

THE CORPORATION OF THE VILLAGE OF BURK'S FALLS

BY-LAW NO. 6-2017

BEING A BY-LAW TO PROVIDE FOR MAINTAINING LAND IN A CLEAN AND CLEAR CONDITION

WHEREAS Sections 8, 9 and 11 of the Municipal Act, 2001, R.S.O. c.25 permits a municipality to pass By-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6 and 8 of Subsection 11 (2), authorize By-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property; and

WHEREAS Section 122 of the Municipal Act, 2001, R.S.O. c.25 provides that a municipality may require the owners 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 Section 127 of the Municipal Act, 2001, R.S.O. c.25 permits a municipality to pass By-laws requiring an owner or occupant of land to clean and clear the land, not including buildings; to clear refuse or debris from the land, not including buildings; 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 the land; and for defining "refuse; and

WHEREAS Section 128 of the Municipal Act, 2001, R.S.O. c.25 permits a municipality to pass By-laws to 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 in the opinion of Council are or could become public nuisances; and

WHEREAS Section 131 of the Municipal Act, 2001, R.S.O. c.25, permits a municipality to 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, R.S.O. c.25 permits a municipality to pass By-laws providing that any person who contravenes any *By-law* of the municipality passed under the *Municipal Act, 2001* is guilty of an offence; and

WHEREAS Section 436 of the Municipal Act, 2001, R.S.O. c.25 permits a municipality to pass By-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a *By-law* passed under the *Municipal Act, 2001*, or a direction or order made under such a bylaw are being complied with; and

WHEREAS Section 445 of the Municipal Act, 2001, R.S.O. c.25 as amended, provides that where a municipality is satisfied that a contravention of a bylaw has occurred, the municipality may make an order requiring the person who contravened the bylaw or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention; and

WHEREAS Subsection 446(3) of the Municipal Act, 2001, R.S.O. c.25 permits a municipality to recover the costs of doing a matter or thing under Subsection 446(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.

NOW THEREFORE the Municipal Council of the Corporation of the Village of Burk's Falls hereby enacts as follows:

1. ADMINISTRATION AND INTERPRETATION

Short Title

1. This By-law may be referred to as "Clean Yard By-law"

1.1 Administration

THE CORPORATION OF THE VILLAGE OF BURK'S FALLS

BY-LAW NO. 6-2017

BEING A BY-LAW TO PROVIDE FOR MAINTAINING LAND IN A CLEAN AND CLEAR CONDITION

This By-law will be administered by the Clerk and may be enforced by the Officers for the Village of Burk's Falls.

Definitions

- a) **By-Law** means this By-Law and preamble, as it may be amended from time to time.
- b) **Village** means the Corporation of the Village of Burk's Falls
- c) **Council** means the municipal council or the Village of Burk's Falls
- d) **Derelict motor vehicle** means a vehicle having missing bodywork components or parts, including tires or damaged components, parts, bodywork, glass or deteriorated or removed adjuncts, which prevent its mechanical function, and includes *motor vehicles* not licensed for the current year.
- e) **Hobby Vehicle** means a vehicle that is actively being repaired or restored as a hobby for the owner/occupant of the property, a race car, show car or similar vehicle that by its special nature is not routinely used or licensed but is intended to show or display on occasion.
- f) **Property** means land and includes; a parcel or tract of land capable of being conveyed as a separate parcel whether occupied or not
- g) **Officer** means the Municipal Bylaw Enforcement Officer or designate
- h) **Owner** means an owner, lessee or occupant or person for the time being managing or receiving the rent from the property, whether acting as an agent or trustee of any person aforesaid.
- i) **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 or limiting the generality of the foregoing, refuse or debris may include:
 - i) Garbage, rubbish, junk or litter
 - ii) Excessive accumulations or pile of brush, leaves, grass which are not part of a composting process
 - iii) Unusable containers including buckets, dishes, plastic containers or cans
 - iv) Unused, discarded or inoperable appliances such as stoves, refrigerators furniture, machinery parts, pipes or tanks
 - v) Any unused, abandoned, dismantled or inoperative motorized or un-motorized vehicle
 - vi) Broken concrete or asphalt
 - vii) Left over or unusable building materials
 - viii) Dilapidated, collapsed or partially constructed structure which are not currently under construction or repair
- j) **Repair** means the taking of any action as may be required so that the property shall conform to the standards established in the Bylaw.
- k) **Stagnant Water** means non-flowing, motionless or stale water that remains in a location
- l) **Weed** means, as defined in the Weed Control Act as amended, a plant that is deemed to be noxious weed under subsection 10(2) or designated as such under clause 24(a)
- m) **Yard** means an open, uncovered space on a lot appurtenant to a main building and unoccupied by buildings or structures except as specifically permitted elsewhere in this By-law. In determining yard measurements, the provisions of the General Standards Bylaw shall be used.

