

# THE CORPORATION OF THE TOWNSHIP OF SPRINGWATER

## BY-LAW NUMBER 2014-037

### A By-law regarding Clean, Safe Properties.

**WHEREAS** sub-section 8(1) of the Municipal Act, 2001, S.O 2001 CH 25, herein referred to as “the Act” provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues; and

**WHEREAS** sub-section 8(2) of the Act provides that in the event of ambiguity in whether or not a municipality has the authority under this or any other Act to pass a by-law or to take any other action, the ambiguity shall be resolved so as to include, rather than exclude, powers the municipality had on the day before this Act came into force; and

**WHEREAS** sub-section 8(3) of the Act provides that a by-law under sections 10 and 11 of the Act respecting a matter may,

- (a) regulate or prohibit respecting the matter;
- (b) require persons to do things respecting the matter;
- (c) provide for a system of licences respecting the matter.

**WHEREAS** sub-section 8(4) of the Act provides that without limiting the generality of subsections (1), (2) and (3) and except as otherwise provided, a by-law under the Act may be general or specific in its application and may differentiate in any way and on any basis a municipality considers appropriate; and

**WHEREAS** sub-section 11(2) of the Act provides that a lower-tier municipality may pass by-laws respecting the following matters

- a) Economic, social and environmental well-being of the municipality;
- b) Health, safety and well-being of persons;
- c) Protection of persons and property, including consumer protection.

**WHEREAS** the Health Protection and Promotion Act, R.S.O. 1990, c. H.7 authorizes the Medical Officer of Health to act to prevent the spread of disease; and

**WHEREAS** standing water provides a breeding environment for mosquitoes that may carry the West Nile Virus and other mosquito borne diseases and thereby endangers the health of the inhabitants through the spread of disease;

**WHEREAS** Section 425 of the Act provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence; and

**WHEREAS** Council intends that this by-law will permit the Township to take action where debris and lack of maintenance/care fosters noxious weed growth, broadleaf infestations or ground cover or other conditions that may create a health hazard;

**NOW THEREFORE**, the Council of the Corporation of the Township of Springwater enacts as follows:

**1. Short Title**

1.1. This By-Law may be referred to as “The Clean, Safe Properties By-Law”.

**2. Scope**

2.1 The requirements set forth in this by-Law are hereby prescribed and adopted as the minimum requirements for residential properties.

2.2 No person shall allow conditions on a property which pose or constitute an undue or unreasonable hazard or risk to life, limb or health of any person on or about a property.

2.3 This by-law does not apply so as to prevent a farm, meeting the definition of “agricultural operation” under the Farming and Food Production Protection Act, 1998, S.O. 1998, c.1, from carrying out a normal farm practice as provided for and defined under that Act.

**3. Interpretations and Definitions**

3.1 **Terms Defined:** Unless otherwise expressly stated, terms shall, for the purpose of this by-Law, have the meaning indicated in Section 3 of this By-Law.

3.2 **Terms Not Defined:** Where terms are not defined under the provisions of this by-Law, they shall have the meanings ascribed to them their ordinarily accepted meanings, and such as the context herein may imply.

3.3 **“boat”** means any vessel which floats on the surface of the water and is capable of carrying people or material whether motorized or not and includes but is not limited to pleasure craft, scows, personal water craft, canoes, row boats, pontoon boats and commercial boats, when on the water or on land;

- 3.4 “**exterior property areas**” means the property, exclusive of buildings and accessory buildings, and generally means the yards and gardens;
- 3.6 “**ground cover**” means organic or non-organic material applied to prevent the erosion of the soil, e.g., concrete, flagstone, gravel, asphalt, grass or other forms of landscaping;
- 3.7 “**long grass**” means a grass taller than 25.4 cm (10 inches).
- 3.8 “**Medical Officer of Health**” means the Medical Officer of Health for the Simcoe Muskoka District Health Unit;
- 3.9 “**owner**” includes,
- (1) 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 receive the rent if the land and premises were let; and
- (2) a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property;
- 3.10 “**person**” means any human being, association, firm, partnership, incorporated company, corporation, agent or trustee, and the heirs, executors or other legal representatives of a person to whom the context can apply, according to law;
- 3.11 “**property**” means a building or structure, or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile structures, mobile buildings, mobile homes, outbuildings, fences, retaining walls, and erections thereon, whether heretofore or hereafter erected, and also includes vacant property;
- 3.12 “**salvage yard**” includes a scrap yard, junk yard and wrecking yard, whether or not an active business is carried on therein, or such yard is used for storage purposes;
- 3.13 “**standing water**”, means any water which is not continuously in movement by natural or mechanical means that is found in a Catch Basin, debris or depression but does not include a Natural Body of Water or water contained within a municipally owned drain, Catch Basin or stormwater management facility;
- 3.14 “**Township**” shall mean the Corporation of the Township of Springwater;

- 3.15 “**unsafe condition**” means any condition that poses or constitutes an undue or unreasonable hazard or risk to life, limb or health of any person on or about the property, or where such condition fosters an environment for the breeding of insects known to spread illness or virus as identified by the Medical Officer of Health for the Simcoe Muskoka District Health Unit.
- 3.16 “**weed – noxious**” means, as defined in the *Weed Control Act*, R.S.O. 1990, c. W5, as amended.
- 3.17 “**weed – broadleaf**” means a weed as identified by the Ministry of Agriculture Food and Rural Affairs, as may be amended.

