

PROPERTY MAINTENANCE

Chapter 834 CLEAN AND CLEAR

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Article 1 SHORT TITLE

834.1.1 Citation

The short title of this Chapter is the Clean and Clear By-law.

Article 2 INTERPRETATION

834.2.1 Clean or cleared up - defined

For the purpose of Section 834.3.1, "clean or cleared up" includes the removal of weeds or grass more than eight inches in height.

834.2.2 City - defined

"City" means The Corporation of the City of Orillia.

834.2.3 Commissioner - defined

"Commissioner" means the Manager of Legislative Services.

834.2.4 Domestic waste - defined

"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 Section, it is hereby declared that domestic waste extends to the following classes of waste material:

- (a) accumulations, deposits, leavings, litter, remains, rubbish, trash;
- (b) refrigerators, freezers or other appliances, any attached hinges or latching, locking or other closing mechanism or device, or any part thereof;
- (c) furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks, or any part thereof;
- (d) inoperative motor vehicles, vehicle parts and accessories;
- (e) paper, cartons;
- (f) furniture;
- (g) crockery;
- (h) sewage;
- (i) salvage materials;

- (j) waste material.

834.2.5 Industrial waste - defined

"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 or salvage material; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this Section, it is hereby declared that industrial waste extends to the following classes of waste material:

- (a) articles, things, matter, 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, steel, aluminum, or other ferrous or non-ferrous material or alloy, or chemical products, whether or not the products are manufactured otherwise processed, or are products or by-products products manufactured or otherwise processed;
- (b) automotive parts, inoperative motor vehicles, batteries, vehicle parts, mechanical equipment, mechanical parts, accessories or adjuncts to the vehicles and mechanical equipment, or any part thereof;
- (c) piping, tubing, conduits, cable and fittings or other accessories, or adjuncts to the piping, tubing, conduits or cable;
- (d) containers of any size, any type or any composition;
- (e) material resulting from, or as part of, construction or demolition projects;
- (f) rubble, inert fill;
- (g) bones, feather, hides;
- (h) sewage;
- (i) salvage material;
- (j) waste material.

834.2.6 Inoperative motor vehicle - defined

"inoperative motor vehicle" means a vehicle having missing parts, including tires or damaged or missing glass or deteriorated or removed metal adjunctions, which prevent its mechanical function, or which does not have a current valid vehicle permit issued by the Ministry of Transportation.

834.2.7 Inspector - defined

"Inspector" means a Municipal Law Enforcement Officer or a person employed by the City under the direction of the Commissioner. By-law 1998-117, 31 August 1998.

834.2.8 Owner - defined

"owner" means an owner, lessee or occupant, whether in lawful occupation or not.

834.2.9 Person - defined

"person" includes a corporation.

834.2.10 Private drain - defined

"private drain" means a storm sewer connection and/or sanitary connection situated on private property.

834.2.11 Responsible person - defined

"responsible person" means the person who, in the opinion of the Commissioner or an Inspector, is the one who has caused, acquiesced or allowed some deed or act to be done or undertaken.

834.2.12 Salvage material - defined

"salvage material" means any scrap metal, steel, plastic, rubber or other such materials or substances or goods, of commercial value or not, collected, deposited, stored or kept for any purpose such as, without limitation, further cutting, sorting or processing, or disposition elsewhere, including the storage of used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal.

834.2.13 Sewage - defined

"sewage" includes 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.

834.2.14 Waste material - defined

"waste material" means material or effluent that, in the opinion of the Commissioner or an Inspector:

- (a) appears to have been cast aside or discarded or abandoned, whether it is or not; or
- (b) appears to be worthless or useless or of no practical value whether it is or not; or
- (c) appears to be used up, in whole or in part, or expended or worn out in whole or in part; or
- (d) is industrial waste or domestic waste.

834.2.15 Natural Garden - defined

"natural garden" shall mean any vegetation growth that has been deliberately planted to produce ground cover, including one or more species of wildflower, shrubs, perennials, grasses or any combination whether native or non-native, consistent with a managed and natural landscape other than regularly mown grass.

Article 3 GENERAL PROVISIONS

834.3.1 Land - drained - clean - clear - filled

Every owner shall keep his or her grounds, yard or vacant land filled up, drained, clean or cleared up.

834.3.2 Private drain - good repair

Every owner shall keep his or her private drain in repair.

834.3.3 Private drain - altered - relayed - as required

Every owner shall alter or relay the private drain as may be required by the Commissioner or an Inspector.

834.3.4 Waste - domestic - industrial - deposit - prohibited

No person shall cause or permit waste material, domestic or industrial waste to be deposited or remain on any land in the City.

