or things exposed to the elements and deteriorating or decaying on a property due to exposure to the weather.
 - 1.10. **Landscape Feature** means a fence, retaining wall, gazebo, trellis and similar decorative features.

- 1.11. **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 an electric or steam railway or other 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, as amended.
- 1.12. **Naturalized Area** means a defined area of vegetation that has been deliberately planted or cultivated with species of wildflowers, shrubs, trees, annuals, perennials, ornamental grasses or combinations thereof consistent with a managed and natural landscape.
- 1.13. **Officer** means an individual appointed as a By-Law Enforcement Officer by Council.
- 1.14. **Owner** means the registered owner of land, the owner in trust, a mortgagee in possession and includes a person, firm, partnership, corporation, company, association or organization of any kind and its principal(s).
- 1.15. **Principal Building** means a building which, by reason of its use, constitutes the primary purpose for which the lot is used.
- 1.16. **Property** means any land within the Town of Bracebridge including yards and vacant lots.
- 1.17. **Waste** means any item or material that, in the opinion of an Officer, appears to have been discarded or abandoned and of no practical value.
- 1.18. **Yard Waste** includes grass clippings, trees or parts thereof, brush and leaves.

GENERAL PROVISIONS

- 2. Every owner shall ensure that his or her property is kept free and clear of any:
 - 2.1. ground cover exceeding 30 centimetres (12 inches) in height;
 - 2.2. garbage, refuse, domestic waste or industrial waste;
 - 2.3. refrigerator or freezer that is not located within a building or with the lid kept in a locked position;
 - 2.4. wrecked, dismantled, abandoned or inoperable appliance, machine or shopping cart;
 - 2.5. derelict motor vehicle;
 - 2.6. hedge, tree or branch that hinders pedestrian traffic on a Town maintained sidewalk;
 - 2.7. accumulation of animal excrement;
 - 2.8. 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.
- 3. Every owner shall ensure that:
 - 3.1. all steps, pedestrian walkways, driveways, parking spaces and other similar areas on their property are maintained so as to afford clear, unobstructed and safe passage by pedestrians and vehicles;

- 3.2. all snow and ice is removed from the roofs of their building(s) when, in the opinion of an Officer, the snow or ice poses a health or safety hazard to persons or property in the normal use of adjacent walkways, driveways, parking areas and entrances into buildings;
- 3.3. any naturalized area on their land does not encroach above or onto any adjacent property;
- 3.4. all landscaped features on their property are kept in good repair;
- 3.5. the boulevard area adjacent to their property is maintained so as to keep the height of ground cover to not greater than 30 centimetres (12 inches).

EXEMPTIONS

4. The following exemptions apply with respect to the requirements of this by-law:
 - 4.1. Section 2.1 does not apply to a naturalized area, a property zoned as agricultural, rural or open space or a property without a principal building.
 - 4.2. Section 2.2 does not apply to domestic or industrial waste being stored outside for regular waste collection provided the waste is being stored in accordance with section 7 of this by-law and is placed out for collection on a regular basis and in accordance with any waste collection by-law currently in effect.
 - 4.3. Sections 2.1, 2.7, 5.3 and 5.5 do not apply to a property being used for agriculture in accordance with the Town Zoning By-Law.
 - 4.4. Sections 2.1, 2.2, 2.3, 2.4 and 2.5 do not apply to the extent that the matter prohibited therein is necessary for the operation of a business enterprise lawfully situated on the property pursuant to the Zoning By-Law currently in effect.
 - 4.5. This by-law does not apply to land owned by the Government of Canada, the Province of Ontario, the District or the Town.
 - 4.6. Section 2.5 does not apply to a maximum of two (2) derelict motor vehicles on a property provided the motor vehicles are undergoing an active restoration or repair project and are located within an enclosed building or structure or are otherwise completely screened from view from any other property or public roadway.
 - 4.7. Section 3.3 does not apply to the branches of a tree overhanging an adjacent property or highway.
 - 4.8. Section 3.5 does not apply to a boulevard area abutting land zoned agricultural, rural or open space, a property without a principal building, a residential property with frontage exceeding 30 metres or a boulevard where, in the opinion of an Officer, the grading and/or surface condition of the area would make the ongoing maintenance of ground cover impractical or dangerous.
 - 4.9. Section 7 does not apply to household waste left at the curb for regular collection provided the waste is left in a manner and at a time that are in compliance with any Town or District Waste Collection by-law currently in effect.
 - 4.10. Sections 9 and 10 do not apply to any land or structure used by the Town or the District for the purpose of dumping or disposing of garbage, refuse or domestic or industrial waste or for the composting of organic materials.

