

CORPORATION OF THE TOWNSHIP OF McNAB/BRAESIDE

By-Law No. 2016-35

Being a By-law respecting the cleaning up of yards and vacant lots in the Township of McNab/Braeside.

Whereas Sections 11(2) clauses 5 & 6, 127, 128 and 131 of the Municipal Act 2001, SO 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 may 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, SO 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 properties to enhance the quality of communities and neighbourhoods, and to ensure the continued enjoyment of property for residents and property owners in the Township of McNab / Braeside;

Now Therefore the Council of the Corporation of the Township of McNab / Braeside enacts as follows:

1. Application

This by-law shall apply to all properties within the Township of McNab / Braeside which are used for residential, commercial, industrial and institutional purposes.

2. Definitions:

- (a) **"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".
- (b) **"Derby Car"** means a motor vehicle designed or intended to be used in a Demolition Derby
- (c) **"Corporation"** means the Corporation of the Township of McNab / Braeside;
- (d) **"inner boulevard"** means that portion of the road edge between the curb and the sidewalk.
- (e) **"notice"** means a notice as set out in Appendix "A" of this Bylaw;
- (f) **"occupant"** means the registered owner of property, tenant or occupant or person for the time being managing or receiving the rent from the property, whether on his own account or on account of an agent or trustee of any person, or any one of the aforesaid;
- (g) **"officer"** means a person or entity employed directly or indirectly to provide Municipal Law Enforcement Services on behalf of the Corporation as its agent and includes his/her designate assigned the responsibility for enforcing and administering this by-law;
- (h) **"outer boulevard"** means that portion of the road edge between the sidewalk and the right of way limit.

- (i) **"property"** means any parcel of land or registered water lot and, without limiting the generality of the foregoing, shall mean lands and/or premises appurtenant to a building or structure, whether residential, commercial, industrial or institutional, and includes vacant property;
- (j) **"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 include:

- i) garbage, rubbish, junk or litter.
 - ii) excessive accumulations or piles of grass clippings, tree and garden cuttings, brush and leaves which are not part of a horticultural or composting process;
 - iii) unusable containers such as crockery, dishes, glassware, bottles, plastic containers and cans;
 - iv) discarded paper, paper products, cardboard, clothing;
 - v) unused, discarded or inoperable appliances such as stoves, refrigerators and other such appliances, furniture, machinery parts, pipes, water or fuel tanks;
 - vi) any unused, abandoned, dismantled or inoperative vehicle;
 - vii) any wrecked, dismantled, discarded vehicle or automotive parts or accessories, mechanical parts, unmounted or mounted tires, accessories or adjuncts to any vehicle or mechanical equipment;
 - viii) any 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;
 - ix) broken concrete or asphalt pavement, patio/sidewalk slabs, unusable building materials;
 - x) discarded, unused or stored materials resulting from or as part of construction, alteration, repair or demolition of any building or structure, or old or decayed lumber;
 - xi) any refuse or debris, or any other materials, objects or conditions that may create a health, fire or accident hazard;
 - xii) dilapidated, collapsed or partially constructed structures which are not currently under construction or repair;
 - xiii) discarded, dead, diseased, decayed or damaged trees or brush not neatly stacked and intended for use for heating purposes;
- (k) **"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;
 - (l) **"right-of-way"** means the corridor of land owned by a municipality within which a road is located. This includes the road pavement and boulevards on either side.
 - (m) **"vehicle"** means an automobile, motorcycle, motor assisted bicycle, traction engine, farm tractor or farm machinery, road building machine, construction vehicle, bulldozer, backhoe, excavator, grader, asphalter, earth mover, compactor, crane, lift, skid steer, generator, welder, street car or other vehicle running only on rails, 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.

3. Scope

This By-law does not apply so as 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.

4. General Standards

- a) Every owner, tenant or occupant of property shall maintain said property clean and free from refuse and/or debris.
- b) No owner, tenant or occupant of property shall permit Commercial waste bins or dumpsters on residential properties except on a temporary basis during construction or demolition projects.
- c) 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) and free from any overgrowth of weeds such as dandelions, ragweed, and thistles. Any noxious weeds must be controlled and/or removed from the property.
- d) Every owner, tenant or occupant of property shall keep grass or improved surfaces adjacent to a particular private property, within the right-of-way, between the private property and the road curb line 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 private property, and kept in a clean, clear and safe condition.

Property located in the following zones, as designated in the Township of McNab / Braeside Comprehensive Zoning Bylaw as amended, shall be exempt from the above provision: Environmental Protection (EP), Open Space (OS), and any exception zones to these zones.

- e) Every owner, tenant or occupant of property shall keep hedges, shrubs and trees adjacent to a public sidewalk, walkway or roadway cut and trimmed so as not to encroach into the sidewalk and to allow safe, unhindered passage by pedestrians or vehicles.
- f) No person shall throw, place or deposit, or permit any person to throw, place or deposit, any refuse or debris as herein defined on any property within the Township of McNab / Braeside without the written consent of the property owner, and only then in accordance with this by-law.
- g) Every owner, tenant or occupant shall keep their property free and clear of infestations of injurious insects, termites, rodents, vermin or other pests.
- h) No owner, tenant or occupant of residential land shall store any unused, inoperative or unlicensed motor vehicles, Derby Cars, vehicle parts, or other inoperative or derelict equipment or machinery on the property unless the subject item(s) are stored in a side or rear yard and the subject item(s) are screened from view from any street or from any residential other residential property or the subject item(s) are stored out of sight in an enclosed structure.

