

# THE CORPORATION OF THE TOWNSHIP OF JAMES

## BY-LAW 24-04

### **BEING A BY-LAW TO ESTABLISH STANDARDS RESPECTING EXTERIOR PROPERTY MAINTENANCE AND GRASS CONTROL ON LANDS WITHIN THE TOWNSHIP OF JAMES**

**WHEREAS** subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25 provides that a municipal power shall be exercised by by-law;

**AND WHEREAS** section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

**AND WHEREAS** section 127 of the *Municipal Act, 2001* provides that a municipality may 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 and for regulating when and how such matters shall be done and for defining "refuse";

**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 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 person who contravenes a by-law of the municipality passed under the *Municipal Act, 2001* is guilty of an offence and section 429 thereof provides that a municipality may establish a system of fines for offences under a by-law;

**AND WHEREAS** Section 429 (1) of the *Municipal Act, S.O., 2001*, states that "Subject to subsection (4), a municipality may establish a system of fines for offences under a by-law of the municipality passed under this Act. 2006, c. 32, Sched. A, s. 184. Same (2) Without limiting subsection (1), a system of fines may,

(a) designate an offence as a continuing offence and provide for a minimum and maximum fine for each day or part of a day that the offence continues;"

**AND WHEREAS** section 435 of the *Municipal Act, 2001* provides conditions governing the exercise of a power of entry for municipalities to enter onto lands to inspect for the purposes of this By-law;

**AND WHEREAS** section 436 of the *Municipal Act, 2001* provides that a municipality may pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out inspections to determine compliance with a by-law, or an order made under a by-law, or court order made under section 431 of the *Municipal Act, 2001*;

**AND WHEREAS** sections 444 and 445 of the *Municipal Act, 2001* provide that, if a municipality is satisfied that a contravention of a by-law passed under the *Municipal Act, 2001* has occurred, the municipality 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 to do work to correct the contravention;

**AND WHEREAS** section 446 (1) of the *Municipal Act, 2001* provides that if a municipality has the authority under that Act or any other Act, or under a by-law under the *Municipal Act, 2001* 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 or required to do it, such matter or thing shall be done at the person's expense;

**AND WHEREAS** section 446(2) of the *Municipal Act, 2001* provides that a municipality may enter upon land at any reasonable times for the above purpose;

**AND WHEREAS** section 446(3) of the *Municipal Act, 2001* provides that a municipality may recover the cost of doing a thing or matter required above 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** section 391 of the *Municipal Act, 2001* provides that a municipality may impose fees or charges on persons for services or activities provided by or on behalf of it, and for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board;

**NOW THEREFORE** the Council of the Corporation of The Township of James hereby enacts as follows:

1. That Council adopts a By-Law to provide for maintaining land in a clean and clear condition (clean yards);
2. That the Clerk/Treasurer of the Township of James is hereby authorized to make any minor modifications or corrections of an administrative, numerical, grammatical, semantically or descriptive nature or kind to the By-Law and Schedule as may be deemed necessary after the passage of this By-Law, where such modifications or corrections do not alter the intent of the By-Law.
3. That this By-Law shall come into force and take effect on the date of its final passing.

## **1. TITLE**

1.1 This By-law may be referred to as "The Clean Yards By-law".

## **2. SCOPE AND APPLICATION**

2.1 This By-law shall apply to all land within the Township of James.

2.2 Where a provision of this By-law conflicts with a provision of another By-law in force and effect in the *Township of James*, the provision that established the higher standard shall prevail in order to protect the health, safety and welfare of the general public.