COMPOST

5. No owner shall establish one or more compost piles or structures except in accordance with the following:
 - 5.1. the compost pile or structure is for the sole use of the owner or occupant of the property on which the compost pile or structure is located;
 - 5.2. that only acceptable compostable material as outlined by the Ontario Ministry of the Environment and local health authorities are placed within the compost pile or structure;
 - 5.3. the compost pile or structure is no larger than one square metre (10 square feet) in area or 1.8 metres (6 feet) in height;
 - 5.4. the compost pile or structure is not located in any front yard as defined in the Town Zoning By-Law and not located closer than 2 metres (6.5 feet) from any side or rear property line;
 - 5.5. the compost pile or structure is enclosed on all sides by concrete block or lumber or a similar material or within a commercial plastic container designed for composting;
 - 5.6. the compost material is kept covered with yard waste, soil or humus at all times;
 - 5.7. the compost pile or container is maintained so as to not attract vermin or animals or create a nuisance by way of offensive odours.

GRAFFITI

6. Every owner shall remove all objectionable markings, 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.

GARBAGE AND REFUSE STORAGE

7. Every owner shall store household waste in rigid containers with secure lids when stored outdoors and household waste shall not be stored in the front yard of a residential property where the property has a garage, side yard or designated storage facility.

UNSAFE OR HAZARDOUS CONDITIONS

8. No owner shall cause or permit an unfenced, unprotected or open pit, excavation, well or other situation which causes a safety hazard on a property.

WASTE DISPOSAL AND LITTERING

9. No person shall throw, place or deposit garbage, refuse or domestic waste or industrial waste on Town or District property without the written authority of the Town or District.
10. No person shall use any land or structure within the Town for dumping, burying or disposing of garbage, refuse, domestic waste or industrial waste of any kind.

ADMINISTRATION AND ENFORCEMENT

11. An Officer may, at all reasonable times, enter upon land for the purpose of carrying out an inspection, taking photographs and obtaining evidence to determine whether the property complies with this by-law and an Officer may be accompanied by other Town of Bracebridge employees/agents for this purpose.
12. No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer or employee/agent of the Town of Bracebridge accompanying or acting under the direction of the Officer in exercising a power or performing a duty under this by-law. Any person who is alleged to have contravened any of the provisions of this by-law shall identify him/herself to an Officer upon request. Failure to identify upon request shall be deemed as obstruction of the Officer.
13. Where an Officer has confirmed that a property is not maintained in accordance with the requirements of this by-law, the Officer may, in addition to verbally directing the owner to bring the property into compliance, serve the owner a notice in writing directing the owner to bring the property into compliance with the by-law requirements.
14. A written notice to the owner of a property may be served personally upon the owner of the property or sent by registered mail to the last known address of the owner according to the current assessment rolls. If sent by registered mail, the notice shall be deemed to have been served on the fifth day after mailing.
15. Where an owner, having been served with a notice in the manner described in section 14, fails to comply with the notice within the time specified, an Officer, employee or agent may, upon producing appropriate identification when so requested, enter onto the property at a reasonable time and carry out any or all of the work required to bring the property into compliance with this by-law.
16. When an Officer deems a violation under this by-law to pose an immediate risk to public health or safety, the notice provisions contained in section 14 may be waived and an emergency notice shall be posted on the property requiring immediate action or other remediation. No owner shall fail to comply with an emergency order within the period of time specified on the emergency order.
17. Any items or materials removed from a property during a clean-up conducted by the Town or an agent of the Town may be immediately disposed of by the Town or the agent of the Town without further notice to the property owner.
18. Once served upon an owner in accordance with section 14, a notice shall remain in effect on a property for the duration of a calendar year and further notices to the owner for similar violations within the same calendar year are not required.
19. Where the Town has conducted a property clean up as described in section 15, all expenses incurred by the Town in doing the work as well as any related administrative fees, shall be deemed to be taxes and may be collected by action or the costs may be added to the tax roll for the property and collected in the same manner as taxes.
20. The Town assumes no liability for property damage or personal injury resulting from remedial action or work undertaken with respect to any person or property that is subject to this by-law.

