

# THE CORPORATION OF THE NATION MUNICIPALITY

## BY-LAW NO. 91-2014

### CLEAN YARDS BY-LAW

#### BEING A BY-LAW OF THE NATION MUNICIPALITY TO PROVIDE FOR THE MAINTENANCE OF LAND IN A CLEAN AND CLEAR CONDITION.

**WHEREAS** subsection 11(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides, *inter alia*, that a municipality may pass by-laws respecting the environmental well-being of the municipally, the health, safety and well-being of persons and the protection of persons and property;

**AND WHEREAS** section 127 of the *Municipal Act, 2001* provides that a local municipality may require the owner or occupant of land to clean and clear land, not including buildings, or to clear refuse or debris from the land, not including buildings; regulate when and how cleaning and clearing is to be done; and prohibit the depositing of refuse or debris without the consent of the owner or occupant of land;

**AND WHEREAS** section 128 of the *Municipal Act, 2001* provides that a municipality may 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 WHEREAS** section 131 of the *Municipal Act, 2001* provides that a local municipality may 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** Part XIV of the *Municipal Act, 2001* provides for the enforcement of municipal by-laws.

#### NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE NATION MUNICIPALITY ENACTS AS FOLLOWS:

##### 1 **DEFINITIONS:**

1.1 “**By-law**” means this Clean Yards By-law.

1.2 “**Costs**” means all monetary expenses incurred by the Municipality during and throughout the process of any remedial work, including interest at a rate of 15% per annum or such lower rate as determined by the Municipality commencing on the day the Municipality incurs the costs and ending on the day the costs, including interest, are paid in full, and may include an administrative surcharge amount as determined by the Municipality.

1.3 “**Council**” means the Council of the Municipality.

1.4 “**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 a motor vehicle that is not licensed for the current year.

1.5 “**Domestic waste**” means any debris, rubbish, refuse, sewage, effluent, discard or garbage of any type arising from a residence, belonging to or associated with a dwelling unit or use of a dwelling unit or residential property, including, but not limited to, garbage, discarded material or things, broken or dismantled things, and materials or things exposed to the elements deteriorating or decaying on a property due to exposure to the weather.

1.6 “**Dwelling unit**” means a room or rooms in which a kitchen, living quarters and sanitary conveniences are provided for exclusive use of the residents and with a private entrance from the outside of the building or from a common

THE NATION MUNICIPALITY  
CLEAN YARDS BY-LAW  
BY-LAW NO. 91-2014

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hallway or stairway inside.

- 1.7 “**Industrial waste**” means any debris, refuse, sewage, effluent, discard or garbage of a type arising from industrial or commercial operation, or belonging to or associated with industry or commerce or industrial or commercial property including, but not limited to, garbage, discarded material or things, broken or dismantled things, materials or things exposed to the elements, and deteriorating or decaying on a property due to exposure to the weather.
- 1.8 “**Infestation**” means the overrunning of a property by vermin, rodents and insects.
- 1.9 “**Motor vehicle**” means an automobile, truck, motorcycle, snowmobile, trailer, recreational vehicle and any other vehicle propelled or driven by other than muscular power, but does not include the cars of electric or steam railways, or other motor vehicles running solely upon rails, or a traction engine, farm tractor, self-propelled implement of husbandry or road building machine within the meaning of the *Highway Traffic Act*, R.S.O. 1990, c. H.8.
- 1.10 “**Municipality**” means The Corporation of The Nation Municipality.
- 1.11 “**Officer**” means a municipal by-law enforcement officer or designate, property standards officer or peace officer.
- 1.12 “**Owner**” means the registered owner of land or the occupant, tenant, lesors or the person for the time being managing or receiving the rent of the property, whether on its own account or on account of an agent or trustee of any other person or any one of the aforesaid.
- 1.13 “**Person**” means an individual human being, a corporation, firm, partnership, unincorporated association or organization, their heirs, executors, assigns, administrators, agents, trustees or other legal representatives of a person with or without share capital, any association, firm, partnership or private club of a person to whom context can apply accordingly.
- 1.14 “**Peace officer**” means an officer of the Ontario Provincial Police.
- 1.15 “**Property**” means any and all land within the Municipality including buildings and structures, yards and vacant lots.
- 1.16 “**Refuse**” or “**Debris**” means any waste material of any kind whatsoever and without limiting the generality of the foregoing includes rubbish, inoperative or unlicensed vehicles or boats and mechanical equipment, automobile and mechanical parts, tires, furnaces, water and fuel tanks, furniture, glassware, plastic, cans, garden refuse, grass clippings, trees, tree branches, earth or rock fill, animal feces, materials from construction or demolition projects, old clothing and bedding, refrigerators, freezers, or similar appliances, whether operable or inoperable, containers of any kind and un-maintained garden fixtures and any objects or conditions that might create a health, fire or accident hazard.
- 1.17 “**Remedial work**” means all work necessary for the correction or elimination of a contravention of this By-law as cited in any order issued under this By-law, including any such condition or health hazard, actual or potential, that the contravention may pose.
- 1.18 “**Structure**” means any building or accessory building or any property, or any part thereof, or any part of whole or any structure of building not actually used as a dwelling house.
- 1.19 “**Turf grass**” means ground cover comprised of one or more species of

