

THE CORPORATION OF THE TOWN OF MIDLAND

BY-LAW 2011-27

A By-law to require and regulate the filling up, draining, cleaning and clearing of any grounds, yards or vacant lots within the Town of Midland.

WHEREAS the Municipal Act, 2001, S.O., c.25, Section 127 provides that a local municipality may require the owner or occupant of land to clean and clear the land, or to clear refuse or debris from the land, not including buildings;

AND WHEREAS Section 446 (1) to (5) of the said Act authorizes municipal remedial action, entry onto land, recovery of costs and addition of costs to the tax roll;

AND WHEREAS it is deemed expedient that the Council of the Corporation of the Town of Midland enact a clean yards by-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MIDLAND HEREBY ENACTS AS FOLLOWS:

1. DEFINITIONS

For the purpose of this by-law, the following definitions shall apply:

- (a) **“Cutting”** means the destruction of long grass and weeds by use of mechanical machine or manual means, including but not limited to lawn mowers, string trimmers, tractors, sickles or scythes.
- (b) **“Derelict automobile”** means a motor vehicle that:
 - (i) is inoperable,
 - (ii) has missing parts, including tires or damaged or missing glass or deteriorated or removed metal adjunctions, which prevent it from functioning mechanically in the way for which it was originally designed,
 - (iii) has no market value as a means of transportation or has a market value as a means of transportation that is less than the cost of repairs required to render the vehicle in operable condition, or
 - (iv) is unlicensed for the current year and is not properly enclosed and protected,

- (c) **“Dilapidated”** means decayed, deteriorated or fallen into partial ruin especially through neglect or misuse.
- (d) **“Grass”** means all forms, types and species of grasses.
- (e) **“Industrial waste”** means any article, thing, matter or effluent usually but not exclusively belonging to or usually but not exclusively 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 for greater certainty, but not so as to restrict the generality of the foregoing terms of this clause it is hereby declared that industrial waste extends to the following classes of waste material;
- (i) Articles, things, matter, effluent which in whole in part or fragments thereof are derived from or are constituted from or consist of agricultural, animal, vegetable, paper, lumber or wood products or mineral, metal or chemical products,
 - (ii) Automotive parts, inoperative vehicles, vehicle parts, mechanical equipment, mechanical parts, accessories or adjuncts to the vehicles and mechanical equipment,
 - (iii) Piping, tubing, conduits, cable and fittings or other accessories or adjuncts to the piping, tubing, conduits or cable,
 - (iv) Containers of any size, type or composition,
 - (v) Material resulting from, or as part of, construction or demolition projects,
 - (vi) Rubble, inert fill,
 - (vii) Bones, feather, hides.
- (f) **“Officer”** means the Municipal Law Enforcement Officer or any person appointed by the Town.
- (g) **“Owner”** means the registered owner of the property and for the purpose of this By-law includes any registered lessee or tenant.
- (h) **“Overgrown”** shall mean an uncut, unkempt or unsightly state or a potential health risk.
- (i) **“Person”** means all transients, owners, tenants and occupiers of lands within the Town and shall include any individual, association, firm, partnership, incorporated company, corporation, agent or trustee and the heirs, executors or other legal representatives of a person to who the context can apply according to law.
- (j) **“Property”** means grounds, yard or vacant land.

- (k) “**Shall**” means imperative or must.
- (l) “**Town**” means The Corporation of The Town of Midland.
- (m) “**Unsafe or hazardous conditions**” means the presence of:
- (i) Flammable refuse, overgrown grass and weeds or untrimmed underbrush; timber, lumber and other wood products,
 - (ii) An unfenced or unprotected pit, excavation, hole or other declivity which creates a safety hazard,
 - (iii) A building, part of all of which is dilapidated or liable to collapse from weight of snow, force of wind, human occupancy or other causes,
 - (iv) Machinery, automotive equipment and building or other materials in disuse which are not properly enclosed and protected,
 - (v) Any other circumstance that creates or is likely to create a risk of fire or other accident,
 - (vi) Any well which is unprotected or which the presence of creates a risk of accident or injury,
 - (vii) Spilled or leaked substances including but not limited to fuels and chemicals which cause a risk of contamination to the lands.
- (n) “**Vacant lot**” means any parcel of land capable of being conveyed and on which there is no structure or building being used or occupied.
- (o) “**Vehicle**” means any motor vehicle, within the meaning of *The Highway Traffic Act, R.S.O. 1990, c.H.8*, and in addition includes a trailer, commercial motor vehicle, a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry, road building machine and any other vehicle propelled or driven otherwise than by muscular power.
- (p) “**Waste material**” means any article, thing, matter of effluent usually but not exclusively associated with a house or household or concerning or relating to the home or family that appears to be waste materials and for greater certainty, but not so as to restrict the generality of the foregoing terms of this clause it is hereby declared that waste extends to the following classes of material:
- (i) Accumulations, brush litter, deposits, discarded building materials, leaves, litter, refuse, rubbish or junk,
 - (ii) Refrigerators, freezers or other appliances, any attached hinges or latching, locking or other closing mechanism or device,

