

The Corporation of the Town of Cobalt

***Office Consolidated
User Fee***

By-law No. 2021-12

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

By-laws and Resolutions amending Original Municipal By-law No. 2021-12:

Resolution 2021-148	August 31, 2021	Section 5.4 be amended to add "Pursuant to section 429(1) of the Municipal Act"
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Note:

This office consolidation has been prepared to assist the reader in understanding the amendments to By-law No. 2021-12.



THE CORPORATION OF THE TOWN OF COBALT

BY-LAW NO. 2021-12

Being a By-Law to provide for maintaining land in a clean and clear condition (Clean Yards)

WHEREAS pursuant to Section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25 the powers of a municipality under that 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 to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS pursuant to Section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25 a municipality has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority under this or any other Act;

AND WHEREAS pursuant to Section 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25 a municipality may pass By-Laws respecting the health, safety and well-being of persons, requiring the cleaning and clearing of land or clearing of refuse and debris from land, and prohibiting and regulating with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

AND WHEREAS pursuant to Sections 10(2) Clauses 5 & 6, 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 425 of the *Municipal Act, 2001*, S.O. 2001, c. 25 states 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 pursuant to Section 426 of the *Municipal Act, 2001*, S.O. 2001, c. 25 no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising power or performing a duty under this Act or under a By-Law passed under this Act;

AND WHEREAS pursuant to Section 429 of the *Municipal Act, 2001*, S.O. 2001, c. 25 a municipality may establish a system of fines for offences under a By-Law of the municipality passed under this Act;

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;

AND WHEREAS pursuant to Section 391 of the Municipal Act S.O. 2001, as amended, a municipality may impose fees or charges on persons for services or activities provided or done by or on behalf of it,

NOW THEREFORE the Council of the Corporation of the Town of Cobalt hereby enacts as follows:

1. That Council adopts a By-Law to provide for maintaining land in a clean and clear condition (clean yards) identified as Schedule "A", attached hereto and forming part of this By-Law;
2. That By-Law 2011-029, as amended, being a By-Law to provide for maintaining land in a clean and clear condition (clean yards) is hereby repealed;
3. That the Clerk of the Town of Cobalt is hereby authorized to make any minor modifications or corrections of an administrative, numerical, grammatical, semantically or descriptive nature or kind to the By-Law and Schedule as may be deemed necessary after the passage of this By-Law, where such modifications or corrections do not alter the intent of the By-Law.
4. That this By-Law shall come into force and take effect on the date of its final passing.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 27th day of April, 2021.

MAYOR

CLERK



**THE CORPORATION OF THE TOWN OF COBALT
Schedule "A" TO BY-LAW 2021-12
TO PROVIDE FOR MAINTAINING OF LAND IN A CLEAN AND CLEAR CONDITION**

PART 1 – SHORT TITLE

1.1 By-Law shall be referred to as the “Clean Yards By-Law”.

PART 2 - DEFINITIONS

For the purposes of this By-Law all words shall have their normal and customary meaning save and except for those hereinafter defined:

2.1 **“Council”** means the Municipal Council of the Town of Cobalt.

2.2 **“Clerk”** means the Town Clerk and where applicable includes a person designated by the Town Clerk to perform that task or exercise that power in their place.

2.3 **“Deposit”** means to throw, place or put.

2.4 **“Domestic Waste”** means any article, thing, matter or any effluent belonging to or associated with a residence, household or dwelling unit, 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 domestic waste extends to the following classes of waste material:

- a. Grass clippings, tree cuttings, brush, leaves and garden refuse
- b. Paper, cardboard, clothing
- c. All kitchen and table waste, of animal or vegetable origin resulting from the preparation or consumption of food except any material of vegetable origin placed in a composting container
- d. Feces.
- e. Cans, glass, plastic containers, dishes.
- f. New or used material resulting from or for the purpose of construction, alteration, repair or demolition of any building or structure.
- g. Refrigerators, freezers, stoves or other appliances and furniture.
- h. Furnaces, furnace parts, pipes, fittings to pipes, water or fuel tank.
- i. Unlicensed Motor Vehicles, Inoperative Motor Vehicles, vehicle motor parts and accessories, vehicle tires mounted or not mounted on rims, mechanical equipment.
- j. Rubble, inert fill, fencing materials.

2.5 **“Hobby Vehicle”** means a single Motor 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.

