THE CORPORATION OF THE TOWNSHIP OF MATACHEWAN

BY-LAW NO. 2008-22

Being a By-law to Provide for Maintaining Land in a Clean and Clear Condition
(Clean Yards By-Law)

Whereas pursuant to *Sections 10(2) Clauses 5 & 6, 123, 127, 128, and 131 of the Municipal Act S.O. 2001, c. 25 as amended,* Council may pass By-Laws for requiring the cleaning and clearing of yards, for prohibiting the depositing of refuse on private and public lands; for prohibiting automotive wrecking yards and requiring removal or repair of dilapidated fences and structures;

AND WHEREAS pursuant to *Section 446 of the Municipal Act S.O. 2001, c.25, as amended,* a municipality may enact a by-law to require that a matter of thing be done and in default, the matter of 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;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF MATACHEWAN HEREBY ENACTS AS FOLLOWS:

Part 1

1. Definitions
In this By-law:

1.1 **"Compost"** means accumulated biodegradable waste;

1.2 **"Township"** means the Township of Matachewan.

1.3 **"Domestic Waste"** means any article, thing, matter or any effluent belonging to or associated with a house or household, or concerning or relating to the home or family 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 domestic waste extends to the following classes of waste material:

a) Accumulations, deposits, leavings, litter, remains, rubbish, garbage, trash;
b) Refrigerators, freezers or other appliances, any attached hinges or latching, locking or other closing mechanism or device;
c) Furnaces, furnace parts, fittings to pipes, water or fuel tanks;
d) Inoperative motor vehicles and motor vehicle parts including but not limited to tires, mechanical equipment, mechanical parts, accessories or adjuncts to the motor vehicles and mechanical equipment.
e) Paper, cartons, fabrics or carpets;
f) Furniture
g) Crockery
h) Sewage

1.4 **"High Risk Area"** shall include but is not limited to standing and stagnant water present in those locations listed in Schedule 'A'.

1.5 **"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, or vehicle that by its special nature is not routinely used or licensed but is intended to show or display on occasion;

1.6 **"Industrial Waste"** means any article, thing, matter or any effluent belonging to or 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 no 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:

a) Articles, things, matter or effluent, which in whole or in part or fragments thereof, are derived from or are constituted from or consist of:

i. agricultural, animal, vegetable, paper, lumber, or wood products or

ii. mineral, metal, or chemical products,

iii. whether or not the products are manufactured or otherwise processed.

b) Inoperative motor vehicles and motor vehicle parts including but not limited to tires, mechanical equipment, mechanical parts, accessories or adjuncts to the motor vehicles and mechanical equipment.

c) Piping, tubing, conduits, cable and fittings or other accessories, or adjuncts to the piping, tubing, conduits or cable.

d) Containers or pallets or any size, type or composition.

e) Materials resulting from, or as part of, construction or demolition projects.

f) Rubble, inert fill except loose soil, sand, gravel.

g) Bones, feathers, hides.

h) Sewage.

1.7 **"Inoperative Motor Vehicle"** means any unlicensed motor vehicle or any motor vehicle having missing parts, including: tires, damaged or missing glass, deteriorated or removed metal components, or anything which prevents its mechanical function.

1.8 **"Motor Vehicle"** means commercial and industrial vehicles and equipment, automobiles, motorized snow vehicles, off-road vehicles, motorcycles, all-terrain vehicles, trailers, boats, marine equipment, farm equipment, construction equipment and heavy machinery.

1.9 **"Officer"** means Municipal By-Law Enforcement Officer or designate, Property Standards Officer and Peace Officers.

1.10 **"Owner"** Includes:

a) The person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the person's own account or as agent or trustee of any other person, or who would so receive the rent if such lands and premises were let, and

b) A lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property.

1.1.1 **"Person"** in addition to its regular meaning, includes an individual, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau and agency or any director, officer, manager or person in charge of such entity or the collecting of rent of any property, or any other person who is the occupier of the property.

1.1.2 **"Private drain"** means a drain or sewer or part thereof situated on private property.

1.1.3 **"Sewage"** includes grey water, any liquid waste containing human, vegetable, or mineral matter, waste that is in suspension whether domestic or industrial or any other waste whether in suspension or precipitated, but does not include roof water or storm run-off.

1.1.4 **"Standing and Stagnant Water"** includes but is not limited to water that is void of movement by either natural or artificial means and includes moisture or water that may cause health hazards as identified by the Timiskaming Health Unit

1.1.5 **"Town"** means the Corporation of the Township of Matachewan.

1.1.6 **"Waste Material"** means garbage, refuse, debris and other material or effluent (including domestic waste and industrial waste) that, in the opinion of the Officer,

a) Appears to have been cast aside or discarded or abandoned; or,

b) Appears to be worthless or useless or of no particular value; or,

c) Appears to be used up, in whole or in part, or expended worn out in whole or in part.