- (iii) Tin cans, bottles, boxes or other containers, paper, cartons,
 - (iv) Furnace, furnace parts, pipes, fittings to pipes, water or fuel tanks,
 - (v) Derelict automobiles, machinery, vehicle parts and accessories,
 - (vi) Dead, decayed or damaged trees and the branches and limbs thereof or other natural growth,
 - (vii) Ground cover, hedges and bushes that are unsightly and unreasonably overgrown in relation to their environment,
 - (viii) Furniture,
 - (ix) Crockery.
- (q) **“Weeds”** means all weeds listed in the Weed Control Act of Ontario as noxious and all weeds posing a human health hazard including but not limited to ragweed, poison ivy or any other weed.

2. **GENERAL PROVISIONS**

- (a) Every owner, lessee or occupant shall keep his property filled up, drained, clean or cleared up.
- (b) Every owner, lessee or occupant shall keep his property free and clear of all garbage, refuse or domestic or industrial waste of any kind.
- (c) Every owner, lessee or occupant shall keep his property free from any unsafe or hazardous conditions.
- (d) Every owner, lessee or occupant shall keep all grass and weeds sufficiently cut and trimmed in the following preventative manner:
 - (i) not to allow the harbouring of mosquitos and other annoying insects,
 - (ii) to prevent the ripening and dispersal of weeds and other noxious plants,
 - (iii) to present an reasonable neat appearance to the public not out of context with the surrounding environment,
 - (iv) to prevent grass and weeds from growing to an extent of more than eight inches (8”) (20.32 cm) in height.
- (e) No person shall use any property or structure within the Town for dumping or disposing or storing or keeping of garbage, refuse or domestic or industrial waste of any kind.
- (f) Except as provided in the Zoning by-law for the Town no person shall use any property or structure in the Town for storing used

motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for one's own use, sale or other disposal.

- (g) This by-law does not apply to:
 - (i) property or structures used by the Town for the purpose of dumping or disposing of garbage or refuse, or domestic or industrial waste; or
 - (ii) property designated by by-law of the Town for the purpose or dumping or disposing garbage or refuse, or domestic waste or industrial waste.
- (h) Nothing in this bylaw shall be interpreted to prohibit or prevent the use of a compost heap for the composting of domestic waste.

3. NOTICE REQUIREMENTS

- (a) The Officer may, by notice sent by mail to the owner, lessee or occupant of the property or structure, require the owner, lessee or occupant within the time specified with the notice:
 - (i) to clean, clear or remove from the property or structure garbage, refuse or domestic or industrial waste of any kind,
 - (ii) to cease using the property or structure for the dumping or disposing of garbage, refuse or domestic or industrial waste of any kind,
 - (iii) to cover over, screen, shield or enclose the garbage, refuse, domestic or industrial waste in the manner prescribed by the Officer,
 - (iv) to control grass and weeds as per section 2(d) by cutting.
- (b) Every notice sent by the Officer shall identify the property or structure.
- (c) Every notice to an owner or lessee shall be sent to the address shown on the last revised assessment roll or to the last known address.
- (d) Every notice sent to an occupant shall be to the address of land or structure or to the last known address of the occupant.
- (e) 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.