2.6 **“ICI Establishments”** (Industrial, Commercial and Institutional) means:

- a) Any establishment within the Town that is not defined as a residential building;
- b) Any other establishment as designated by the Clerk

2.7 **“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 not 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, appurtenant 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 of any size, type or composition, excluding sea cans. Materials resulting from, or as part of, construction or demolition projects.
- e) Rubble, inert fill except loose soil, sand, gravel, broken bricks, concrete or asphalt.
- f) Piles of plastic, wood or metal or a combination thereof.
- g) Bones, feathers, hides.
- h) Sewage.

2.8 **“Inoperative Motor Vehicle”** means any 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.

2.9 **“Motor Vehicle”** means any motor vehicle as defined in the Highway Traffic Act, R.S.O. 1990, c.H.8., as amended, and in addition, includes 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 or any other vehicle propelled or driven otherwise than by muscular force.

2.10 **Municipality** means the Municipality of the Corporation of the Town of Cobalt.

2.11 **“Naturalization”** shall mean a process of ecological restoration that involves returning an altered or degraded site to a more natural condition using trees, shrubs, non obnoxious weeds (obnoxious weeds are defined in the Weed Control Act of Ontario), and flowers that are native to the area. In Cobalt, native plant species are defined as those that exist in Northern Ontario.

2.12 **“Officer”** means a Municipal By-Law Enforcement Officer, Property Standards Officer or Peace Officer or designate, who has been assigned by Council with the responsibility of administering and enforcing the provisions of this By-Law.

2.13 **“Owner”** Includes:

- a) An owner in trust or a beneficial owner of land,
- b) The person for the time being managing or receiving rent of the land or premises in connection with which the work is used, whether on the person's own account or as

an agent or trustee of any other person, or who would receive the rent if the land and premises were let; and

- c) A lessee or occupant of the property who manages or controls the condition of the property, including a tenant.
- 2.14 **“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.
- 2.15 **“Refuse”** means any article, thing, matter, substance or effluent that has been cast aside, discharged or abandoned, or is discarded from its usual and intended use, or is used up, in whole or in part, or expended or worn out in whole or in part; and shall include Domestic Waste and Industrial Waste, and that domestic waste and industrial waste does not cease to be refuse by reason that it may be commercially saleable or recyclable; Rubble, Inoperative Motor Vehicle, parts of motor vehicles, unused or abandoned motor vehicles, vehicles without validated licence plates, vehicles without licence plates, objects or conditions that may create fire, health or accident hazards, dead animals, old or decayed lumber, decayed trees, discarded trees, part of trees, leaves and discarded organic material.
- 2.16 **“Rubble”** includes but not limited to broken concrete, flagstone, bricks, broken asphalt, patio or sidewalk slabs.
- 2.17 **“Town”** means the Corporation of the Town of Cobalt, as represented by the Town Clerk

PART 3 - GENERAL STANDARDS REGULATIONS

- 3.1 Every Owner shall keep their ground, yards or vacant land clear of all garbage, Refuse or Domestic or Industrial Waste of any kind;
- 3.2 For the purpose of Section 3.1, “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 20 centimeters (8 inches) in height where doing so will not be challenged by topography or in conflict with naturalization efforts.
- 3.3 In determining compliance with Section 3.2, consideration shall be paid to the distinction between groomed lawns and naturalized or underdeveloped areas particular in relationship to the surrounding environment.
- 3.4 No Owner shall permit Refuse to remain on any property within the Town of Cobalt.
- 3.5 Every owner, tenant or occupant of property shall keep their property free from objects or conditions that are likely to create a health, fire or safety hazard.