#### 4. **Penalty and Offence**

- 4.1. Exterior property areas, yards, shall be kept free from:
- (a) rubbish, garbage, brush, waste, litter and other debris;
  - (b) Noxious, and/or broadleaf weeds in significant volumes or infestations,
  - (c) overgrown hedges and bushes, in relation to their environment,
  - (d) ground cover, such as grass, not longer than 25.4 cm/10 inches,
  - (e) dead, decayed, or damaged trees, or other natural growth and the branches and limbs thereof which creates an unsafe condition;
  - (f) wrecked, dismantled, derelict, inoperative, discarded, unused or unlicensed vehicles or trailers, 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 and screened from view from adjacent properties;
  - (g) wrecked, dismantled, derelict, inoperative, discarded or unused boats and any component parts thereof, 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 and screened from view from adjacent properties;
  - (h) machinery or any parts thereof, or other objects or parts thereof, or accumulations of material or conditions that create an unsafe condition or an unsightly condition out of character with the surrounding environment; and
  - (i) dilapidated or collapsed structures or erections and any unprotected well or other unsafe condition or unsightly condition out of character with the surrounding environment.

- (j) Standing Water on a Property to accumulate in any debris unless protected or unless the water is replaced every 4 days;
- (k) Standing Water on a property to accumulate in any depression;
- (l) Standing Water on a property to accumulate in a Catch Basin unless the Catch Basin has been effectively treated with a larvicide;
- (m) a swimming pool, swimming pool cover, hot tub or artificial pond located on a property to contain Standing Water.

(2) Suitable ground cover shall be provided to prevent erosion of the soil.

4.2 Failure to maintain exterior property areas, yards, as prescribed in section 4.1 of this By-law is guilty of an offence and upon conviction is liable to a fine as prescribed under the Provincial Offences Act, R.S.O. 1990, as amended.

## **5. Additional Remedy**

5.1 Municipal Law Enforcement Officer (MLEO) appointed under this By-law may give the owner and/or occupant of any yards, vacant lots, grounds or buildings who contravenes this By-law, a notice in writing delivered or sent to the owner and/or occupant by prepaid registered mail to their last known address directing the said owner and/or occupant to remedy the contravention within the time stipulated in the notice and notifying them that in default of compliance with the notice, the Township shall perform the work at the owner's and/or occupant's expense;

5.2 The owner or occupant of any yards, vacant lots, grounds or buildings who contravenes this By-law, may be subject to a User Fee or Charge as may be established by Council from time to time to offset the costs associated with the administration and enforcement of this By-law and shall upon demand pay such fee or charge to the Township. If an owner or occupant fails to pay the fee or charge to the Township within a period of 90 days from the date of such notice or invoice, such fee or charge, or outstanding portion thereof, may be added to the tax roll for the subject property and be collected in like manner as municipal taxes.

5.3 In the event that the owner and/or occupant fails to comply with the directions in the notice set out in section 5.1, the Township may do or cause to be done the work so specified and the cost thereof may be recovered from the said owner and/or occupant by court action or the same may be recovered in like manner as municipal taxes;

5.4 In the event that the presence of material presents, in the opinion of Municipal Law Enforcement Officer (MLEO), an unsafe, hazardous or

dangerous condition or to present a danger to public health, the notice referred to in paragraph 5.1 may be dispensed with.

## **6. Administration and Enforcement**

- 6.1 A person appointed by the Township of Springwater as Municipal Law Enforcement Officer (MLEO) is authorized to enforce this by-law, and the MLEO shall use their discretion in determining the application of the By-law upon a property.
- 6.2 No person shall hinder or obstruct an MLEO in the enforcement of this By-law.
- 6.3. Owners and occupants of property shall comply with the requirements prescribed in this By-law, and shall comply with an order issued under this By-law requiring compliance.
- 6.4. After inspecting a property, where a Municipal Law Enforcement Officer (MLEO) is of the opinion that the property is in compliance with this By-law, the MLEO may issue a letter of compliance to the owner.
- 6.5 Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O, 1990, c. p.
- 6.6 The Township of Springwater owned properties or properties leased by the Township shall be exempt from the provisions of this By-law.

## **7. Power of Entry**

- 7.1 In accordance with section 436(1) of the Municipal Act, 2001, a Municipal Law Enforcement Officer (MLEO) may enter upon land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the provisions of this By-law are being complied with.

## **8. Severability**

- 8.1 If a court of competent jurisdiction declares any section or part of this by-law invalid, it is the intention of Council that the remainder of the By-law shall continue in force.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED** this 25th day of August, 2014.

(Original Signed By)

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Linda Collins, Mayor

(Original Signed By)

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John Daly, Clerk