4. INSPECTIONS

- (a) A person exercising a power of entry on behalf of the Town under this by-law, must on request, display or produce proper identification.
- (b) The employees or agents of the Town or any person under their direction may enter upon property and into structures, other than a place actually used as a dwelling house, for the purposes of municipal remedial action, at any reasonable time, without notice.
- (c) The Officer may inspect the use of any property or structure for the purpose of determining whether:
 - (i) The property or structure is used for dumping of garbage, refuse or domestic or industrial waste of any kind,
 - (ii) The property or structure is used for the storing of used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for one's own use, sale or disposal,
 - (iii) The owner, lessee or occupant has complied with any notice sent by the Municipal Law Enforcement Officer.
- (d) Every owner, lessee or occupant shall permit the Officer to inspect the property or structure for the purpose of subsection (c).
- (e) Where the owner, lessee or occupant is in default of doing the necessary work as outlined within the notice provided pursuant to this by-law, the Officer may:
 - (i) fill in holes and excavation, drain, grade, clean or clear up property or correct conditions that are out of character with the surrounding properties and neighbourhood,
 - (ii) remove refuse or debris,
 - (iii) remove garbage, refuse or domestic or industrial waste,
 - (iv) cover over, screen, shield or enclose domestic or industrial waste,
 - (v) remove derelict motor vehicle(s),
 - (vi) control grass and weeds by cutting.
- (f) Where any of the matters or things are removed in accordance with subsection (e), the matters or things may be immediately disposed of by the Officer.
- (g) The Town shall recover the related expenses due to remedial action taken, by action, or in like manner as municipal taxes.

5. SEVERABILITY

- (a) That every provision of this by-law is declared severable from the remainder of the by-law and if any 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 thereof.

6. ENFORCEMENT

- (a) This By-law shall be enforced by an Officer.

7. INVOICE

- (a) The Town may, prior to adding remedial action costs to Municipal Taxes, invoice "owners" as defined and described in this by-law requesting voluntary payment of said remedial action costs payable to the Town.

8. OBSTRUCTION

- (a) As per the provisions of the Municipal Act, 2001, S.O., c.25 Section 426 (1), 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.

9. TOWN NOT LIABLE

- (a) The Town assumes no liability for property damage or injury resulting from the cleaning of land by any "owner" or persons acting on behalf of any "owner" resulting from the cleaning of land.

10. PROOF OF LIABILITY INSURANCE

- (a) All private contractors secured by the Town to perform land cleaning duties on behalf of the Town shall first and prior to commencing any such duties, provide a valid WSIB Clearance Certificate or valid Independent Operator Status proof of liability insurance for their own possession in the amount of \$2,000,000.00 to engage in land cleaning duties. Proof of liability insurance shall be provided to the Town Clerk prior to commencing any land cleaning duties on behalf of the Town.

11. PENALTIES

- (a) Any person who contravenes any provision of the by-law is guilty of an offence, and upon conviction is liable to the penalties as provided for in *The Provincial Offences Act*, as amended.

12. REPEAL

- (a) That By-law 90-45 and 98-5 are hereby repealed.

13. SHORT FORM TITLE

- (a) That this by-law be referred to as the “Clean Yards By-law”.

14. EFFECTIVE DATE

- (a) That this by-law shall come into force and effect upon approval of the set fines appended hereto, from the Ontario Court of Justice (Provincial Division).

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 26TH DAY OF APRIL 2011.

THE CORPORATION OF THE TOWN OF MIDLAND

MAYOR

CLERK

THE CORPORATION OF THE TOWN OF MIDLAND

Part 1 Provincial Offences Act

By-law 2011-27, being a by-law to require and regulate the filling up, draining, cleaning and clearing of any grounds, yards or vacant lots within the Town of Midland

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1.	Owner, lessee or occupant fail to keep property filled up, drained, clean or clear.	Section 2(a)	
2.	Owner, lessee or occupant fail to keep property free and clean of garbage.	Section 2(b)	
3.	Owner, lessee or occupant fail to keep property free and clean of refuse.	Section 2(b)	
4.	Owner, lessee or occupant fail to keep property free and clean of industrial waste.	Section 2(b)	
5.	Owner, lessee or occupant fail to keep property free and clean of domestic waste.	Section 2(b)	
6.	Owner, lessee or occupant fail to keep property free from unsafe or hazardous condition.	Section 2(c)	
7.	Owner, lessee or occupant fail to keep grass and weeds cut – out of context with surrounding environment.	Section 2(d)(iii)	
8.	Owner, lessee or occupant fail to keep grass and weeds cut less than eight inches.	Section 2(d)(iv)	

NOTE: The Penalty provision for the offences indicated above is Section 11 of By-law 2011-27, a certified copy of which has been filed.