

# CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

## BY-LAW NO. 20-XX

Being a by-Law respecting the cleaning up of yards and vacant lots in the Municipality of Mississippi Mills.

**WHEREAS** Clauses 5 and 6 of Section 11(2), and Sections 127, 128 and 131 of the *Municipal Act 2001, S.O. 2001, c. 25*, as amended, authorizes municipalities to pass by-laws for requiring the cleaning and clearing of yards, for prohibiting the depositing of refuse on private and public lands; and for prohibiting automotive wrecking yards; and

**WHEREAS** Section 127 of the *Municipal Act 2001, S.O. 2001, c.25*, as amended, permits a municipality to pass by-laws requiring an 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, for prohibiting the disposal of refuse or debris on land without the consent of the owner or occupant of land and for defining "refuse"; and

**WHEREAS** Section 446 of the *Municipal Act 2001, S.O. 2001, c. 25*, permits a municipality to enact a by-law to require that a matter or thing be done by a person, and in default the matter or thing may be done by the municipality at the person's expense, and further that the costs of doing so may be added to the tax rolls and collected in the same manner as taxes; and,

**WHEREAS** it is deemed desirable to enact this by-law to extend the useful life of individual Property, to enhance the quality of communities and neighborhoods, and to ensure the continued enjoyment of property for residents and property owners in the Municipality.

**NOW THEREFORE** the Council of the Corporation of the Municipality of Mississippi Mills enacts as follows:

**1. Application**

This by-law shall apply to all Property within the Municipality of Mississippi Mills which are used for residential, commercial, industrial, and institutional purposes.

**2. Definitions:**

*"agricultural occupation"* means activities associated with farming practices as defined by OMAFRA including maple syrup operations, firewood lots, organic market gardens,

*"boulevard"* means the area between the right-of-way limit and the curb. Also referred to as "road edge" in this document. See also "inner boulevard" and "outer boulevard".

*"corporation"* means the Corporation of the Municipality of Mississippi Mills.

*"debris" see 'refuse'.*

*"derby car"* means a motor vehicle designed or intended to be used in a Demolition Derby.

*"inner boulevard"* means that portion of the road edge between the curb and the sidewalk.

*"Municipality"* means the Corporation of the Municipality of Mississippi Mills.

*"nuisance plant"* means an organic type of plant that may commonly be a nuisance type plant.

*"occupant"* means a person who is in physical possession of premises or, a person who has responsibility for and control over the condition of premises or, the activities there carried on, or control over persons allowed to enter the premises, even if there is more than one occupant of the same premises.

*"owner"* means the registered owner of the property.

*"officer"* means a person appointed by the Municipality as a by-law enforcement officer/property standards officer to enforce the lawful By-Laws approved by the Council of the Corporation of Mississippi Mills.

*"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, portable-structures, fences and erections thereon whether heretofore or hereafter erected and includes vacant property, private and/or public property.

*"refuse" or "debris"* means any article, thing or matter that has been cast aside or discarded or abandoned, whether of any value or not, or that has been used up in whole or in part, or expended, or worn out in whole or in part; without restricting the generality of the foregoing, refuse or debris may also include the following general examples:

- a) garbage, garbage bags, rubbish, junk or litter;
- b) accumulations or piles of grass clippings, tree and garden cuttings, brush and leaves which are not part of a horticultural or composting process;
- c) used containers such as cardboard boxes, glassware, bottles, plastic containers, metal barrels and tin cans;
- d) discarded paper, paper products, cardboard, clothing;
- e) unused, discarded or inoperable household or commercial items, examples may include appliances, furniture, plumbing fixtures, machinery parts, pipes, water or fuel tanks;
- f) any unused, abandoned, dismantled or inoperative equipment;

