

THE CORPORATION OF THE TOWN OF
NEW TECUMSETH

BY-LAW

Number 2008-047

“CLEANING AND CLEARING BY-LAW”

Being a by-law to require and regulate the fill cleaning and clearing of any lands within the Town of New Tecumseth and being a By-law requiring properties to be kept in a safe and clean condition

WHEREAS Section 127 of the Municipal Act, 2001, S.O. 2001, c.25 as amended authorizes municipalities to pass by-laws for requiring the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse and/or debris from the land, not including buildings and to regulate when and how such matters shall be done and to prohibit the depositing of refuse and/or debris on land without the consent of the owner or occupant of the land and to define “refuse and/or debris” for the purpose of the by-law;

AND WHEREAS Section 128(1) of the Municipal Act, 2001 S.O. 2001, c.25 as amended authorizes municipalities to prohibit and regulate with respect to public nuisances;

AND WHEREAS Section 446 of the Municipal Act, 2001 S.O. 2001, c.25 as amended authorizes municipalities to direct that where an owner has defaulted, the municipality may have the default remedied at the owner’s expense and add the cost to the tax roll;

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, to protect the safety, health and well-being of the public and to ensure the continued enjoyment of property for residents and property owners in the Town of New Tecumseth;

NOW THEREFORE the Council of the Corporation of the Town of New Tecumseth enacts as follows:

1.0 TITLE AND SCOPE

This By-law shall be known as a By-law to regulate the cleaning and clearing of any grounds, lands or vacant lots within the Town of New Tecumseth and requiring lands to be kept in a safe and clean condition.

Where a provision of this by-law conflicts with a provision of another by-law in force in the Town of New Tecumseth, the provision that establishes the higher standard shall prevail in order to protect the health, safety and welfare of the general public.

2.0 DEFINITIONS

2.1 **“Derelict automobile”** means a motor vehicle that is inoperable, 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 put it into operable condition, is unlicensed for the current year, and is not properly enclosed and protected in a garage or shed or protected by a portable garage enclosure in good repair that meets all applicable Town by-laws;

2.2 **“Lands”** may include but not be limited to means an open, uncovered space on a lot appurtenant to an occupied building or structure, vacant lot and yard;

2.3 **“Occupant”** means any person or persons over the age of eighteen years, but not necessarily the owner of the property, who is apparently in possession of the property; includes any lessee or tenant;

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- 2.4 “**Officer**” shall include a Municipal Law Enforcement Officer of the Corporation of the Town of New Tecumseth, Building Inspectors or any Inspector or Assistant Inspector appointed by by-law of the Corporation of the Town of New Tecumseth, the Fire Chief or designate, or officers of the Simcoe Muskoka District Health Unit, or an officer of the Ontario Provincial Police;
- 2.5 “**Owner**” means the registered owner of the property and, for the purpose of this By-law, includes any lessee or tenant, occupant or any person having an interest whether equitable or legal in the land;
- 2.6 “**Person**” means an individual, firm, corporation, association or partnership;
- 2.7 “**Refuse and/or Debris**” means any article, thing, matter, substance or effluent that: has been cast aside, discharged or abandoned, or is discarded from its usual and intended use, or is used up, in whole or in part, or expanded or worn out in whole or in part; and shall include domestic waste and industrial waste, and ;that domestic waste and/or industrial waste does not cease to be refuse by reason that it may be commercially saleable or recyclable;
- 2.8 “**Repair**” means the provision of such facilities and 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;
- 2.9 “**Restoration**” means a vehicle of at least 20 years of age that is actively being restored or repaired for use as an antique vehicle or display vehicle with the intention to be operational, and which the progress of such restoration work will be evident; the vehicle must be registered as an historical vehicle as defined by the Ministry of Transportation of Ontario;
- 2.10 “**Sewage**” means any liquid or solid waste, containing animal, vegetable or mineral matter in a suspension or a solution, but does not include room drainage or storm water runoff unless the property is serviced by storm sewers;
- 2.11 “**Town**” means The Corporation of the Town of New Tecumseth;
- 2.12 “**Unsafe Condition**” shall include flammable refuse and/or debris, long grass or untrimmed underbrush, timber, lumber and other wood products; an unfenced or unprotected pit, excavation, hole, or other cavity which creates a safety hazard; any materials considered hazardous waste or products within a hazardous waste category; a building, part or all of which is liable to collapse from snow, wind, human occupancy or other causes; machinery, automotive equipment, building material or the like in disuse which is not properly enclosed and protected; any other circumstances whatever that creates, or is like to create an unsafe or hazardous condition from fire or other dangerous accident;
- 2.13 “**Vacant Lot**” means any parcel of land on which there is no structure or building being used or occupied;
- 2.14 “**Vehicle**” includes any motor vehicle, within the meaning of the *Highway Traffic Act* of Ontario, trailer, commercial motor vehicle, an automobile, motorcycle, motor assisted bicycle, 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;
- 2.15 “**Waste Material**” shall include garbage, rubbish, recyclable materials, discarded building materials, refuse and/or debris or junk, tin cans, bottles, boxes or other containers, machinery, derelict automobiles as herein defined, and any material in excess to the needs of the owner;
- 2.16 “**Weeds**” means a plant that is deemed to be a Noxious Weed under subsection 10(2), or designated as a noxious weed under clause 24(a) of the *Weed Control Act, R.S.O. 1990*;