Part 2 – Clean and Clear Yards

2.1 Every owner, lessee or occupant shall keep his ground, yards or vacant land drained and clear of all garbage, waste material, refuse or domestic or industrial waste of any kind;

2.2. For the purpose of subsection 2.1, "keeping clear" includes:

a) The removal of dead, decayed or damaged trees or other natural growth and the branches or limbs thereof which create an unsafe condition in relation to their environment;

b) The removal, trimming, or cutting of weeds, grass or ground cover more than 15 centimeters (6 inches) in height.

c) The removal of standing or stagnant water in high risk areas as noted in Schedule 'A'.

2.3 In determining compliance with Clause 2.1 due consideration shall be paid to the distinction between groomed lawns and naturalized or underdeveloped areas particular in relationship to the surrounding environment.

Part 3 – Unsafe or Hazardous Conditions

3.1 No Owner shall cause or permit an unfenced or unprotected pit, excavation or other declivity which causes a safety hazard on their property.

3.2 No Owner shall permit any well which is unprotected or which the presence of which creates a risk or accident or injury.

3.3 No Owner shall fail to comply with an order issued by the Medical Officer of Health to remedy any standing or stagnant water. Not limiting the foregoing, such order may include a direction to fill or drain off the water or the treatment of the same with larvaecide.

3.4 No Owner shall keep a swimming pool, hot tub, wading pool and artificial pond unless it is maintained in good repair and working condition.

Part 4 – Litter

4.1 No person shall throw, place or deposit waste material on Township property without the written authority of the Township.

Part 5 – Waste Disposal

5.1 No person shall use any land or structure within the Township for dumping, burying or disposing of garbage, refuse, or domestic or industrial waste of any kind.

5.2 Every Owner shall cover over or remove any garbage, refuse, domestic waste of any kind in such a manner as may be prescribed in writing by the officer;

5.3 Without limiting the foregoing, Contractors are responsible to ensure the covering over or removal of any garbage, refuse, domestic waste of any kind or industrial

waste of any kind in such a manner as may be prescribed in writing by the officer and in particular is to ensure that none of the waste migrates to adjacent properties.

5.4 Section 4.1 does not apply to:

a) Land or structures used by the Township used for the purpose of dumping or disposing of garbage or refuse, or domestic or industrial waste, or composting of organic materials;

b) Land designated by by-law of the Township for the purpose of dumping or disposing of garbage or refuse, or domestic or industrial waste, or composting of organic material.

Part 6 – Compost

6.1 No Owner shall establish one or more compost heaps or structures except in the accordance with the following:

a) The compost heap or structure is for the sole use of the owner or occupant of the property in which the compost is deposited;

b) The use of the compost heap or structure is limited to the disposal of acceptable compostable material in accordance with standards established by the Ontario Ministry of the Environment and local health authorities;

c) The compost heap or structure is no larger than one square meter and 1.8 meters in height.

d) The compost heap or structure shall not be located in any front yard as defined in the Township Zoning By-Law and shall be located no closer than 2 meters from any side or rear property line;

e) The compost heap or structure is enclosed on all sides by concrete block, or lumber or similar structure or commercial plastic container designed for composting;

Part 7 – Vehicles

7.1 Except as provided in the Township of Matachewan Zoning By-Law and amendments thereto or otherwise permitted by law, no person shall use any land or structure in the Township of Matachewan for storing used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal;

7.2 Clause 7.1 shall not apply to Owners who are actively restoring not more than one vehicle and one hobby vehicle provided the vehicles are stored in an enclosed structure or located in a manner so as to be screened from view by neighboring residents or from adjacent roadways;

Part 8 – Notice of Remedy

8.1 An officer may, by personal service or by notice sent by registered post served upon the owner, lessee or occupant of the land or structure, require the Owner within the time specified in the notice;

a) To clean, clear or remove from the land or structure waste material or domestic or industrial waste of any kind;

b) To cease using the land or structure of the dumping or disposing of waste material or domestic or industrial waste of any kind;

c) To cover over, screen or enclose the waste material or the domestic or industrial waste in the manner prescribed by the officer;

d) To repair, alter or re-route private or public drains;

e) To correct or eliminate any standing or stagnant water particularly in high risk locations identified in Schedule 'A';

f) To provide for the sanitary disposal of sewage and drainage from the land or structure;

g) To pull down, repair or renew any structure (including but not limited to fences and retaining walls: that by reason of its ruinous or dilapidated state is in an unsafe condition,

8.2 Every notice sent by the officer shall identify the land or structure.

8.3 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.