- g) any wrecked, dismantled, discarded vehicles, inoperable motor vehicles, automotive parts or accessories, mechanical parts, un-mounted or mounted tires and rims, accessories, or adjuncts to any vehicle;
- h) and all-terrain vehicle, motor home, motorized snow vehicle, motorized recreational vehicle or camper, traction engine, farm or lawn tractor, road-building machine or a vehicle drawn, propelled or driven by any kind of power, including horse power or manpower, boat, watercraft or trailer or part thereof, which is in a wrecked, discarded, dismantled, inoperative or abandoned condition unless it is necessary for the operation of a business lawfully situated on the property;
- i) broken concrete or asphalt pavement or other unused or unusable building materials;
- j) damaged, discarded, unused or stored materials resulting from or as part of construction, alteration, right-of-way or demolition of any building or structure, or old or decayed lumber;
- k) any waste materials, feces, objects or conditions that may create a health, fire or accident hazard or are unsightly;
- l) dilapidated, collapsed or partially constructed structures which are not currently under construction or repair; and
- m) dead, diseased, decayed, or damaged trees or brush not intended for heating purposes but does not include neatly stacked firewood in a rear or side yard.

*“registered mail”* means an item delivered to and/or notified to the recipient by Canada Post of an item required to be picked up and signed for to acknowledge receipt of same.

*“repair”* means the provision of such facilities and the making of additions or alterations or the taking of such action as in restoring, renovating or mending as may be required so that the property shall conform to the standards as established in this by-law.

*“right-of-way”* means property that is owned by another but where another person or property owner has a right to cross.

*“road allowance”* means the corridor of land owned by a municipality within which a finished road surface may or may not be located. This also includes the road pavement or other surfaces and/or boulevards on either side including drainage ditches.

*“safe property notice”* means a notice as set out in Appendix "A" of this By-law.

*“stagnant”* means water that is untreated or having no current or flow, often having an unpleasant smell and appearance, can become a breeding location for insects, or pose a hazard to health as a consequence of its condition.

*“urban lands”* means land situated within the geographical boundaries of the Ward of Almonte, the Hamlets of Clayton, Blakeney, Pakenham and Appleton, whose boundaries are identified in the Municipality’s Zoning By-law and within all registered plans of subdivision.

"vehicle" means the following, examples are: automobile, motorcycle, motor assisted bicycle, traction engine, farm tractor or farm machinery, road building machine, construction vehicle, bulldozer, backhoe, excavator, grader, asphalt spreader, earth mover, compactor, crane, lift, skid steer, generator, welder or other vehicle, motorized snow vehicle, off road vehicle, trailer, boat, bicycle, or any vehicle drawn, propelled or driven by any kind of power, including but not limited to mechanical power, muscular power or wind power.

"yard" in urban lands, means the land around or adjoining to the whole or any part of a residential, commercial, industrial, or institutional property and used or capable of being used in connection with the property; and for estate lots, it generally refers to the lawn portion of a property.

### 3. Scope

This By-law includes all Property within the Municipality of Mississippi Mills but does not mean to prevent a farm operation or practice meeting the definition of "agricultural operation" and "normal farm practice" under the *Farming and Food Production Protection Act*, 1998, SO 1998, c.1 as amended from carrying out a normal farm practice as provided for and defined under that Act and/or provisions described under OMAFRA.

### 4. General Standards

a) Every *owner, tenant or occupant of property* shall maintain said *property* to be clean and free from *refuse* and/or *debris*.

b) Every *owner, tenant or occupant of property* shall keep the vegetation on the *property* maintained so that its height is maintained not to exceed a maximum of approximately 15 cm (6 inches) but does not include edible crops and, to be free from any overgrowth of plants deemed objectionable such as, but not exclusive to the following: dandelions, ragweed, thistles, burdocks, wild parsnip and/or any other plants that may commonly be described as a *nuisance plant*. Any noxious weeds must be controlled and or removed from the *property* as required by the Provincial "Weed Control Act".

