

**THE CORPORATION OF THE TOWN OF GANANOQUE
BYLAW 2010 - 69**

**BEING A BY-LAW TO PROVIDE FOR THE MAINTENANCE OF LANDS IN A SAFE
CONDITION.**

WHEREAS Section 118 of the Municipal Act, S.O. 2001, c25, provides that a municipality may regulate construction and use of scaffolding, excavation and construction and use of trenches, safety devices and require a permit for such works; and

AND WHEREAS Section 127 of the Municipal Act, S.O. 2001, c25 provides that a local municipality may require property owners to maintain their properties in a clean, clear and safe condition; and

AND WHEREAS Section 131 of the Municipal Act, S.O. 2001, c25, provides that the 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

AND WHEREAS Section 398 of the Municipal Act, S.O. 2001, c25, provides that a local municipality may impose fees and charges for work done by the municipality to implement a by-law, and once charged, add unpaid fees or charges to the tax roll and collect them in the same manner as municipal taxes; and

AND WHEREAS Section 436 of the Municipal Act, S.O. 2001, c25, provides that the municipality may require the production of documents and things relevant to an inspection and conduct other examinations, tests, and investigations to determine if a by-law has been contravened; and

AND WHEREAS Section 438 of the Municipal Act, S.O. 2001, c25, provides that a local municipality may impose fees and charges for work done by the municipality to implement a by-law, and once charged, add unpaid fees or charges to the tax roll and collect them in the same manner and municipal taxes; and

AND WHEREAS Council has previously adopted Bylaw 2004-21 being a by-law to authorize a safe property by-law.

NOW THEREFORE the Council of The Corporation of the Town of Gananoque enacts as follows:

DEFINITIONS:

For the purposes of this by-law the following words shall have the following meanings:

Adjacent Lands shall include all lands that are within 60 meters of any lot line of lands that are the subject of a contravention of this by-law.

Motor Vehicle shall includes an automobile, motorcycle, motor assisted bicycle a street car or other motor vehicles running only upon rails, a motorized snow vehicle, recreational vehicles, traction engine, road-building equipment and any other vehicle propelled or driven otherwise than by muscular power.

Officer shall mean a municipal law enforcement officer appointed by the Council of the Town of Gananoque to enforce the provisions of this by-law;

Owner shall mean the person(s) that appears on the tax roll as the owner of a parcel of land. Without limiting the generality of the foregoing, an Owner may also include the person who at any time manages or receives the rent of the land or premises whether on his own account or as agent or trustee of any other person or who would so receive the rent if such land and premises were let, and shall also include a lessee or occupant of the property who under the terms of a lease is required to repair and maintain the property.

Town shall mean the Corporation of the Town of Gananoque.

Unlicensed shall refer to any Motor Vehicle for which a license is normally required to operate that vehicle on any road and for which there is no valid and current license.

1.0 General:

1.1 This By-law applies to all property within the territorial jurisdiction of the Town.

1.2 Every Owner shall keep their property, building, yard or grounds, whether vacant or occupied, in a neat, tidy and safe condition, and free from:

- 1.2.1 Rubbish, garbage, waste and debris of any kind;
- 1.2.2 Long grass, discarded brush and clippings, and excessive weed growth, or any other conditions that may promote or be susceptible to fire or infestation by rodents or other noxious conditions;
- 1.2.3 Timber, lumber, building materials or any other type of product or material stored or kept under conditions that are unsafe or that may be susceptible to fire or other dangerous risk or accident;
- 1.2.4 A tree or other plant, or limb or branch of it, that is dead, diseased, decayed or damaged shall be removed from the property or otherwise pruned to remove the dead, diseased, dying or dangerous portions of the tree or plant so as to prevent an unsafe condition or damage to any building.
- 1.2.5 Scrap and junk material including without limiting the generality of the foregoing, wrecked, dismantled, unused or Unlicensed Motor Vehicles, trailers machinery, tools, tires appliances, equipment or any part thereof;
- 1.2.6 Any pit, precipice, excavation or deep water that is unfenced or unprotected against risk or accident;
- 1.2.7 Buildings, fences, scaffolding, retaining walls or any other erection that, by reason of its ruinous or dilapidated state, faulty construction or otherwise is in an unsafe condition or may be susceptible to fire or accident;

- 1.2.8 Exterior of buildings and their components including soffit and fascia shall be maintained so as to prevent their deterioration due to weather and insects and shall be so maintained by painting, restoring, or repairing the walls coping or flashing and by waterproofing of joints;
- 1.2.9 Any combustible, flammable, volatile, caustic or explosive substance unless stored under conditions that are safe, in compliance with any applicable laws and minimize the risk of fire or accident.