**THE NATION MUNICIPALITY  
CLEAN YARDS BY-LAW  
BY-LAW NO. 91-2014**

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growing grass, with or without trees, shrubbery or maintained planting beds or other vegetation.

**1.20** “**Weed**” means a noxious weed designated by or under the *Weed Control Act*, R.S.O. 1990, c. W.5, including any weed designated as a local or noxious weed under a by-law of the Municipality for that purpose.

**2** **PROPERTY MAINTENANCE**

**2.1** Every owner shall maintain a clear and clean yard and shall also:

- (a) keep his or her land free and clear of all garbage, refuse, debris, domestic waste or industrial waste of any kind, and from any objects or conditions that may create a health, fire or accident hazard;
- (b) ensure that his or her land is free and clear of infestation;
- (c) trim or cut weeds or turf grass on his or her land, whether dead or alive, that are more than 20 cm (7.8 inches) in height;
- (d) ensure that vegetation on his or her lands, other than weeds and turf grass shall be kept trimmed and kept from becoming unreasonably overgrown in a fashion that may affect safety, visibility, or the passage of the general public;
- (e) keep his or her land free of holes or excavations which may create health or accident hazards.

**2.2** No person shall cause or permit unsafe or hazardous conditions and also shall not:

- (a) cause or permit an unfenced or unprotected pit, excavation or other declivity which causes a safety hazard on their property;
- (b) permit any well which is unprotected or the presence of which creates risk, accident or injury to the general public;
- (c) keep a swimming pool, hot tub, wading pool or artificial pond unless it is maintained in good repair and working;
- (d) throw, place or deposit refuse, debris, or waste material on any Municipal or public property.

**3** **COMPOSTING**

**3.1** No person shall permit composting of any kind other than in accordance with Section 3.2 of this By-law.

**3.2** Composting shall only be permitted as follows:

- (a) only in the rear of a dwelling unit;
- (b) only in a container, pile or digester and only on land on which a dwelling unit is located;
- (c) any compost containers or digesters used for composting shall be kept covered tightly at all times, except when being emptied or filled, and shall be kept in accordance with the guidelines on composting published by the Municipality ;
- (d) in a such a manner so as to preclude infestation;

**THE NATION MUNICIPALITY  
CLEAN YARDS BY-LAW  
BY-LAW NO. 91-2014**

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- (e) in a pile no larger than 1 square metre and 1.2 metres in height which shall be enclosed on all sides by concrete block, or lumber, or in a forty-five gallon container, a metal frame building with concrete floor, or a commercial plastic enclosed container designed for composting;
- (f) in no more than two (2) compost containers, piles or digesters used for composting on each parcel of land on which a dwelling unit is located, for a total composting capacity on the land of not more than two (2) cubic metres;
- (g) no feces shall be placed in a compost container, pile or digester used for composting;
- (h) no offensive odour shall be permitted to emanate from the compost container, pile or digester used for composting;
- (i) organic materials placed in a compost container shall be kept covered with yard waste, soil or humus;
- (j) any compost container, pile or digester used for composting shall be set back at least 0.6 metres (1.97 feet) from any lot line.

**3.3** Section 3.1 of this By-law does not apply to any agricultural zones as designated within the Municipality's Consolidated Zoning By-law.

**4 DERELICT MOTOR VEHICLES**

**4.1** No person shall use any property for the parking, storage or placement of the following:

- (a) derelict motor vehicles or motor vehicles that are unfit to be operated on a highway due to damage or poor repair;
- (b) motor vehicles that are not currently licensed for operation pursuant to the provisions of the *Highway Traffic Act*;
- (c) motor vehicle parts or components unless otherwise expressly permitted;
- (d) wrecked, dismantled, discarded, inoperative, or abandoned motor vehicles, machinery, trailers or boats.

**4.2** Section 4.1 of this By-law does not apply to lands that comply with all applicable land use criteria which permits the retail, wholesale, repair or wrecking of motor vehicles or a competition; or hobby vehicle located in a fully enclosed building; or recreation vehicle parking in compliance with the Municipality's Consolidated Zoning By-law.