2. PROPERTY MAINTENANCE GENERAL PROVISIONS

THE CORPORATION OF THE VILLAGE OF BURK'S FALLS

BY-LAW NO. 6-2017

BEING A BY-LAW TO PROVIDE FOR MAINTAINING LAND IN A CLEAN AND CLEAR CONDITION

- 2.1 Every owner shall keep their front yard clean and free from any refuse and/or debris except for flower gardens or other improvement to enhance the curb appeal of the property
- 2.2 Every owner shall keep their yard and property clean and free from any refuse and debris except when screened, secured or contained. Wild flower, meadow and naturalized areas are permitted provided they do not encroach within a one (1) meter buffer strip of the side or rear lot line and the areas are managed under the Weed Control Act.
- 2.3 Every owner shall keep their yards and property in an orderly, tidy and litter free manner
- 2.4 Every owner shall ensure all refuse and debris is disposed of in accordance with the Waste Management procedures of the Village's weekly curb side pickup arrangements. No person shall use any land or structure within the Village for dumping, burying, disposing or storing of refuse of any kind.
 - 2.4.1 Exceptions provided all site regulations are adhered to:
 1. The Tri R Landfill Site
 2. The Designated Municipal Clean Fill Area
- 2.5 Every owner shall ensure their property is clean and free from any dead, diseased, decayed or damaged tree or other natural growth including weeds
- 2.6 Every owner shall ensure their grass and other vegetation is cut and trimmed so as to not be more than six (6) inches in height and of a reasonably neat appearance.
- 2.7 Every owner shall ensure their property and yard remains free and clear of stagnant water by draining it or by implementing a strategy for reducing mosquito breeding that has been approved by an Officer. This section shall not apply to lands designated Environmental Protection or to marshes and swamps.
- 2.8 Every owner shall keep hedges, shrubs and trees adjacent to a public walkway or roadway cut and trimmed so as not to encroach into the sidewalk and to allow safe, unhindered passage by pedestrians or vehicles.
3. **HAZARDOUS OR UNSAFE CONDITIONS**
 - 3.1 Every owner shall fill in any excavation on their land which is not completely enclosed by an adequate barrier and/or fence.
 - 3.2 Every owner shall ensure their swimming pool, hot tub, wading pool or artificial pond is maintained in good repair and working condition.
 - 3.3 Every owner shall ensure that any structure or other improvement to the land remains in good and safe condition.
 - 3.4 Every owner shall keep their yard and property free and clear of infestations of injurious insects, termites, rodents, vermin or other pests.
4. **DERELICT MOTOR VEHICLES**
 - 4.1 Except as provided in the Village's Official Plan or General Standards Bylaw as amended from time to time, no person shall use any property for:
 - 4.1.a. the parking or storage of a motor vehicle that is unfit to be operated on a highway due to damage or poor repair.

THE CORPORATION OF THE VILLAGE OF BURK'S FALLS

BY-LAW NO. 6-2017

BEING A BY-LAW TO PROVIDE FOR MAINTAINING LAND IN A CLEAN AND CLEAR CONDITION

4.1. b the wrecking or dismantling or salvaging of parts thereof for sale or other disposal.

4.2 Section 4.1 shall not apply to a hobby vehicle while it is actively being worked on.

5. ENFORCEMENT

5.1 Right of Entry / Obstruction

5.1.1 Where power of entry under the Municipal Act, 2001 permits, an Officer(s) of the Village may enter upon the premise for the purpose of inspection, and/or remedial actions at any reasonable time, without notice.

5.1.2 A person exercising a power of entry on behalf of the Village under the Municipal Act, 2001, shall, on request, display or produce proper identification.

5.1.3 In accordance with the provisions of the Municipal Act, 2001 as amended, no person shall hinder, interfere with or otherwise obstruct, either directly or indirectly, an officer, employee of the Village in the lawful exercise or power or duty under this bylaw.

5.2 Offences

5.2.1 If an Officer has reasonable grounds to believe that a contravention of the Bylaw has occurred, the Officer shall issue a notice requiring the owner of the land and person who contravened the bylaw or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred to discontinue the contravention and/or perform remedial repairs to reach compliance with this bylaw.