1.3 Paragraph 1.2.3 shall not apply to:

- 1.3.1 wood that has been cut and stored, in an orderly fashion, for the use in a stove or other heating appliance incidental to the heating of a building or for cooking purposes; and
- 1.3.2 Building materials and/or equipment incidental to the construction of a building or structure or such materials or equipment incidental to the landscaping, including the grading or the placement of fill, until such time as the construction or landscaping is completed.

1.4 Paragraph 1.2.4, shall not apply to:

- 1.4.1 Equipment that may be stored on lands that are associated with or incidental to an agricultural operation, whether operational or retained, as parts for other equipment;
- 1.4.2 The storage of Motor Vehicle on lands for the purpose of repairing the Motor Vehicle for the owner's own use, provided that the storage and repair of the Motor Vehicle does not constitute a commercial use of the land and that such repair is completed within 30 days from the date on which the Motor Vehicle is first placed for storage on the lands.

1.5 Notwithstanding anything to the contrary in this By-law, any material may be stored within a building provided that:

- 1.5.1 the storage of such items does not constitute a risk to persons or property on the lands in which the items are store or on adjacent Lands; and
- 1.5.2 That the items stored do not create an odour that could be considered offensive to persons on adjacent Lands.

1.6 No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer or any person acting under an Officer's direction in the enforcement or attempted enforcement of this By-law.

1.7 No person shall neglect or refuse to produce any information or thing or to provide any information required by an Officer in accordance with this By-law.

2.0 Enforcement:

2.1 An Officer or any person acting under his/her instructions may at all reasonable times, upon producing proper identification, enter upon any parcel of land, excluding any building used as a dwelling, for the purpose of conducting an inspection to determine whether there is or has been a contravention of this By-law, a direction or order issued under this By-law, a condition of a license issued by the Municipality under any By-law or a court order.

2.2 An Officer may, as part of his/her inspection:

2.2.1 Require the Owner or any person the Officer reasonably believes may have information related to the alleged contravention to produce for inspection any document or thing relevant to the inspection;

2.2.2 Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;

2.2.3 Require information from any person concerning a matter related to the inspection; and

2.2.4 Alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

2.3 An Officer who removes any document or thing in accordance with this By-law shall provide the Owner with a receipt for the document or thing and shall return the document or thing to the Owner once it is no longer required for purposes of enforcement by the Town.

2.4 The Town may request an order from a Provincial Judge or Justice of the Peace authorizing an Officer to enter on land for the purpose of carrying out an inspection for a purpose described in subsection 2.1 and to exercise powers described in subsection 2.2 as specified in the order where the Town has been prevented or is likely to be prevented from doing anything set out in this By-law. An order under this subsection:

2.4.1 Shall state the date on which it expires, which date shall not be later than 30 days after the day the order is issued;

2.4.2 May be executed only between 6 a.m. and 9 p.m. unless the order provides otherwise;

2.4.3 In the case of an order authorizing an inspection of a room or place actually being used as a dwelling, the occupier must be given notice concerning when the inspection will be carried out; and

2.4.4 May be issued on application without notice.

2.5 Notwithstanding the foregoing, if upon inspection of a property, an officer is satisfied that the property poses an immediate danger to the health or safety of any person, the officer may perform or cause to be performed at the owner's expense such remedial repairs or other work necessary to terminate the immediate danger.

3.0 Order To Remedy:

3.1 An Officer, upon finding a contravention of this By-law, may issue an order to the Owner:

3.1.1 Requiring the Owner to cease the activity that contravenes the By-law; and

3.1.2 Requiring the Owner to bring the land into compliance with this By-law.

3.2 An order issued pursuant to subsection 3.1 may require work to be done even though the facts that constitute the contravention of this By-law were present before this By-law came into force.

3.3 An order may be served:

3.3.1 Upon the Owner personally, which shall establish the effective date of service; or

3.3.2 By registered mail sent to the last known address of the Owner in accordance with the information contained in the latest tax roll maintained by the Town, which shall establish an effective date of service as the date the order is delivered for registered mailing at the Post Office; or

3.3.3 By placing the order on the property in a prominent place, which date shall establish the effective date of service as the date of posting the order on the property.

