

CITY OF TIMMINS

BY-LAW NO. 2008-6599

AMENDED BY  
BY-LAW 2014-7494

A By-law to provide for the filling up, draining, cleaning and clearing of land, and clearing of refuse from land.

**WHEREAS** Section 10 of the *Municipal Act, 2001* provides that a single tier municipality may pass by-laws providing for any service or thing that the municipality considers necessary or desirable for the public,

**AND WHEREAS** Section 127 of the *Municipal Act, 2001* provides that, a municipality may,

- (a) require the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings,
- (b) regulate when and how matters required under clause (a) may be done,
- (c) may prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land; and
- (d) define "refuse" for the purpose of the by-law,

**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 or cause public nuisances, and it is the opinion of Council that the failure to clear refuse and debris from land is a public nuisance, including the spread of vermin;

**AND WHEREAS** Section 435(1.1) provides that, the power to enter shall be exercised by an employee or agent of the municipality, who may be accompanied by any person under his or her direction,

**AND WHEREAS** Section 446(1) of the *Municipal Act, 2001* provides that a municipality may direct that in default of clearing the land of refuse by the person directed or required to do it, the cleaning and clearing of land shall be done at the person's expense;

**AND WHEREAS** Section 446(2) of the *Municipal Act, 2001* provides that for the purposes of Section 446(1) the municipality may enter upon land at any reasonable time, and

**AND WHEREAS** Section 446(3) of the *Municipal Act, 2001* provides that a municipality may recover the costs of clearing the land from the person directed or required to do it and the municipality may recover the costs by action or by adding the costs to the tax roll and collecting them in the same manner as taxes;

**AND WHEREAS** Section 391 of the *Municipal Act, 2001* provides that a municipality may impose fees or charges on persons for services or activities provided or done by or on behalf of it,

**THEREFORE**, the Municipal Council of The Corporation of the City of Timmins enacts as follows:

**PART 1 INTERPRETATION**

**1.1 INTERPRETATION**

In this by-law:

"agricultural purposes" shall mean the land used for cultivating soil, producing crops and for the raising of livestock as an "agricultural operation" as defined in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, c.1, but does not include the portion of land used as a woodlot,

"Antique motor vehicle" means a motor vehicle that is 30 years of age or older, is owned as a collector's item, registered with a bonafide organization and is operated solely for use in exhibitions, club activities, parades and other similar functions and is not used for general transportation;

"City" shall mean the Corporation of the City of Timmins,

"cleared" includes the removal of weeds or grass more than 20 centimeters (8 inches) in height and the removal of stock piles of soil or other aggregate material not required to complete the grading of the lot on which the stock pile is located, and includes the draining, the treatment and the disposing of water on any property where there is a swimming pool that is a health or safety hazard, or is malodorous or is a breeding place for mosquitoes,

"composting" shall mean the biological degradation or breakdown of organic material into a dark soil-like material called humus,

"composting container" shall mean the holding unit used to store yard, garden and household waste for composting,

"domestic waste" shall mean any article, thing, matter or effluent belonging to or associated with a residence, household or dwelling unit that appears to be waste material and includes but is not limited to the following classes of waste material:

- (a) grass clippings, tree cuttings, brush, leaves and garden refuse;
- (b) paper, cardboard, clothing;
- (c) all kitchen and table waste, of animal or vegetable origin resulting from the preparation or consumption of food except any material of vegetable origin placed in a composting container,
- (d) cans, glass, plastic containers, dishes,
- (e) new or used material resulting from or for the purpose of construction, alteration, repair or demolition of any building or structure;
- (f) refrigerators, freezers, stoves or other appliances and furniture;
- (g) furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks;
- (h) unlicensed motor vehicle, inoperative motor vehicle, vehicle motor parts and accessories, vehicle tires mounted or not mounted on rims, mechanical equipment;
- (i) rubble, inert fill, fencing materials,

"enforcement officer" means a police officer or a municipal law enforcement officer for the City of Timmins

"industrial waste" shall mean any article, thing, matter or effluent belonging to or associated with industry or commerce or concerning or relating to manufacture or concerning or relating to any trade, business, calling or occupation that appears to be waste material and includes but is not limited to the following classes of waste material:

- (a) piping, tubing, conduits, cable, fittings or other accessories, or adjuncts to the piping, tubing, conduits or cable;
- (b) containers of any size, type or composition;
- (c) rubble, inert fill;
- (d) mechanical equipment, mechanical parts, accessories or adjuncts to mechanical equipment;
- (e) articles, things, matter, effluents that are derived from, are constituted from, or consist of,
  - (i) agricultural, animal, vegetable, paper, lumber or wood products; or
  - (ii) mineral, metal or chemical products; whether or not the products are manufactured or otherwise processed;
- (f) bones, feathers, hides,
- (g) paper or cardboard packaging or wrapping;
- (h) material resulting from, or as part of, construction or demolition projects;
- (i) unlicensed motor vehicle, inoperative motor vehicle, vehicle parts and accessories, vehicle tires mounted or not mounted on rims, mechanical equipment.