5.2.2 Every person who contravenes this bylaw, including a notice to remedy issued under this bylaw is guilty of an offense.

5.2.3 Any person who is in contravention of any provision of this bylaw or who fails to comply with a notice to remedy shall be deemed to be committing a continuing offence for each day that the offence remains in contravention, or for each day they fail to comply with the notice to remedy.

5.3 Remediation

If an Officer is satisfied that a contravention of this bylaw has occurred the Officer shall provide written notice to the owner or occupier of the land to provide a reasonable time for voluntary remediation.

5.3.1 A notice of contravention shall outline:

- i) municipal address of the property on which the contravention occurred
- ii) date of contravention
- iii) reasonable particulars of the contravention of the bylaw
- iv) date that compliance shall be achieved

5.3.2 The notice may be served personally on the person, owner and/or occupier to whom it is directed or by regular mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after mailing. Service on a corporation can be made by registered mail to the corporate mailing address.

5.3.3 If the work required under the notice of contravention of this bylaw, is not done within the specified period, the Village in addition all other

THE CORPORATION OF THE VILLAGE OF BURK'S FALLS

BY-LAW NO. 6-2017

BEING A BY-LAW TO PROVIDE FOR MAINTAINING LAND IN A CLEAN AND CLEAR CONDITION

- remedies it may have, may do the work at the owner's expense and may enter upon the land at any reasonable time for this purpose.
- 5.3.3.1 If the costs for work pursuant to the provision of this bylaw are not paid by the owner to the Village within thirty (30) days of written demand thereof, the Treasurer for the Village may add the costs, including interest, to the tax roll for the lot and collect them in the same manner as municipal taxes.
- 5.3.4. The Village assumes no liability for property damage or personal injury resulting from remedial action or remedial work undertaken with respect to any person or property that is subject of this bylaw.

5.4 Penalties

- 5.4.1 Any person who contravenes any provision of this bylaw 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.
- 5.4.2 A person who is convicted of an offence under this bylaw is liable for each day or part of a day that the offence continues, to a minimum set fine of \$100.00 and a maximum fine of \$10,000 and the total of all the daily fines for the offence is not limited to \$100,000 as provided for in subsection 429(3)2 of the Municipal Act, 2001 as amended.

6. LIABILITY

- 6.1 The Village assumes no liability for enforcement of this bylaw including:
- 6.1.1 shall not be liable to compensate any owner/ occupier or any other person having interest in the subject property by reason of anything done by or on behalf of the Village under the provisions of this bylaw.
- 6.1.2 where any materials or things are removed in accordance with this bylaw the materials or things may be immediately disposed of by the Officer and any recovered salvage value or other actual recovery of money made upon such disposal shall be credited against costs; and
- 6.1.3 where a vehicle has been removed, impounded, or otherwise restrained according to Section 170(15) of the Highway Traffic Act, RSO 1990, as amended in violation of this bylaw, all costs associated with the removal, impoundment, will be the responsibility of the registered owner of the vehicle.

7. VALIDITY

- 7.1 Should a court of competent jurisdiction declare a part of whole of any provision of this bylaw to be invalid or of no force and effect, the provision or part is deemed severable from this bylaw. 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 so as to protect the public by ensuring a minimum standard for maintenance of yards is maintained.
- 7.2 Where a provision of this bylaw conflicts with the revision of another bylaw, Act or Regulation in force within the Village of Burk's Falls the provisions that establish the higher standards to protect health and safety of person shall prevail.

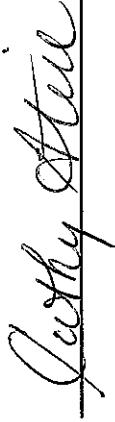
THE CORPORATION OF THE VILLAGE OF BURK'S FALLS

BY-LAW NO. 6-2017

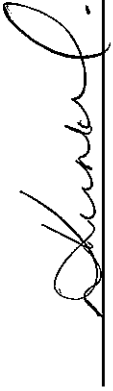
BEING A BY-LAW TO PROVIDE FOR MAINTAINING LAND IN A CLEAN
AND CLEAR CONDITION

AS READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED IN
OPEN COUNCIL THIS 21st DAY OF MARCH 2017.