- 2.17 **“Wrecked, dismantled, inoperative”** means a vehicle or trailer which is inoperative, discarded, unused or unlicensed except in an establishment licensed or authorized to conduct and operate such a business and then only in an arrangement such as to prevent an unsafe condition or an unsightly condition out of character with the surrounding environment;

3.0 GENERAL PROVISIONS

- 3.1 No owner shall cause any grounds, land or vacant lot to remain in anything other than an orderly, tidy and litter-free manner
- 3.2 Every owner, lessee or occupant of land shall maintain said land clean and free from refuse and/or debris, including but not limited to:
- 3.2.1 Rubbish, junk, refuse and/or debris and objects or conditions that may create a health, fire or accident hazard;
 - 3.2.2 Wrecked, dismantled, discarded, unplated or abandoned vehicles, boats, machinery or trailers unless it is necessary for the operation of a business lawfully situated on the property;
 - 3.2.3 Noxious weeds as defined by the Weed Control Act, R.S.O. 1990;
 - 3.2.4 Dilapidated, collapsed or partially constructed structures which are not currently under construction;
 - 3.2.5 Injurious insects, termites, rodents, vermin or other pests; and
 - 3.2.6 Dead, diseased, decayed or damaged trees or other natural growth.

Every owner, lessee or occupant who fails to maintain land clean and free from refuse and/or debris is guilty of an offence.

- 3.3 No person shall throw, place or deposit any refuse and/or debris as herein defined on any property, including Town, Regional, Provincial or Federal lands or the property of any local Board or Commission or any private property within the Town of New Tecumseth without the written consent of the property owner. Any person throwing, placing or depositing refuse and/or debris on any property without the written consent of the owner is guilty of an offence.
- 3.4 No owner shall allow or permit the creation, presence or existence of any waste material or unsafe condition in or upon any land, lot or ground which he/she owns, rents, occupies, or has an interest in, whether equitable or legal.
- 3.5 In the urban areas as defined in Schedule “A” to this by-law, an owner or occupant shall keep all grass and weeds sufficiently cut and trimmed in the following preventative manner:
- 3.5.1 to prevent the ripening and dispersal of weeds and other noxious plants;
 - 3.5.2 to present a reasonably neat appearance to the public free of debris or garbage;
 - 3.5.3 to prevent grass from growing to an extent of more than 30cm in height.

In the event that the owner of a property has failed to take action to eliminate and destroy noxious weeds or long grass, the Town may do such work or cause it to be done, and the cost thereof may be recovered from the said owner in like manner as municipal taxes