## **3. DEFINITIONS**

3.1 In this By-law, the following definitions shall apply:

**"Township"** means The Corporation of the Township of James or the area within the geographical limits of the Township of James, as the context requires;

**"Building"** means a building as defined in Section 1(1) of the Building Code Act, S.O. 1992, c. 23, as amended;

**"Compost"** means discarded organic material commonly referred to as compost and includes leaves, grass clippings and kitchen waste;

**"Council"** means the Municipal Council of The Corporation of the Township of James;

**"Clean or cleared"** includes the removal of debris and refuse, or grass as defined, 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;

**"Domestic Waste"** means any debris, refuse or rubbish, garbage, article, thing, matter or any effluent belonging to or associated with a residence, household or dwelling unit and includes but is not limited to the following:

- A. grass clippings, weeds, tree and garden cuttings, brush, leaves and garden refuse.
- B. all organic waste, of animal or vegetable origin resulting from the preparation or consumption of food.
- C. paper, cardboard, clothing, fabrics or carpets, except as may be placed in a recycling container for regular pickup;
- D. cans, glass and plastic containers, except as may be placed in a recycling container for regular pickup;
- E. used material resulting from or once used for the purpose of the construction, alteration, repair or demolition of any building or structure;

- F. discarded or abandoned refrigerators, freezers, stoves or any other appliance or furniture or parts thereof;
- G. discarded or abandoned furnaces, furnace parts, pipes, fittings to pipes, or water or fuel tanks;
- H. fill, sand, soil, rock or rubble, including concrete, bricks, asphalt, patio or sidewalk slabs;
- I. any article, thing, matter, substance or effluent that is or appears to be cast aside, discharged or abandoned, discarded from its usual and intended use, used up in whole or in part or is expended or worn out in whole or in part.

**"Grass"** means cultivated vegetation consisting of typically short various plants with long narrow leaves growing on lawns;

**"Ground Cover"** means organic or non-organic material applied to prevent soil erosion such as concrete, flagstone, gravel, asphalt, grass or other landscaping;

**"Landscaped Buffer"** means a predominantly vegetated landscaped area between a lot line and any building, structure, parking area, driveway or impervious area;

**"Lot"** means a parcel of land within the Township;

**"Ministry of Transportation"** means the Ministry of Transportation of Ontario;

**"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*;

**"Occupant"** means any person or persons over the age of 18 years occupying a lot;

**"Officer"** means a Property Standards Officer, municipal law enforcement officer, or other person appointed or employed by the Township for the enforcement of by-laws;

**"Owner"** includes:

- A. the registered owner of a property;
- B. the person for the time being managing or receiving the rent of a property, whether on the person's own account or as agent or trustee of any other person, or who would receive the rent if the property were let; and,
- C. a lessee or occupant of a property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property as set out in this By-law.

**"Perennial Gardens"** means a yard or a portion of a yard containing an area deliberately implemented to produce ground cover, including wild flowers, shrubs, perennials, ornamental grasses or combinations of them;

**"Property"** means a building or structure or part of a building or structure and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon, as well as vacant property;

**"Undesirable Material"** includes:

- a) domestic waste;
- b) injurious insects, termites, rodents, vermin and other pests;
- c) growth of grass or weeds in excess of 8" (20cm) except where such grass and weeds form part of a perennial garden;
- d) ground cover, hedges, and bushes which overhang the sidewalk, impede pedestrian or vehicular traffic or cause a sight obstruction;
- e) dead, decayed or damaged trees or other natural growth and the branches and limbs thereof which create an unsafe condition;
- f) wrecked, dismantled, inoperative, discarded, unused, or unlicensed vehicles or trailers, except in an establishment licensed or authorized to conduct or operate a wrecking business;
- g) stagnant water which provides a breeding place for mosquitos or other health hazards;
- h) machinery or parts thereof, or other objects or parts thereof, or accumulation of material that creates an adverse condition;

- i) dilapidated or collapsed structures or erections;
- j) furniture used for exterior use that becomes dilapidated;
- k) furniture designed for indoor use; and
- l) animal or human excrement.

**"Weed"** means any uncultivated, undesirable plant growing and competing with grass on lawns:  
And

#### **4. REGULATIONS**

##### **Applicability – All Property**

- 4.1 This By-law applies to all property in the Township.
- 4.2 This section is designated as a continuing offense under the by-law.

##### **Undesirable Material**

- 4.3 No person shall deposit or cause to be deposited undesirable material on any property within the Township, without the written authority of the owner.
- 4.4 No owner or occupant shall have or permit undesirable material on their property.
- 4.5 This By-law shall not apply to any property owned by the Township.