OFFENCES AND PENALTIES

- 21. Any person who contravenes any provision of this by-law is guilty of an offence and is, upon conviction, liable to any penalty provided under the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.
- 22. Every person guilty of an offence under this by-law may, if permitted under the Provincial Offences Act, pay a set fine and the Regional Senior Justice of the Ontario Court of Justice shall be requested to establish set fines in accordance with Schedule "A" of this by-law.
- 23. For the purpose of this by-law, each day of a continuing offence shall be deemed to be a separate offence.

VALIDITY AND SEVERABILITY

- 24. Every provision of this by-law is declared severable from the remainder and if any such provision of this by-law shall be declared invalid by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of the by-law.

FORCE AND EFFECT

- 25. This by-law shall come into force and effect on the date the set fines are approved by the Ontario Regional Senior Justice of the Ontario Court of Justice.

REPEAL

- 26. On the date this by-law comes into effect, By-Law 98-111 as amended shall be hereby repealed.

SHORT TITLE

- 27. This by-law may be referred to as the Clean Yard By-Law.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 15th DAY OF JANUARY 2014.

Mayor, Graydon Smith

Director of Corporate Services/Clerk,
Lori McDonald

SCHEDULE "A"**SET FINE AMOUNTS****Provincial Offences Act – Part I**

Offence	Section	Set Fine Payment
Owner fail to keep ground cover to less than 30 centimetres in height	2.1	\$150.00
Owner fail to keep property clear of garbage/refuse/domestic or industrial waste	2.2	\$150.00
Owner fail to keep property clear of any refrigerator/freezer having unlocked lid	2.3	\$150.00
Owner fail to keep property clear of a wrecked/dismantled/abandoned/inoperable appliance/machine/shopping cart	2.4	\$150.00
Owner fail to keep property clear of a derelict motor vehicle	2.5	\$150.00
Owner fail to maintain hedge/tree/branch on property so as to not hinder pedestrian traffic on public sidewalk	2.6	\$150.00
Owner fail to keep property clear of accumulation of animal excrement	2.7	\$150.00
Owner fail to keep property clear of dead/decayed/damaged tree/natural growth/branches/limbs which create unsafe condition	2.8	\$150.00
Owner fail to ensure steps/pedestrian walkway/driveway/parking space/similar area on land is properly maintained	3.1	\$150.00
Owner fail to remove hazardous ice/snow from roof of building	3.2	\$150.00
Owner fail to ensure naturalized area does not encroach above or onto adjacent property	3.3	\$150.00
Owner fail to maintain landscaped feature in good repair	3.4	\$150.00
Owner fail to keep boulevard area maintained	3.5	\$150.00
Owner keep compost pile/structure on land for use by non-owner/occupant	5.1	\$150.00
Owner place other than acceptable material in compost pile/structure	5.2	\$150.00
Owner keep compost pile/structure larger than permitted size	5.3	\$150.00
Owner keep compost pile/structure closer than 2 metres to property line	5.4	\$150.00
Owner fail to adequately enclose compost pile/structure	5.5	\$150.00

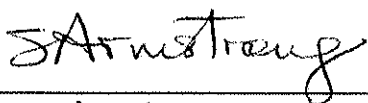
Offence	Section	Set Fine Payment
Owner fail to keep compost covered with soil/humus/yard waste	5.6	\$150.00
Owner fail to properly maintain compost pile/structure	5.7	\$150.00
Owner fail to remove objectionable marking/graffiti/stain/defacement	6	\$150.00
Owner fail to properly store household waste	7	\$150.00
Owner fail to take necessary action to prevent open pit/excavation/well/hazard on property	8	\$200.00
Deposit garbage/refuse/domestic or industrial waste on Town/District property	9	\$150.00
Use land/structure for dumping/burying/disposing of garbage/refuse/domestic or industrial waste	10	\$150.00
Obstruct officer/employee/agent performing duty under by-law	12	\$200.00
Owner fail to comply with emergency order	16	\$200.00

PROVINCIAL OFFENCES ACT

PART I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the attached schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2014-002, for the Corporation of the Town of Bracebridge, attached hereto is the set fine for those offences. This Order is to take effect February 3, 2014.