- 3.6 No vehicle, including a trailer or any part of such vehicle or trailer that is in a wrecked, discarded, dismantled, inoperative or abandoned condition shall be parked, stored or left outdoors on any property in the Town with the following exceptions:
- 3.6.1 Where it is part of an automotive repair establishment use, an automotive or auto body establishment use, or a permitted Industrial use zoned in accordance with the Town of New Tecumseth Zoning By-law;
 - 3.6.2 Where it is part of any legal non-conforming automotive use or licensed salvage yard use;
 - 3.6.3 Where the vehicle is at least 20 years of age and is being or has been actively restored as an antique vehicle, display vehicle or operation vehicle and registered as an historical vehicle with the Ministry of Transportation of Ontario.
 - 3.6.4 Where the vehicle is operative and has a license plate that has been registered for that vehicle and said license is valid and up-to-date that has been issued or attached to that vehicle which has not expired.
 - 3.6.5 Where the items set out in Section 3.6 above are properly enclosed within a shed or garage or suitable building;
 - 3.6.6 Where the items set out in Section 3.6 are being stored by an owner licensed by the Town to carry on a business upon that ground, land or vacant lot, and storage of such items is a necessary or normal accessory use thereto;
 - 3.6.7 Land that is a waste disposal site, which has a Certificate of approval for such purposes under the Environmental Assessment Act, S.O., E. 18.
- 3.7 No person shall allow the piling or stacking of vehicles on any property unless the property is licensed by the Municipality as a salvage yard.
- 3.8 No owner or occupant shall discharge sewage onto the surface of the ground nor allow a sump pump or roof run off to enter a neighbouring property and shall ensure property drainage swails are installed to direct drainage for proper dispersal.
- 3.9 No owner or occupant shall cause or allow holes or excavations in any ground, land or vacant lot that may create an accident or health hazard to any member of the public.

Section 3.8 does not apply to any hole or excavation for the purposes of constructing a building or structure, septic bed, pipeline or similar activity, provided that the activity is carried on in an expeditious manner in accordance with all other applicable laws, and provided all reasonable steps are taken to protect the public from such hole or excavation.

4.0 INSPECTION

- 4.1 An Officer has the power to enter upon and examine any grounds, land, vacant lot or building at any reasonable time or times.
- 4.2 An Officer may be accompanied by such other person or persons as deemed necessary to properly carry out their duties under this by-law.

5.0 OBSTRUCTION

- 5.1 Every person who hinders, disturbs or obstructs any Officer in the carrying out of their duties as defined in Section 426(1) of the Municipal Act of Ontario, 2001, c25 as amended or contravenes any provision of this by-law unless otherwise provided herein is guilty of an offence and, upon conviction, is liable to a fine pursuant to the Provincial Offences Act.

6.0 COMPLIANCE

- 6.1 When any land is not maintained to the requirements of this by-law, the Officer may notify the owner, occupant or other person responsible for the maintenance of the property, in writing, directing that the land be made to comply with the provision of the by-law within a defined period of time, but not less than seventy-two (72) hours. Said notice shall be sent to the last known address as shown on the last revised assessment rolls of the municipality or delivered personally to the owner, occupant or person responsible for the property.
- 6.2 Where a notice has been sent pursuant to Section 6.1 and the requirements of the notice have not been complied with, the Town may direct that the work be done at the expense of the owner or occupant. 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.
- 6.3 In addition to the remedies set out in Section 6.1, an Officer of the Corporation of the Town of New Tecumseth may give the owner of land or vacant lot that fails to meet the standards as set out by this By-law, a notice in writing delivered or sent by mail to said owner directing the owner to eliminate, demolish or dispose of any waste material or unsafe condition existing on the lands within the time stipulated in the notice and notifying the owner than in default of compliance with the notice, the Town shall perform the work at the owner's expense.
- 6.4 In the event that the owner does not comply with the direction of the said notice, the Town of New Tecumseth may do such work or cause it to be done and the cost thereof may be recovered from the said owner by court action or the same may be recovered in like manner as municipal taxes.
- 6.5 The notice referred in Section 6.1 herein may be dispensed with if the Officer deems that an unsafe or hazardous condition within the meaning of the By-law exists.
- 6.6 Where any land of vacant lots fail to meet the standards as set out by the By-law, the owner of the said land or vacant lot shall eliminate, repair, clean up, fill up, otherwise remove or dispose of any waste material or unsafe condition existing on the said land.