834.3.5 Dumping - storage - on private property - consent

No person shall throw, place, deposit or store waste material, domestic or industrial waste, refuse or debris on private property without the written authority of the owner of the property and, where the property is occupied by someone other than the owner, in addition to the owner, the written authority of the occupant.

834.3.6 Dumping - storage - on City property - consent

No person shall throw, place or deposit waste material, industrial or domestic waste, refuse or debris on City property without the written authority of the City.

834.3.7 Sewage - drainage - sanitary disposal - responsibility

Every owner shall provide for the sanitary disposal of sewage and drainage from his or her land or buildings.

834.3.8 Land - maintained - free and clear - all waste

Except as provided in Sections 834.3.5, 834.3.6 and 834.3.11, every owner shall keep his or her land free and clear of all waste material, garbage, refuse or domestic or industrial waste of any kind.

834.3.9 Land - structure - in City - waste disposal - prohibited

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

834.3.10 Exemptions - dumping - City structures - purpose

Sections 834.3.8 and 834.3.9 do not apply to:

- (a) land or structures used by the City for the purpose of dumping or disposing of garbage or refuse, or domestic or industrial waste; or
- (b) land designated by by-law of the City for the purpose of dumping or disposing of waste material, garbage or refuse, or domestic or industrial waste.

834.3.11 Garbage - waste - covered - as prescribed

Every owner shall cover over or enclose any garbage, refuse, domestic waste of any kind or industrial waste of any kind in such a manner as may be prescribed by the Commissioner or an Inspector in writing. By-law 1998-117, 31 August 1998.

834.3.12 Vehicle - dismantled - storage - restricted

Except as provided pursuant to any relevant licensing by-law in force from time to time in the City, no person shall use any land or structure in the City for storing used motor vehicles for the purposes of wrecking or dismantling them or salvaging parts thereof for sale or other disposal.

834.3.13 Regulation - inspection - prohibition - applicable

This Chapter applies to the regulation, inspection or prohibition of the matters referred to in this Chapter and shall be applicable to all such matters whether or not the matter to be regulated, inspected or prohibited was in existence prior to the date of the enactment of the enabling by-law by Council.

834.3.14 Conflict - other enactments

In the event of any inconsistency between the provisions of this Chapter and the Property Maintenance and Occupancy By-law [Chapter 865, City of Orillia Municipal Code] in force in the City, the provisions of this Chapter, only to the extent necessary to avoid such inconsistency, shall prevail.

834.3.15 Restrictions - in addition

The prohibitions and restrictions set out in this Chapter are in addition to any restrictions and prohibitions contained in any By-law of the City passed pursuant to Section 34 of the *Planning Act*.

834.3.16 Natural garden - exempt

Notwithstanding Sections 834.2.1 and 834.3.1, a natural garden shall be exempt from the provisions of this Chapter.

**Article 4
NOTICE****834.4.1 Service - by Commissioner - Inspector - requirements**

The Commissioner or an Inspector may, by notice served personally or sent by regular mail served on the owner, lessee or occupant of the land or structure, or the responsible person, require the owner, lessee or occupant or responsible person, within the time specified in the notice:

- (a) to keep his or her private drains in repair;
- (b) to alter or relay his or her private drains;
- (c) to provide for the sanitary disposal of sewage and drainage from his or her land or structure;
- (d) to clean, clear or remove from the land or structure waste material, garbage, refuse or domestic or industrial waste of any kind;
- (e) to cease using the land or structure for the dumping or disposing of garbage, refuse, or domestic or industrial waste of any kind;
- (f) to cover over, screen, shield or enclose garbage, refuse or domestic or industrial waste in the manner prescribed by the Commissioner.

834.4.2 Service - on owner - lessee - last known address

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, and in the case of a responsible person, the last known address for such person.

834.4.3 Service - on occupant - affected property

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.

834.4.4 Land - structure - identified

Every notice sent by the Commissioner shall identify the land or structure.

**Article 5
INSPECTION - LAND - STRUCTURE****834.5.1 Dumping - disposal - waste - determined**

The Commissioner or an Inspector may inspect the use of any land or structure for the purpose of determining whether the land or structure is used for dumping or disposing of waste material, garbage, refuse or domestic or industrial waste of any kind.

834.5.2 Vehicle - wrecking - salvaging - determined

The Commissioner or an Inspector may inspect the use of any land or structure for the purpose of determining whether the land or structure is used for the storing of used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or disposal.

834.5.3 Compliance - with notice - determined

The Commissioner or an Inspector may inspect the use of any land or structure for the purpose of determining whether the owner, lessee, occupant or responsible person has complied with any notice sent by the Commissioner or an Inspector.