**5 GENERAL PROVISIONS**

**5.1** An officer may issue an order upon the owner of a property that is not maintained pursuant to the requirements of this By-law which directs that the owner remedy or rectify the contravention within a specified period of time from the time of the delivery of the order.

**5.2** Any order given under this By-law may be given by personal delivery or mail and delivery by mail shall be deemed to have been effected five (5) calendar days from the date of mailing.

**5.3** Every order sent by an officer shall identify the land or structure which is the subject of the order.

**THE NATION MUNICIPALITY  
CLEAN YARDS BY-LAW  
BY-LAW NO. 91-2014**

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- 5.4** Every order to an owner shall be sent to the address shown on the last revised assessment roll or to the last known address of the owner.
- 5.5** The Municipality and any officer and agent shall be entitled to remove any items in order to remedy or rectify any contravention of this By-law and any such items that are removed in accordance with this section may be disposed of immediately in the sole and absolute discretion of the Municipality, its agents and officers, which decision shall be final.
- 5.6** In the event that the violation set out in the order is not remedied within the specified period of time as set out in the order, the officer may cause the violation to be remedied at the expense of the owner.
- 5.7** The Municipality shall not be liable for any damage to property or personal injury resulting from any remedial work undertaken as a result of a default of the owner or any person in complying with the terms of this By-law.
- 5.8** With the exception of matters which pose an immediate risk to public health and safety, which determination shall be made in the sole and absolute discretion of the officer issuing the order and whose decision is final, an order shall provide for not less than fourteen (14) calendar days from the date of service of the order for the remediation or rectification of the contravention as set out in the order.
- 5.9** Notwithstanding Section 5.8 of this By-law, when there is an immediate risk to public health and safety, which determination shall be made in the sole and absolute discretion of the officer issuing the order and whose decision is final, the order may require immediate action or other remediation or rectification.

**6 ENTRY ON LAND & INSPECTIONS**

- 6.1** An officer, peace officer or any other person appointed for the purpose of enforcing this By-law,
- (a) has the power to enter upon and examine any lands, yards, vacant lots, grounds at any reasonable time or times, and
  - (b) may be accompanied by such other person or persons as they deem necessary to properly carry out their duties under this By-law.
- 6.2** Notwithstanding Section 6.1, no person, including an officer, shall exercise a power of entry under this By-law to enter a place or part of a place that is actually being used as a dwelling unless:
- (a) the occupier of the dwelling, having been informed that the right of entry may be refused, consents to the entry; or
  - (b) if the occupier refuses to consent, an order is issued pursuant to section 438 of the *Municipal Act, 2001* or a warrant is issued pursuant to section 439 of the *Municipal Act, 2001*, or a warrant is issued under the *Provincial Offences Act*, R.S.O. 1990, c. P.33.
- 6.3** A person exercising a power of entry on behalf of the Municipality, under this By-law must on request, display or produce proper identification.
- 6.4** No person shall hinder, interfere with or otherwise obstruct, either directly or indirectly, any officer, peace officer or any person appointed for the purpose of enforcing this By-law, including any person who may be accompanying such persons, in the lawful exercise of any powers or duties under this By-law.

**7 ENFORCEMENT**

**THE NATION MUNICIPALITY  
CLEAN YARDS BY-LAW  
BY-LAW NO. 91-2014**

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- 7.1 This By-law shall be enforced by an officer or peace officer or any other person or officer appointed by the Municipality for the purposes of enforcing this By-law.
- 7.2 If compliance herewith would be impractical, the provisions of this By-law shall not apply to ambulance, police and fire department vehicles and any vehicles while actually engaged in works undertaken for on behalf of the Municipality, the county, federal or provincial government or any utility.
- 7.3 The Municipality may recover its costs of remedying a violation of this By-law by invoicing the owner, by instituting court proceedings or by adding the cost, including interest, to the tax roll in the same manner as municipal taxes in accordance with section 446 of the *Municipal Act, 2001* and the exercise of any one remedy shall not preclude the exercise of any other available remedy.

**8 OFFENCES & PENALTIES**

- 8.1 Every person who contravenes any provision of this By-law, including an order issued under this By-law, is guilty of an offence.
- 8.2 Every person who is convicted of an offence under this By-law shall be subject to a fine not exceeding \$10,000.00 for each offence and such fine shall be recoverable under the *Provincial Offences Act*.
- 8.3 A director or officer of a corporation who knowingly concurs in a contravention of this By-law by the corporation is guilty of an offence and is liable upon conviction to a fine not exceeding \$100,000.00 for each offence and such fines shall be recoverable under the *Provincial Offences Act*.
- 8.4 An offence under this By-law constitutes a continuing offence and for each day or part of a day that the offence continues, the fine shall not exceed \$10,000.00.
- 8.5 The conviction of a person under this By-law shall not operate as a bar to a prosecution against the same person upon any continued or subsequent breach of any provision of or order under this By-law and the court may convict such person repeatedly for continued or subsequent breaches of this By-law and the provisions of section 431 of the *Municipal Act, 2001* shall further apply to any continued or repeated breach of this By-law.
- 8.6 Upon a conviction being entered, the court in which the conviction was entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed in this By-law, make an order prohibiting the continuation or repetition of the offence by the person convicted.
- 8.7 Every person who is guilty of an offence under this By-law may, if permitted under the *Provincial Offences Act*, 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 Schedule 'A' to this By-law.