7.0 ADMINISTRATION AN ENFORCEMENT

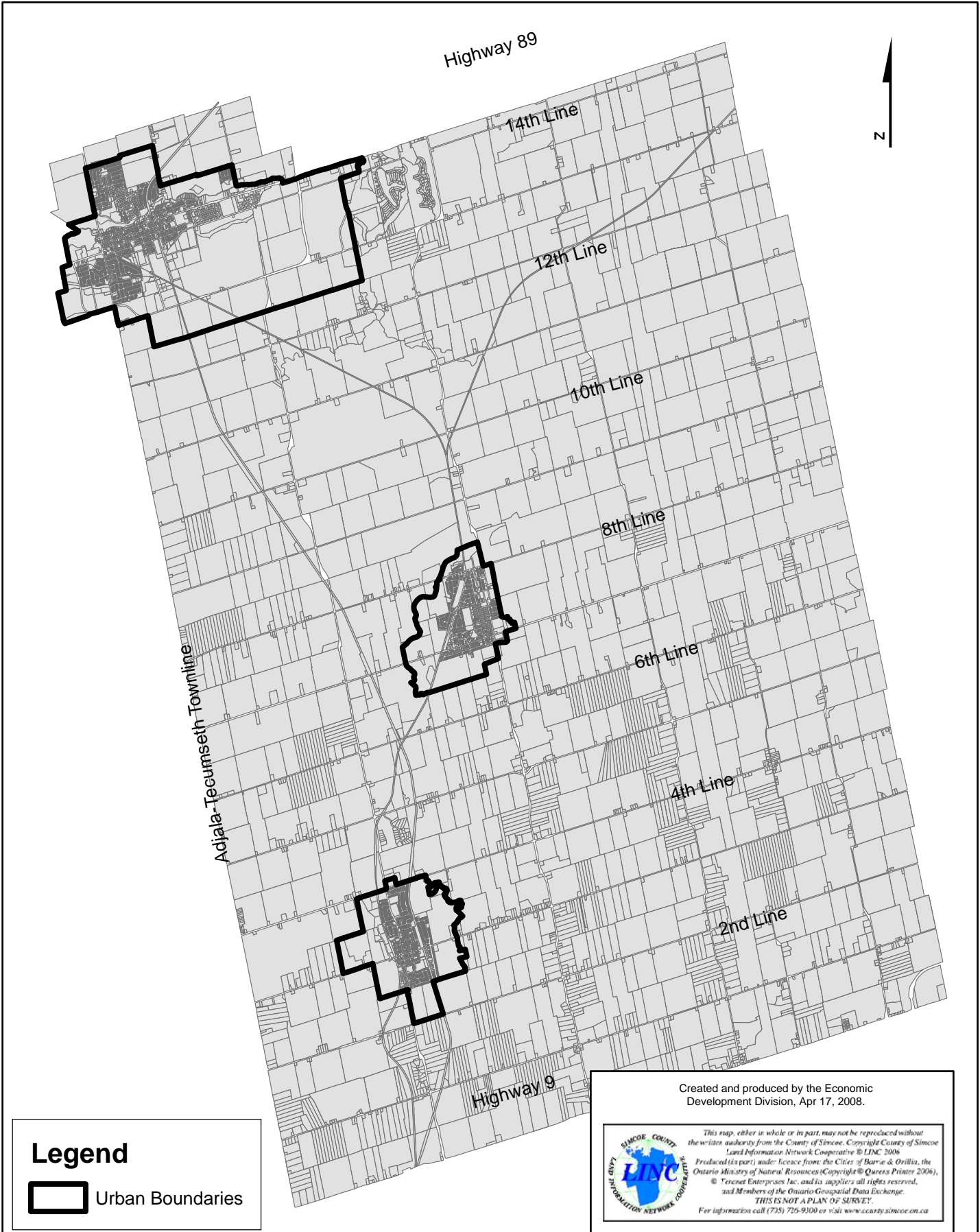
- 7.1 If an article of this by-law is for any reason held to be invalid, the remaining articles shall remain in effect until repealed.
- 7.2 Any person who contravenes any of the provisions of this by-law or who fails to comply with the written order of an Officer is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c.P. 33.
- 7.3 This By-law shall come into force and take effect on the passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 28TH DAY OF APRIL, 2008.


MAYOR

CLERK


Cleaning and Clearing By-law
By-law 2008-047
Schedule A



Legend

 Urban Boundaries

Created and produced by the Economic Development Division, Apr 17, 2008.



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