834.5.4 Hinder or Obstruct

No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this Chapter, or any person lawfully acting in aid of such an Officer. Without limiting the generality of the meaning of "hinder" or "obstruct", a person shall be deemed to have obstructed or hindered an Officer in the execution of their duties if he or she:

- (a) provides false information to an Officer; or
- (b) is alleged on reasonable and probable grounds to have contravened any of the provisions of this Chapter, and fails to identify themselves to an Officer upon request.

Article 6**COMMISSIONER - INSPECTOR - AUTHORITY****834.6.1 Failure to comply - remedy - by Commissioner**

Where the owner, lessee, occupant or responsible person is in default of doing the matter or thing required to be done under this Chapter, the Commissioner may:

- (a) fill up, drain, clean or clear up the grounds, yard or vacant land;
- (b) repair the private drain or alter or relay the private drain;
- (c) remove refuse or debris;
- (d) provide for the sanitary disposal of sewage and drainage;
- (e) remove waste material, garbage, refuse or domestic or industrial waste;
- (f) cover over, screen, shield or enclose waste material, domestic or industrial waste;
- (g) remove used motor vehicles stored for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal.

834.6.2 Matters - things - removed - disposal - immediate

Where any of the matters or things are removed in accordance with Section 834.6.1, the matters or things may be immediately disposed of by the Commissioner.

834.6.3 Expenses - recovery - by City

The City may recover the expense in doing a matter or thing referred to in Section 834.6.1 from the owner, lessee, occupant or responsible person directed or required to do it by action, or in like manner as municipal taxes. By-law 1997-56, 9 June 1997.

834.6.4 Health - safety - protected - nuisance - prevented

Where, in this Chapter, the Commissioner or Inspector has the power to prescribe a manner by which garbage, refuse, waste material, domestic or industrial waste ("regulated items") be covered over or enclosed, the said power shall be exercised to ensure that the regulated items:

- (a) do not pose a health or safety hazard to the owner or members of the public; and
- (b) do not create any visual or other nuisance.

834.6.5 Storage - regulated items - enclosure - requirements

As the circumstances may require, the Commissioner or Inspector may require:

- (a) that any of the regulated items be kept or stored completely within a building or an enclosure (designed or suitable for such purpose);
- (b) that any land area utilized for the storage of such regulated items be completely enclosed by a fence constructed out of solid metal or wooden materials, or wire mesh, and that such fencing shall be of a height not greater than 12 feet; and
- (c) that in the case of keeping or storing regulated items in an enclosed area to which clause (b) of this Section applies, that the height of the regulated items within the relevant land area not exceed the top of the fence so required.

834.6.6 Compliance - time or - determination - considerations

Where, pursuant to this Chapter, the Commissioner or an Inspector specify a time within which an act, event or work shall be undertaken or done, the time so specified shall be determined by the Commissioner or Inspector having regard to:

- (a) the nature and extent of the work to be done; and
- (b) whether any issue of public health or safety is involved in the matter.

834.6.7 Compliance - time for - determination - final

The determination by the Commissioner or Inspector as to what amount of time is appropriate shall be final.

834.6.8 Compliance - time for - stipulated - in notice

The notice or order may stipulate a time by which an act, event or work shall be completed or alternatively the time within which the act, event or work shall be commenced and require the same to be diligently and continuously pursued until completed; and, so there is no uncertainty, the Commissioner or an Inspector may specify a time for the commencement of work and for the ultimate completion of the work. By-law 1998-117, 31 August 1998.

834.6.9 Compliance - time for - extension

The Commissioner or Inspector may from time to time, in writing, extend the time for compliance, performance or completion of any matter specified in a notice or order. By-law 1988-46, 14 March 1988.

834.6.10 Commissioner - cause to be done

The Commissioner may cause to be done any matter or thing which the Commissioner has the power to do under Section 834.6.1 and Section 834.6.2.

Article 7 ENFORCEMENT

834.7.1 Fine - for contravention

Every person who contravenes any of the provisions of this Chapter is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the *Provincial Offences Act*. By-law 1994-24, 10 January 1994.

834.7.2 Rebuttable presumption - identification

In a prosecution for a contravention of this Chapter, evidence of identification shall be presumed to be correct and accurate, unless rebutted by evidence to the contrary.

Adopting By-law: By-law 1988-46, 14 March 1988.

By-law Amendments: By-law 1994-24, 10 January 1994; By-law 1997-56, 9 June 1997; By-law 1998-117, 31 August 1998; By-law 2008-15, February 4, 2008; By-law 2016-7, 18 January 2016; By-law 2016-33, 11 April 2016; By-law 2017-14; 13 February 2017; By-law 2019-96, 16 September 2019.