c) Grass or improved surfaces adjacent to a private *property*, within the "road allowance", between the private *property* and the road curb line and/or road edge of pavement referred to as the inner or outer boulevard shall be maintained in a state of good *repair* as set out in this by-law by the *owner, tenant or occupant* of the adjacent private *property*, and kept in a clean, clear and safe condition. *Property* located in the following zones, as designated in the Comprehensive Zoning By-law as amended, shall be exempt from the above provision: Agricultural (A), Rural (RU), Environmental Protection (EP), Environmental Hazard (EH) unless developed, Open Space (OS), Parks & Recreation (PR), Development lands (D) and any exception zones to these zones.

d) Every *owner, tenant or occupant of property* shall keep hedges, shrubs and trees adjacent to a public sidewalk, walkway, neighbouring property to be cut and

trimmed so as not to encroach onto the sidewalk, walkway, roadway and neighbouring property to allow safe, unhindered passage by pedestrians or *vehicles*.

e) No person shall throw, place or deposit, or permit any person to throw, place or deposit, any *refuse, debris or aggregate* / organic material as herein defined on any *property* within the Municipality without the written consent of the *property owner*, and, only then in accordance with this by-law.

f) Every *owner, tenant or occupant* shall keep their *property* free and clear of infestations of injurious insects, termites, rodents, vermin or attract other pests including wildlife but does not include attracting birds and bees.

g) No unused, inoperative, unlicensed, uninsured motor *vehicles, derby cars*, vehicle parts, other inoperative or derelict equipment or machinery shall be stored on the *property* unless, the subject item(s) are stored in a side or rear yard and, that the subject item(s) are screened from view from any street and/or, from any other residential *property* and/or, the subject item(s) are, stored out of sight in an enclosed structure. One motor vehicle undergoing restoration may be stored outside under a cover designed for motor *vehicles (no loose tarps)*.

h) No *owner, tenant or occupant* of land shall keep the following, a swimming pool, hot tub, wading pool or artificial pond, unless it is maintained in good working condition and, free of stagnant water, algae, scum, discolored water and would not meet pool condition standards for swimming or hot tub use.

i) No *owner or occupant* shall permit water discharge from roofs, land, sumps, buildings, or pool drainage onto a neighbouring *property*. Water shall not be discharged on to public *property* such as a sidewalk, a roadway/highway or into the municipal sewer system without written approval from the municipality, this does not apply to natural slopes, engineered swales directing water to catch basins.

j) No person shall allow a bin to be loaded above the recommended height or over the top of the container.

## **5. Liability**

Pursuant to Section 448 of the *Municipal Act 2001, S.O. 2001, C. 25*, as amended, no proceeding for damages or otherwise shall be commenced against a member of Council or an *officer*, employee or agent of the municipality or a person acting under the instructions of the *officer*, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this by-law for any alleged neglect or default in the performance in good faith of the duty or authority.

## **6. Right of Entry**

Pursuant to Section 435 and 436 of the *Municipal Act 2001, S.O. 2001, c.25*, as amended, an *officer* may enter upon *property*, at any reasonable time, for the

purpose of carrying out inspections of or on such *property* to determine whether the provisions of this by-law are being complied with. In accordance with the provisions of Section 426(1) of the *Municipal Act 2001*, S.O. 2001, c.25, as amended, no person shall hinder, interfere with, or otherwise obstruct, either directly or indirectly, an *officer* in the lawful exercise of their power or duty under this *by-law*.

An employee of the Corporation shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.

## **7. Administration and Enforcement**

a) When any property is not maintained to the requirements of this by-law, the *officer* will notify the *property owner*, *occupant*, or other person responsible for the maintenance of the property by attending the property to speak with the owner/occupant, leaving a business card and advising of the concerns. Any questions regarding who complained will always be answered with 'I was driving by and noticed the property did not meet the Safe Property By-Law and stopped by.'