8.4 Every notice sent to an occupant shall be to the address of the land or structure or to the last known address of the occupant.

8.5 With the exception of matters which pose an immediate risk to public health and safety, notice shall provide for 14 days from the date of service of the notice, for the completion of the works outlined in the notice.

8.6 When there is an immediate risk to public health and safety, the notice may require immediate action or remediation.

Part 9 – Right of Entry

9.1 Where the Township has a power of entry under the said Act, the power shall be exercised by an Officer of the Township who may be accompanied by a person under his/her direction.

9.2 The Municipality, for the purpose of inspection and/or remedial action, may enter upon the land and into structures other than a place actually used as a dwelling house, at any reasonable time, without notice.

9.3 A person exercising power of entry on behalf of the Township under this Act must, on request display or produce proper identification.

Part 10 – Remediation

10.1 Where the owner is default of doing any matter of thing directed or required to be done under this by-law, an officer may direct the completion of such at the owner's expense.

10.2 Where any matters of things are removed in accordance with Subsection 10.1, such matters or things may be immediately disposed of by the officer.

10.3 The Town may recover the remedial action costs incurred under Subsection 10.1 by action, or by adding them to the tax roll and collecting them in the same manner as taxes in accordance with *Section 446 of the Municipal Act.*

10.4 The Township may, invoice owners requesting voluntary payment of said remedial action costs prior to recovering costs incurred in Subsection 10.1 pursuant to *Section 446 of the Municipal Act* by adding costs to the Municipal Taxes.

Part 11 – Offences

11.1 Every person convicted of a breach of the provisions of this by-law shall be guilty of an offence.

11.2 Every person who is convicted of an offence under this by-law shall be subject to a fine of not more than five thousand dollars ($5,000.00) for each offence. Such fines shall be recoverable under the *Provincial Offences Act, R.S.O. 1990, Chapter P.22, as amended.*

Part 12 – Penalties

12.1 The provisions of this by-law may be enforced pursuant to the provisions of the *Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended*, and where any provision of this by-law is contravened and a conviction entered, in addition to any other remedy and to any other penalty may also be prohibited from continuing or repeating the offence in accordance with the provisions of *s444 of the Municipal Act S.O. 2001, c.25, as amended.*

12.2 Every person who is guilty of an offence under this by-law may, if permitted under the *Provincial Offences Act RSO 1990, c. P.33,* as amended, pay a set fine, and the Chief Judge of the Ontario Court, Provincial Division, shall be requested to establish set fines as set out in Section 'B' to this By-Law.

Part 13 – Obstruction

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

Part 14 – Township Not Liable

14.1 The Township 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 to this by-law.

Part 15 – Validity and Severability

15.1 Should any section, subsection, clause, paragraph or provision of this by-law be declared by a Court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or the enforceability of any other provision of this by-law, or of the by-law as a whole.

Part 16 – Separate Offence

16.1 For the purpose of this by-law, each day of a continued offence shall be deemed to be a separate offence.

Part 17 – Short Title

17.1 The short title of this by-law is the Clean Yards By-Law.

READ A FIRST, SECOND and THIRD TIME in open Council, and finally passed this the 17th day of November, 2008.

_____
Reeve

_____
CAO-Clerk-Treasurer

Schedule 'A'

High Risk Locations

Clean Yards By-Law 2008-22

1. Birdbaths
2. Boat Covers
3. Eave Trough and Rain Gutters
4. Excavations capable of holding standing water
5. Empty buckets, wheelbarrows and pots
6. Flat top roofs
7. Vehicle Tires
8. Abandoned Wells
9. Pool Cover
10. Plastic containers and bottles
11. Uncut grass and weeds
12. Untrimmed shrubs, bushes and hedges
13. Unused motor vehicles and similar vehicles and trailers
14. Yard waste and debris

Township of Matachewan

Part 1 – Provincial Offences Act

Schedule 'B' By-Law # 2008-22

Clean Yards By-Law

Item #	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Others	Column 3 Set Fine
1	Fail to keep ground, yards or vacant land drained and clear of all garbage, waste material, refuse or domestic or industrial waste of any kind.	2.1	$110
2	Fail to eliminate or correct standing or stagnant water.	3.3	$110
3	Litter on Township of Matachewan property.	4.1	$110
4	Dumping, burying, or disposing of refuse, domestic or industrial waste on any Township of Matachewan property.	5.1	$110
5	Storing used motor vehicles for wrecking or salvage anywhere within the Township of Matachewan.	7.1	$110
6	Obstructing Officer or Agent in the Lawful exercise or power of duty.	13.1	$110

Note: The general penalty section for the offences indicated above is Part 11.2 of By-Law 2008-22. A Certified copy of which has been filed.