3.4 An order issued pursuant to this By-law shall specify:

3.4.1 The legal and civic address (if available) of the lands subject to the contravention;

3.4.2 The nature and location of the contravention on the lands specified;

3.4.3 A description of the work to remedy the contravention;

3.4.4 A time period from the date of delivery of the order for the contravention to be remedied, if applicable;

3.4.5 Where the order requires that the Owner take action to remedy the contravention, the following statement:

"The owner shall conduct the work identified in this order within the time period specified, failing which the Town of Gananoque or the officers thereof, may enter upon the property to which this order applies and without further notice to the owner, perform the work specified in this

order. All costs incurred by the Town of Gananoque to conduct the work identified in this order shall be the responsibility of the owner and the owner shall be invoiced for this work accordingly. In the event of the failure of the owner to submit payment for an invoice arising from this order, all costs as provided on the invoice shall be added to the property tax roll and shall be collected as taxes against the property to which the order applies.”

3.5 The Town may, where the Owner fails to remedy the contravention in the time specified in the order:

- 3.5.1 Direct its employees or agents to enter onto the lands subject to the order at any reasonable time without further notice to the Owner;
- 3.5.2 Conduct all work necessary to ensure the parcel of land is in compliance with this By-law;
- 3.5.3 Remove all items from the lands that are not in compliance with this By-law and which have been identified in the order to remedy;
- 3.5.4 At the discretion of the Town, store or cause to be stored, any item(s), in accordance with the *Repair and Storage Liens Act*, R.S.O. 1990; and
- 3.5.5 Prepare a list of all items stored and forward this list to the Owner for recovery of these items.

3.6 Items that have been removed from a parcel of land and placed in storage by the Town pursuant to subsection 3.5 and that have not been recovered by the Owner within the time period specified in accordance with the *Repair and Storage Liens Act*, R.S.O. 1990, shall be disposed of in accordance with that Act.

3.7 Notwithstanding anything to the contrary in this By-law, if in the opinion of an Officer, the nature of the contravention that exists on a parcel of land is such there is an imminent risk to persons or property, the Officer may cause the contravention to be removed or remedied as soon as possible.

3.8 Where the Town acts pursuant to subsection 3.7, it shall as soon as possible thereafter provide the owner with a statement of work completed to remove or eliminate the contravention.

4.0 Offences and Penalties:

- 4.1 It is an offence to contravene any provision of this By-law or any order made under this By-law.
- 4.2 Each day or part of a day that a person contravenes any provision of this by-law constitutes a separate offence.
- 4.3 Any individual who contravenes this By-law is guilty of an offence and, upon conviction, is liable to a fine pursuant to the Provincial Offences Act as follows:

4.3.1 A minimum fine of five hundred dollars (\$500), to a maximum fine of ten thousand dollars (\$10,000).

4.4 Any corporation that contravenes this By-law is guilty of an offence and, upon conviction, is liable to a minimum fine of five hundred dollars (\$500), to a maximum of ten thousand dollars (\$10,000).

4.5 In addition to all other fees/fines, the Town may impose actual costs plus an administration fee as set out in the General Fees and Rates By-law.

4.6 All costs incurred by the Town to remedy a contravention of this by-law as provided for herein, including the storage of any item, shall be due within 30 days from the date of an invoice delivered by the Municipality.

4.7 All fees including any interest thereon and due to the Municipality in accordance with this By-law may be added to the tax roll of the real property owned by the person(s) that incurred the fees arising from the remedy of the contravention and collected in like manner as municipal taxes.

4.8 The Town shall not be liable to the owner or any other person by reason of any work conducted, the storage of any item or any other loss during the exercise of the powers contained within this By-law.

5.0 Repeal:

5.1 Any prior safe property by-law is hereby repealed.


6.0 Effective Date

6.1 This by-law shall come into effect on the date of passing, thereof.

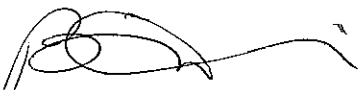
7.0 Title of By-law

7.1 This by-law may be cited as the "Safe Property By-law".

READ A FIRST AND SECOND TIME THIS 07th DAY OF SEPTEMBER, 2010.

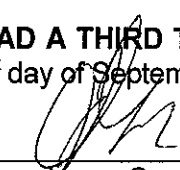


Mayor, James Garrah

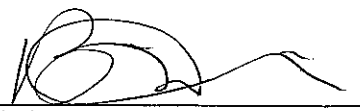


Clerk, Bonnie Dingwall

READ A THIRD TIME, PASSED, SIGNED, AND SEALED WITH THE CORPORATE SEAL THIS 21st day of September, 2010



Mayor, James Garrah



Clerk, Bonnie Dingwall