##### **Storage of Motor Vehicles**

- 4.6 No motor vehicle, other than a motor vehicle bearing a valid license plate issued by the Ministry of Transportation and capable of being driven, shall be parked on a property other than in an enclosed building, unless the parking of the unlicensed or inoperative motor vehicle on the property is necessary for the operation of a business enterprise lawfully situated on the property.
- 4.7 No machinery, vehicle, boat, trailer or part thereof which is unusable, wrecked, discarded, dismantled, partially dismantled or in an abandoned condition, shall be stored or allowed to remain on a property by an owner or occupant unless it is necessary for the operation of a business enterprise lawfully situated on the property.
- 4.8 Nothing contained herein shall be deemed to prevent an antique car, being a motor vehicle more than 30 years old, from being stored on any property for restoration purposes, provided it is housed in an enclosed building.
- 4.09 Section 2.4 does not apply to agricultural farm equipment upon land that is a farm property falling within the definition of "agricultural operation" under the *Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1*.

##### **Large Appliances – Remove or Secure Door**

- 4.10 If a refrigerator, freezer, stove, washer, dryer or any other large appliance is domestic waste and has been set out on a property, which in any event may only be done for the purpose of immediate removal and disposal, the door of such appliance shall be removed or secured in such a way as to prevent the door from being open and shut so as to prevent any person from being trapped in such appliance.

##### **Temporary Storage**

- 4.11 An owner or occupant may store equipment or construction materials, resulting solely from the construction, demolition or alteration of a building, or part thereof, on a property provided it is used or removed in its entirety within a reasonable period of time, as determined by an Officer.
- 4.12 An owner or occupant shall not allow fill to remain in an unleveled state on any property for longer than seven days unless the lot is:
  - a) a construction site for which a site alteration and/or building permit is in effect; or
- 4.13 An owner or occupant shall not allow fill to be left in an uncovered state, meaning not covered by sod, seed or agriculture crop, on any property for longer than 30 days unless the property is:
  - a) a construction site for which a building permit is in effect;

- b) being actively farmed.

## **5. FEES**

- 5.1 Every owner shall pay the fees imposed pursuant to Schedule A of the Township's User Fees By-law 21-03 which become due and payable upon written notification by an Officer, or upon issuance of an invoice by the Township.
- 5.2 Where an owner is in default of payment of fees for more than 30 calendar days after due, the Township may add the cost to the tax roll of the subject property and collect the amount in the same manner as property taxes.

## **6. COST RECOVERY**

### **Work done by Township – Owner's Expense**

- 6.1 Where the Township does work or causes work to be done such work shall be done at the expense of the owner.
- 6.2 If the Township undertakes the work to correct the contraventions, the owner will be charged 100% of the cost of any third party invoices plus any costs as defined in Schedule A of the User Fee Bylaw 21-03.
- 6.3 If the owner fails to pay the cost of work completed under this By-law within 30 days of the work being completed, the amount shall be added to the tax roll of the subject property and collected in the same manner as municipal taxes.

## **7. ENFORCEMENT**

### **Authority to Enforce**

- 7.1 This By-law may be enforced by an Officer.

### **Obstruction**

- 7.2 No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer in the lawful exercise of a power or the performance of a duty under this By-law.
- 7.3 Any person who is alleged to have contravened any provision of this By-law shall identify themselves to the Officer upon request. Any failure to do so shall be deemed to be an obstruction or hindrance to the officer in the execution the Officer's duties.

### **Powers of Entry**

- 7.4 An Officer or any person acting under his/her instruction may, upon producing proper identification, enter upon a property at any reasonable time without a warrant for the purpose of inspecting the property to determine:

- a) whether the property conforms with the standards prescribed in this By-law; or,
- b) whether an Order made under this By-law has been complied with.