**9 VALIDITY & SEVERABILITY**

- 9.1 Notwithstanding that any section, subsections, clause, paragraph or provision of this By-law, or parts thereof may be declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or beyond the powers of Council to enact, such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this By-law are separate and independent therefrom and enacted as such as a whole and shall not affect the validity or enforceability of any other provisions of this By-law or of the By-law as a whole.
- 9.2 Any reference to a statute, regulation, by-law or other legislation in this By-law

**THE NATION MUNICIPALITY  
CLEAN YARDS BY-LAW  
BY-LAW NO. 91-2014**

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shall include such statute, regulation, By-law or other legislation or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor legislation thereto.

- 9.3** Where there is any conflict between the provisions of this By-law and any other By-law or legislation, the provisions of this By-law shall prevail to the extent of the conflict.

**10 SHORT TITLE**

This By-law shall be cited as the "**CLEAN YARDS BY-LAW**".

**11 FORCE AND EFFECT**

This By-Law shall come into force and take effect on the date of enactment.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED IN OPEN COUNCIL  
THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2014.**

\_\_\_\_\_  
**Francois St. Amour, Mayor**

\_\_\_\_\_  
**Mary McCuaig, Clerk**

## THE CORPORATION OF THE NATION MUNICIPALITY

## PART 1 – PROVINCIAL OFFENCES ACT

## BY-LAW # 91-2014

A bylaw to provide for the maintenance of land in a clear condition.

ITEM	COLUMN 1	COLUMN 2	COLUMN 3
	SHORTH FORM WORDING	PROVISION CREATING OR DEFINING OFFENCE	SET FINE
1.	Fail to keep land clear of garbage/refuse/debris/domestic waste/industrial waste	2.1(a)	\$300.00
2.	Fail to keep land clear of objects or conditions potentially creating health, fire or accident hazard	2.1(a)	\$300.00
3.	Fail to keep land clear of infestation	2.1(b)	\$300.00
4.	Fail to trim or cut weeds/grass more than 20 cm in height	2.1(c)	\$300.00
5.	Fail to trim or cut vegetation	2.1(d)	\$300.00
6.	Fail to keep land free of hazardous holes and excavation	2.1(e)	\$300.00
7.	Cause or permit a hazardous unfenced/unprotected pit/excavation or declivity	2.2(a)	\$300.00
8.	Permit unprotected well that may cause an accident or injury	2.2(b)	\$300.00
9.	Fail to keep swimming pool/hot tub/wading pool/artificial pool in good repair/working condition	2.2(c)	\$300.00
10.	Throw/place/deposit refuse/debris/waste material on town property	2.2(d)	\$300.00

Note: The general penalty provision for the offence listed above is Section 8 of By-law 91-2014 and s. 61, of the Provincial Offences Act, R.S.O. 1990, c.P.33, a certified copy of which has been filed.



## THE CORPORATION OF THE NATION MUNICIPALITY

## PART 1 – PROVINCIAL OFFENCES ACT

## BY-LAW # 91-2014

A bylaw to provide for the maintenance of land in a clear condition.

ITEM	COLUMN 1	COLUMN 2	COLUMN 3
	SHORTH FORM WORDING	PROVISION CREATING OR DEFINING OFFENCE	SET FINE
11.	Permit composting other than as allowed	3.1	\$300.00
12.	Store derelict motor vehicles	4.1(a)	\$300.00
13.	Store unlicensed motor vehicles	4.1(b)	\$300.00
14.	Store vehicle parts/component	4.1(c)	\$300.00
15.	Store wrecked/dismantled/discarded/inoperative/abandoned/vehicles/machinery/trailers/boats	4.1(d)	\$300.00
16.	Obstruct/hinder/interfere with officer or agent in lawful exercise of powers or duties	6.4	\$300.00
17.	Fail to comply with order	8.1	\$300.00

Note: The general penalty provision for the offence listed above is Section 8 of By-law 91-2014 and s. 61, of the Provincial Offences Act, R.S.O. 1990, c.P.33, a certified copy of which has been filed.