b) When any *property*, after being advised about the concerns by the above, and that the property does not maintain the requirements of this by-law, the *officer* will notify the *property owner*, *occupant*, or other person responsible for the maintenance of the property and if it fails to comply with the *Safe Property By-Law* and that the *property* has not been brought into compliance with the provisions of the by-law within a specified period, but not less than 24 (twenty-four) hours from the date of the notification;

c) The *Safe Property Notice* shall then be delivered to the property owner, occupant, or other person responsible for the maintenance of the property, by *Registered Mail*, to the last known address of the *owner as shown on the tax assessment rolls* of the municipality, or *delivered personally*, or *sent electronically*, or issued *verbally* by phone, to the *owner* or *occupant* and/or a person responsible for the *property*.

d) Where the property owner/occupant is served and refuses to or fails to comply with the '*Safe Property Notice*' the officer may initiate corrective actions to bring the *property* into compliance with the provisions of this by-law. The costs associated with the work done to bring the *property* into compliance may be recovered by adding the costs to the tax roll and collecting them in the same manner as taxes, pursuant to Section 446(3) of the *Municipal Act 2001*, S.O. 2001, C.25, as amended. The Municipality may apply an administration fee in accordance with the Fees and Charges Bylaw.

e) Where a 'Safe Property Notice' has been served on the *occupant*, pursuant to section 7 a), and, the requirements of the Safe Property notice have not been complied with, the officer will notify the *property owner* of the violation and, if requested, provide the property owner with a copy of the Safe Property Notice served on the *occupant*. If the property owner and/or the occupant refuses or fails to comply with the Safe Property Notice then the provisions of section 7 b) shall apply.

f) Where a *Safe Property Notice* has been issued under section 7 a) or 7 c) the 'Safe Property Notice' will remain in full effect for a period of six (6) months from the date of issue or until rescinded, in writing, by a Property Standards Officer.

## **8. Power of the Corporation to Repair**

- a) If the owner or occupant of a property, having been served with the Safe Property Notice, fails to comply with the notice or to take required action, the Municipality may take remedial action to have the property repaired or brought into compliance with the by-law.
- b) For the purposes of Subsection 8a) employees or agents of the Municipality may enter the property at any reasonable time without a warrant to correct the violations stated in the Safe Property notice.
- c) The Municipality will not be liable to compensate an owner, occupant or any other person having an interest in the property by reason of any action performed by or on behalf of the Municipality enforcing the provisions of this By-Law.
- d) The Municipality shall establish a lien on the land for the amount spent in connection with the repairs or remedial action taken under Subsection 8a), and the amount shall be deemed to be municipal real property taxes and may be added by the Municipal Treasurer to the collector's roll and collected in the same manner and with the same priorities as municipal real property taxes as provided for in the Municipal Act 446 (3).

## **9. Penalty**

- a) Any person who contravenes any provision of this by-law is guilty of an offence, and upon conviction is liable to the penalties as provided for in the *Provincial Offences Act*, R.S.O. 1990, c.P.33 as amended.
- b) A person who is convicted of an offence under this by-law is liable, for each day or part of a day that the offence continues, to a minimum fine of \$200.00 and a maximum fine of \$10,000.00 and the total of all the daily fines for the offence is not limited to \$100,000.00, as provided for in subsection 429(3)2 of the Municipal Act, 2001, S.O 2001, c.25, as amended.

## 10. Validity

- a) Should a court of competent jurisdiction declare a part or whole of any provisions of this by-law to be invalid or of no force and effect, the provision or part is deemed severable from this by-law. It is the intention of Council that the remainder survives and be applied and enforced in accordance with its terms to the extent possible under the law to protect the public by ensuring a minimum standard for maintenance of yards is maintained.
- b) Where a provision of this by-law conflicts with the provisions of another by-law, Act or Regulation in force within the Municipality, the provisions that establish the higher standards to protect the health and safety of persons shall prevail.

## 11. Enactment

This by-law shall come into full force and effect on the day of its passing and shall be known as; "The Safe Property By-law".

**BY-LAW** read, passed, signed, and sealed in Open Council this XX<sup>th</sup> day of \_\_\_\_\_, 2020.

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Mayor Christa Lowry

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Clerk