- 7.5 Where any property is not maintained in compliance with the provisions of this By-Law, a Municipal By-Law Enforcement Officer or designate may give an Order to the Owner, in writing, directing that the property be brought into compliance with the requirements of this By-Law within a defined time-period, but such time-period shall not be less than seventy-two (72) hours from the date of Order, save and except that which constitutes a safety, health or fire hazard. A four hundred dollar (\$400.00) administrative fee shall accompany the issuance of an "Order".

### **Orders**

- 7.6 If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an Order requiring the person who contravened the By-law or who permitted the contravention, or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity and to do any work necessary to correct the contravention.

7.7 An Order under section 7.6 shall set out:

- a) the municipal address or the legal description of the property;
- b) reasonable particulars of the contravention adequate to identify the contravention;
- c) the work to be done;
- d) the date by which the work must be done; and
- e) notice that, if the work is not done by the date indicated in the Order, the Township may do the work or cause the work to be done at the expense of the person to whom the Order is directed.

7.8 An order issued pursuant to this By-law, may be served:

- a) Personally, with service being deemed effective on the date given;
- b) By registered mail, with service being deemed effective on the fifth (5th) day after mailing;
- c) By placing the Notice to Comply in the mailbox or other depository ordinarily used for mail, with service being deemed effective on the fifth (5th) day after the leaving or placing, and/or
- d) By posting the Notice to comply in a conspicuous place on the land, and an Town Designate may enter the land for this purpose, with service being deemed effective on the fifth (5th) day after the posting.

7.9 An order under section 7.6 may require work to be done even though the facts which constitute the contravention of the By-Law were present before the By-Law making them a contravention came into force.

## 8. REMEDIATION AND PENALTY

8.1 Every person shall comply with an order issued under the authority of this By-Law. Where any owner fails to comply with any provision of this By-Law, the Municipality may do the work or cause the required work to be done at the cost of the Owner. The cost of such work may then be recovered by action or by adding the costs to the tax roll and collected in the same manner as property taxes. The Municipality may charge an administration fee in the amount of \$400.00, which may then be recovered from the Owner.

8.2 The Municipality may recover the remedial action cost and the administration fee incurred Under Section 7 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.

8.3 The Municipality may invoice the owner requesting the voluntary payment of the remedial action costs prior to recovering costs pursuant to Section 446 of the Municipal Act.

8.4 For the purposes of section 8.1, employees or agents of the Township may enter upon the land at any reasonable time, without a warrant.

8.5 A person who contravenes a provision of this By-law is guilty of an offence.

8.6 A person who fails to comply with an order made by an Officer or by the court under this By-Law is guilty of an offence.

8.7 Where an offence is a continuing offence, each day that the offence is continued shall constitute a separate and distinct offence.

- a) for the purposes of this by-law, section 4.3 is deemed a continuing offence.

8.8 A person who is convicted of an offence under this By-law is liable to a fine of not more than \$25,000 for a first offence and to a fine of not more than \$50,000 for a subsequent offence.

8.9 Notwithstanding section 8.8 if a corporation is convicted of an offence under this By-law, the maximum penalty that may be imposed upon the corporation is \$50,000 for a first offence and \$100,000 for a subsequent offence.

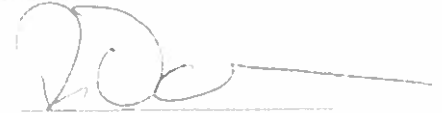
8.10 If any provision of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this By-Law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

8.11 In addition to the foregoing remedial costs, where a vehicle has been removed, impounded, restrained or immobilized according to Section 170 (15) of the Highway Traffic Act, R.S.O. 1990, as amended, in violation of this By-Law, all costs associated with the removal, impoundment, restraining or immobilization will be the responsibility of the registered owner of the vehicle.

**9. EFFECTIVE DATE**

9.1. This By-Law shall become effective on the date of passing hereof

**READ A FIRST AND SECOND TIME** on the 21<sup>st</sup> day of February, 2024.



Rodger Donaldson, Reeve



Teri-Lynn Jibb, Deputy Clerk

**READ A THIRD TIME** on the 21<sup>st</sup> day of February, 2024.



Rodger Donaldson, Reeve



Teri-Lynn Jibb, Deputy Clerk