The above provisions shall not apply to owner, tenants or occupants of land zoned to permit the land to be used for such purposes by the Township's Comprehensive Zoning By-law OR to owner, tenants or occupants of residential land who are actively restoring not more than two vehicles, providing that the vehicles are stored in an enclosed permanent structure and restoration work is located in such a manner so as to be screened from view by neighbouring property owners, tenants or occupants, or from adjacent roadways.

- i) No owner, tenant or occupant of land shall keep a swimming pool, hot tub, wading pool or artificial pond unless it is maintained in good repair and working condition.

5. Liability

Pursuant to Section 448 of the Municipal Act, SO 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, SO 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 or not the provisions of this by-law are being complied with.

In accordance with the provisions of Section 426(1) of the Municipal Act, SO 2001, c.25 as amended, no person shall hinder, interfere with, or otherwise obstruct, either directly or indirectly, an officer in the lawful exercise or power or duty under this by-law.

7. Administration and Enforcement

- a) When any property is not maintained to the requirements of this by-law, the officer may notify the owner, tenant or occupant, or other person responsible for the maintenance of the property, using the Notice in Appendix "A" attached hereto, directing that the property be made to comply with the provisions of the by-law within a defined period of time, but not less than 48 (forty eight) hours from the date of the Notice. Said Notice shall be sent by registered mail to the last known address as shown on the last revised assessment rolls of the municipality or delivered personally to the owner, tenant or occupant or person responsible for the property.
- b) Where a Notice has been sent pursuant to Section 7a) and the requirements of the Notice have not been complied with, the officer may order that the work be done at the expense of the owner, tenant or occupant.

An Order to Remedy shall be sent by registered mail to the last known address as shown on the last revised assessment rolls of the municipality or delivered personally to the owner, tenant or occupant or person responsible for the property. The expense incurred may be recovered by action or 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, SO 2001, c. 25, as amended. The municipality has the option to apply a \$200.00 administration fee to this process should it be necessary.

- c) An Order shall be in the form as set out in Appendix "B" to this by-law.
- d) In the case of a health, safety or fire hazard, an officer may order that the hazard be removed forthwith without the Notice as described in Section 7a) being completed.
- e) In the event an officer is unable to serve a Notice and/or Order by registered mail or personally, the Notice and/or Order may be posted in a conspicuous place on the property, and the placing of the Notice and/or Order shall be deemed to be sufficient service of the Notice and/or Order on the property owner.
- f) For clarity, where the owner, tenant or occupant fails to comply with an Order issued under this by-law within the time specified for compliance, the Township in addition to all other remedies:
 - i) shall have the right to enter in and upon the lands and to restore the lands and carry out remedial action specified in the Order at the owner's expense; and

- ii) shall not be liable to compensate such owner, tenant or occupant or any other person having interest in the property by reason of anything done by or on behalf of the Township under the provisions of this Section; and
- iii) where any materials or things are removed in accordance with this Section, 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
- iv) where a vehicle has been removed, impounded, restrained or immobilized according to Section 170(15) of the Highway Traffic Act, RSO 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.

8. Offences

- 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 of 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.

9. 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 so as 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 bylaw, Act or Regulation in force within the Township of McNab / Braeside, the provisions that establish the higher standards to protect the health and safety of persons shall prevail.

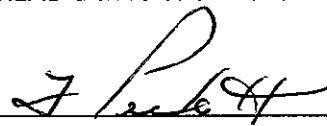
10. Enactment

BE IT FURTHER ENACTED, that all By-Laws or parts thereof, and all or any resolutions of Council contrary thereto, or inconsistent herewith, be and the same are hereby repealed

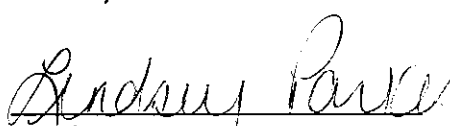
READ a first time this 7th, day of June, 2016.

READ a second time this 7th, day of June, 2016.

READ a third and final time and passed this 7th, day of June, 2016.



MAYOR



CAO/CLERK

CORPORATION OF THE TOWNSHIP OF McNAB/BRAESIDE**By-Law No. 2016-35****PART 1 PROVINCIAL OFFENCES ACT**

Item	Column 1 Short Form Wording	Column 2 Provision creating or defining offence	Column 3 Set Fine
1	Fail to Maintain Property - Debris	Section 4. a)	\$200.00
2	Commercial Waste Bin – Prohibited Residential	Section 4. b)	\$200.00
3	Fail to Maintain Property – Weeds / Overgrowth	Section 4. c)	\$200.00
4	Fail to Maintain Surfaces Adjacent to Private Property	Section 4. d)	\$200.00
5	Fail to Maintain Hedge, Shrub or Tree	Section 4. e)	\$200.00
6	Littering	Section 4. f)	\$200.00
7	Permit Littering	Section 4. f)	\$200.00
8	Permit Infestation – Insects / Rodents / Vermin	Section 4. g)	\$200.00
9	Storage Prohibited	Section 4. h)	\$200.00
10	Pool/ Hot Tub / Pond – Not Maintained	Section 4. i)	\$200.00

Note: the penalty provision for the offences listed above is section 8(a) of bylaw 2016-35, a certified copy of which has been filed.