"inoperative motor vehicle" shall mean a licensed or unlicensed vehicle, having missing, damaged, deteriorated or removed parts including, but not limited to: wheels, motor transmission, doors, glass or other parts or mechanical equipment necessary for its safe operation;

"land" includes yards, vacant lots or any part of a lot that is not beneath a building,

"naturalized area" means a portion of a lot where a lawn or perennial garden previously maintained by the owner that has been allowed to re-establish a reproducing population of native species, through a combination of natural regeneration and deliberate plantings of species or other species to emulate a natural area,

"Owner" means any person(s), for the time being, managing or receiving the rent of, or paying the municipal taxes on the land or premises, in connection with which the word is used, whether on their own account or as agent, trustee, or any other person who would so receive the rent if such land and premises were let, and shall also include a lessee, tenant or occupant of the property who under the terms of the lease or other rental agreement is required to maintain the property in accordance with this by-law and may include all other persons having a legal interest in the property,

"perennial gardens" means an area deliberately implemented to produce ground cover, including wild flowers, shrubs, perennials, ornamental grasses or combinations of them, but does not include a wildflower meadow or a naturalized area,

"Person" means a natural person, an individual, a firm, a corporation, an association or partnership and their heirs, executors, administrators or other legal representative of a person to whom the context can apply according to the law. .

"rubble" includes but not limited to broken concrete, bricks, broken asphalt, patio or sidewalk slabs,

"refuse" means any article, thing, matter, substance or effluent that: has been cast aside, discharged or abandoned or; is discarded from its usual and intended use or; is used up, in whole or in part, or expended or worn out in whole or in part; and shall include domestic waste and industrial waste; and that domestic waste or industrial waste does not cease to be refuse by reason that it may be commercially saleable or recyclable,

"unlicensed" shall mean the lack of a currently validated permit for the motor vehicle within the meaning of the *Highway Traffic Act*, displayed on the motor vehicle,

"unlicensed motor vehicle" shall mean a motor vehicle that is unlicensed (unless in accordance with the City's Zoning By-law),

## **PART 2 GENERAL PROVISIONS**

2.1 Every owner shall keep his land filled up and drained of standing water.

2.2 Every owner shall fill any excavation on the land unless completely enclosed by a temporary barrier at least 122 centimeters (48 inches) in height.

2.3 Every owner shall drain land of accumulations of water that exceed 30 centimeters (12 inches) in depth unless it is completely enclosed by a temporary barrier of at least 122 centimeters (48 inches) in height or such water constitutes a storm water management pond approved by the City.

2.4 Every owner shall keep their land clean, cleared and free of refuse.

2.5 No person shall throw, place, dump or deposit refuse on private property or City property without lawful authority.

2.6 Every owner shall keep or maintain the water in a swimming pool in a condition that is not a health or safety hazard, or is malodorous, or is a breeding place for mosquitoes.

2.7 Every owner shall remove refuse from his land.

### **PART 3 GENERAL PROHIBITIONS**

3.1 No person shall fail to clear land of refuse.

3.2 No person shall fail to enclose an excavation with a temporary barrier at least 122 centimeters (48 inches) in height.

3.3 No person shall fail to drain an accumulation of water exceeding 30 centimeters (12 inches) in depth.

3.4 No person shall deposit refuse on private property without lawful authority.

3.5 No person shall deposit refuse on municipal property without lawful authority.

3.6 No person shall keep or maintain the water in a swimming pool in a condition that is a health or safety hazard, or is malodorous, or is a breeding place for mosquitoes.

3.7 No person shall hinder or obstruct, or attempt to hinder or obstruct, an Enforcement Officer in the enforcement of the provisions of this by-law.

### **PART 4 EXEMPTIONS**

4.1 Section 2.2 of this by-law does not apply to land on which construction is proceeding under a valid building permit.

4.2 Section 2.6 of this by-law does not apply to natural bodies of water or lawfully maintained swimming pools.

4.3 Sections 2.4 and 2.5 of this by-law shall not apply to land that is lawfully used for outdoor storage of materials in compliance with the applicable zoning and licensing by-laws and regulations.

4.4 Sections 2.4 and 2.5 of this by-law shall not apply to land or structures designated by or operated by the City for the purpose of dumping or disposing of refuse.

4.5 This by-law does not apply to perennial gardens, if the perennial gardens are managed in accordance with the *Weed Control Act* and if there is no waste.

4.6 This by-law does not apply to a wildflower meadow or a naturalized area if those areas are managed in accordance with the *Weed Control Act*, and if there is no waste.

4.7 This by-law does not apply to the placement or collection of waste in accordance with the City of Timmins' Waste Collection By-law.

### **PART 5 ENFORCEMENT**

5.1 Any person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*.

5.2 The court in which a conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

5.3 A Municipal Law Enforcement Officer designated to perform inspections pursuant to this by-law may at all reasonable times, enter onto land for the purposes of inspection of the land.

5.4 Where anything required or directed to be done in accordance with this by-law is not done, the Manager of By-law Services or persons designated may upon such notice as they deem suitable, do such thing at the expense of the person required to do it. In so doing may charge an administration fee of 15% of such expense with a minimum fee of \$100.00, and both the expense and fee may be recovered by action or by adding the costs to the tax roll and collecting them in the same manner as municipal taxes.

5.5 Where the City proceeds pursuant to section 5.4 of this by-law, a Municipal Law Enforcement Officer may enter onto the lands accompanied by any person under his or her direction, and with the appropriate equipment as required, to bring the property into compliance with this by-law.

5.6 Where any of the matters or things removed in accordance with section 5.4 of this by-law, the matters or things may be immediately disposed of by the Manager of By-law Services, or their designate.

#### **PART 6 REPEAL – ENACTMENT**

6.1 By-law 1991-3630 and all of its amendments are hereby repealed.

6.2 This by-law comes into force and effect on April 1, 2008

6.3 Short Title

The short title of this by-law shall be the "Cleaning & Clearing of Land By-law".

READ a first, second and third time and finally passed this 11<sup>th</sup> day of February 2008



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THOMAS B. LAUGHREN, MAYOR



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R.J. WATSON, CLERK