Seal



REEVE CATHY STILL



CLERK NICKY KUNKEL

THE CORPORATION OF THE VILLAGE OF BURK'S FALLS

BY-LAW NO. 6-2017

BEING A BY-LAW TO PROVIDE FOR MAINTAINING LAND IN A CLEAN AND CLEAR CONDITION

CLEAN YARD BYLAW – SET FINES

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE	COLUMN 3 SET FINE
1.	Failure to keep front yard clean and free from any refuse and/or debris	2.1	100.00
2.	Failure to keep yard and property clean and free from any refuse and debris except when screened, secured or contained	2.2	100.00
3.	Improper disposal, burying, dumping or storage of refuse	2.4	100.00
4.	Failure to ensure grass and other vegetation is cut and trimmed to not exceed six (6) inches	2.6	100.00
5.	Failure to keep property and yard free and clear of stagnant water	2.7	100.00
6.	Failure to keep hedges, shrubs and trees adjacent to public walkway trimmed as to not encroach into sidewalk or hinder passage by pedestrians	2.8	100.00
7.	Failure to fill in any excavation or provide adequate barrier and/or fence	3.1	100.00
8.	Failure to ensure that any structure or improvement to land remains in good and safe condition	3.3	100.00
9.	Failure to keep yard and property free and clear of infestations of injurious insects, termites, rodents, vermin or other pests	3.4	100.00
10.	Improper parking or storage of a motor vehicle that is unfit to be operated	4.1.a.	100.00
11.	Improper wrecking or dismantling or salvaging of motor vehicle parts	4.1.b	100.00

Note: the general penalty provision for the offences listed above is section 5.4 of bylaw __-2017, a certified copy of which has been filed

THE CORPORATION OF THE VILLAGE OF BURK'S FALLS
 BY-LAW 6-2017
 PART 1 PROVINCIAL OFFENCE ACT
 CLEAN YARD BYLAW – SET FINES

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE	COLUMN 3 SET FINE
1.	Failure to keep front yard clean and free from any refuse and/or debris	2.1	
2.	Failure to keep yard and property clean and free from any refuse and debris except when screened, secured or contained	2.2	
3.	Improper disposal, burying, dumping or storage of refuse	2.4	
4.	Failure to ensure grass and other vegetation is cut and trimmed to not exceed six (6) inches	2.6	
5.	Failure to keep property and yard free and clear of stagnant water	2.7	
6.	Failure to keep hedges, shrubs and trees adjacent to public walkway trimmed as to not encroach into sidewalk or hinder passage by pedestrians	2.8	
7.	Failure to fill in any excavation or provide adequate barrier and/or fence	3.1	
8.	Failure to ensure that any structure or improvement to land remains in good and safe condition	3.2	
9.	Failure to keep yard and property free and clear of infestations of injurious insects, termites, rodents, vermin or other pests	3.4	
10.	Improper parking or storage of a motor vehicle that is unfit to be operated	4.1.a.	
11.	Improper wrecking or dismantling or salvaging of motor vehicle parts	4.1.b	

Note: the general penalty provision for the offences listed above is section 5.4 of bylaw __-2017, a certified copy of which has been filed

THE CORPORATION OF THE VILLAGE OF BURK'S FALLS

BY-LAW6?-2017

PART 1 PROVINCIAL OFFENCE ACT

CLEAN YARD BYLAW – SET FINES

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE	COLUMN 3 SET FINE
1.	Failure to keep front yard clean and free from any refuse and/or debris	2.1	100.00
2.	Failure to keep yard and property clean and free from any refuse and debris except when screened, secured or contained	2.2	100.00
3.	Improper disposal, burying, dumping or storage of refuse	2.4	100.00
4.	Failure to ensure grass and other vegetation is cut and trimmed to not exceed six (6) inches	2.6	100.00
5.	Failure to keep property and yard free and clear of stagnant water	2.7	100.00
6.	Failure to keep hedges, shrubs and trees adjacent to public walkway trimmed as to not encroach into sidewalk or hinder passage by pedestrians	2.8	100.00
7.	Failure to fill in any excavation or provide adequate barrier and/or fence	3.1	100.00
8.	Failure to ensure that any structure or improvement to land remains in good and safe condition	3.2	100.00
9.	Failure to keep yard and property free and clear of infestations of injurious insects, termites, rodents, vermin or other pests	3.4	100.00
10.	Improper parking or storage of a motor vehicle that is unfit to be operated	4.1.a.	100.00
11.	Improper wrecking or dismantling or salvaging of motor vehicle parts	4.1.b	100.00

Note: the general penalty provision for the offences listed above is section 5.4 of bylaw __-2017, a certified copy of which has been filed