DATED at Newmarket this 3rd
day of February, 2014.



Simon Armstrong
Regional Senior Justice
Central East Region

Part I Provincial Offences Act

TOWN OF BRACEBRIDGE BY-LAW 2014-002

TITLE: A BY-LAW OF THE CORPORATION OF THE TOWN OF BRACEBRIDGE TO PROVIDE FOR THE MAINTENANCE OF LAND IN A CLEAN, CLEAR AND SAFE CONDITION

<u>ITEM</u>	<u>COLUMN 1</u> Short Form Wording	<u>COLUMN 2</u> Provision creating offence or defining offence	<u>COLUMN 3</u> Set fine
1.	Owner fail to keep ground cover to less than 30 centimetres in height	s. 2.1	\$150.00
2.	Owner fail to keep property clear of garbage/refuse/domestic or industrial waste	s. 2.2	\$150.00
3.	Owner fail to keep property clear of any refrigerator/freezer having unlocked lid	s. 2.3	\$150.00
4.	Owner fail to keep property clear of a wrecked/dismantled/abandoned/inoperable appliance/machine/shopping cart	s. 2.4	\$150.00
5.	Owner fail to keep property clear of a derelict motor vehicle	s. 2.5	\$150.00
6.	Owner fail to maintain hedge/tree/branch on property so as to not hinder pedestrian traffic on public sidewalk	s. 2.6	\$150.00
7.	Owner fail to keep property clear of accumulation of animal excrement	s. 2.7	\$150.00
8.	Owner fail to keep property clear of dead/decayed/damaged tree/natural growth/branches/limbs which create unsafe condition	s. 2.8	\$150.00
9.	Owner fail to ensure steps/pedestrian walkway/driveway/parking space/similar area on land is properly maintained	s. 3.1	\$150.00
10.	Owner fail to remove hazardous ice/snow from roof of building	s. 3.2	\$150.00

<u>ITEM</u>	<u>COLUMN 1</u> Short Form Wording	<u>COLUMN 2</u> Provision creating offence or defining offence	<u>COLUMN 3</u> Set fine
11.	Owner fail to ensure naturalized area does not encroach above or onto adjacent property	s. 3.3	\$150.00
12.	Owner fail to maintain landscaped feature in good repair	s. 3.4	\$150.00
13.	Owner fail to keep boulevard area maintained	s. 3.5	\$150.00
14.	Owner keep compost pile/structure on land for use by non-owner/occupant	s. 5.1	\$150.00
15.	Owner place other than acceptable material in compost pile/structure	s. 5.2	\$150.00
16.	Owner keep compost pile/structure larger than permitted size	s. 5.3	\$150.00
17.	Owner keep compost pile/structure closer than 2 metres to property line	s. 5.4	\$150.00
18.	Owner fail to adequately enclose compost pile structure	s. 5.5	\$150.00
19.	Owner fail to keep compost covered with soil/humus/yard waste	s. 5.6	\$150.00
20.	Owner fail to properly maintain compost pile/structure	s. 5.7	\$150.00
21.	Owner fail to remove objectionable marking/graffiti/stain/defacement	s. 6	\$150.00
22.	Owner fail to properly store household waste	s. 7	\$150.00
23.	Owner fail to take necessary action to prevent open pit/excavation/well/hazard on property	s. 8	\$200.00

<u>ITEM</u>	<u>COLUMN 1</u> Short Form Wording	<u>COLUMN 2</u> Provision creating offence or defining offence	<u>COLUMN 3</u> Set fine
24.	Deposit garbage/refuse/domestic or industrial waste on Town/District property	s. 9	\$150.00
25.	Use land/structure for dumping/burying/disposing of garbage/refuse/domestic or industrial waste	s. 10	\$150.00
26.	Obstruct officer/employee/agent performing duty under by-law	s. 12	\$200.00
27.	Owner fail to comply with emergency order	s. 16	\$200.00

NOTE: The penalty provision for the offences listed above is section 21 of By-Law 2014-002 (a certified copy of which has been filed).