- 3.6 Every owner, tenant or occupant of property shall keep hedges, shrubs and trees adjacent to a public sidewalk, walkway or roadway cut and trimmed so as not to encroach into sidewalk and to allow safe, unhindered passage by pedestrians or vehicles. Encroachment of trees, shrubs or branches from one private property over another private property is a civil matter and not Municipal.
- 3.7 No Owner of property shall keep a swimming pool, hot tub, wading pool or artificial pond unless it is maintained in a good repair and working condition.
- 3.8 Commercial waste bins or dumpsters are not permitted on residential properties except on a temporary basis during construction or demolition projects which have been properly permitted by the Municipality.
- 3.9 No person shall deposit or cause to be deposited Refuse and/or other debris on any land owned or occupied by the Town, without the written authorization of the Municipality.
- 3.10 No person shall deposit or cause to be deposited Refuse and/or other debris on any private land within the Town, without the written authority of the owner.
- 3.11 Notwithstanding Section 3.9 of this By-Law, acceptable Refuse placed on municipal property for the purposes of garbage or waste collection, in accordance with applicable By-Laws respecting garbage and waste collection, shall be exempted from the provisions of this By-Law.
- 3.12 No Owner of a residential building shall place approved containers for curbside collection at ground level earlier than 8:00pm on the evening before collection, but no later than 6:30am on the designated day for collection.
- No Owner of an ICI establishment shall place approved containers for curbside collection at ground level earlier than 5:00 pm the evening before collection, but no later than 6:30am on the designated day for collection.
- 3.13 No Owner of a residential building shall fail to remove the empty approved container, or uncollected waste, from the collection location before 10:00pm on the day of collection.
- No Owner of an ICI establishment shall fail to remove the empty approved container, or uncollected waste, from the collection location before 5:00pm on the day of collection.
- 3.14 Except as provided in the Town of Cobalt Zoning By-Law and amendments thereto or otherwise permitted by law; no person shall store:
- a) Wrecked, dismantled, discarded, abandoned or otherwise inoperative unlicensed vehicles that are not necessary for the operation of a business enterprise lawfully situated on the property, or
 - b) Wrecked, dismantled, discarded, abandoned or otherwise inoperative licensed vehicles that do not have current registration, and mechanical certification by the authority having jurisdiction so as to be deemed roadworthy for use on public streets or highways, that are not necessary for the operation of a business enterprise lawfully situated on the property.

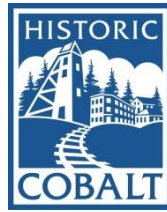
- 3.15 Section 3.14 shall not apply to Owners who are actively restoring not more than one vehicle and/or one hobby vehicle provided the vehicles are stored in an enclosed structure or located in a manner so as to be screened from view by neighboring residents or from adjacent roadways. Where Garage space allows more than one hobby car may be kept subject to being stored in the Garage.

PART 4 – ADMINISTRATION, ENFORCEMENT AND RIGHT OF ENTRY

- 4.1 This By-Law shall be enforced by a Municipal By-Law Enforcement Officer or other designated Officer.
- 4.2 A Municipal By-Law Enforcement Officer or other designated Officer shall determine what shall constitute a health, fire or safety hazard, in consultation with the Town Clerk.
- 4.3 Where any property is not maintained in compliance with the provisions of this By-Law, a Municipal By-Law Enforcement Officer or designate may give Notice to the Owner, in writing, directing that the property be brought into compliance with the requirements of this By-Law within a defined time-period, but such time-period shall not be less than seventy-two (72) hours from the date of Notice, save and except that which constitutes a safety, health or fire hazard.
- 4.4 Notice shall be in the form found in Appendix “2” to this By-Law.
- 4.5 The Owner shall be served either personally or by registered mail with a copy of the Notice. A copy of the Notice shall also be posted in an conspicuous place on the property.
- 4.6 A Municipal By-Law Enforcement Officer or designate may enter upon any land for the purpose of carrying out an inspection to determine whether this By-Law is being contravened and/or determine whether a Notice of this By-Law is being complied with.
- 4.7 A Municipal By-Law Enforcement Officer or designate shall have the inspection powers described in Section 436 of the Municipal Act, 2001, S.O. 2001, c.25..
- 4.8 No person shall hinder or obstruct, or attempt to hinder or obstruct, a Municipal By-Law Enforcement Officer from carrying out an inspection or authorized work of any Town employee or agent of the lands.
- 4.9 If any provision of this By-Law is for any reason found to be invalid by a court of competent jurisdiction, the provision found to be invalid shall be severed from the By-Law and the remaining provisions shall remain in full force and effect until repealed.
- 4.10 It is hereby declared that each and every of the foregoing provisions of this By-Law are severable and that, if any provisions of the By-Law should for any reason be declared invalid by a court of competent jurisdiction, it is the intention and desire that each and every of the remaining provisions shall remain in full force and effect.

PART 5 - REMEDIATION AND PENALTY

- 5.1 Every person shall comply with an order issued under the authority of this By-Law. Where any owner fails to comply with any provision of this By-Law, the Municipality may cause the required work to be done at the cost of the Owner. The cost of such work may then be recovered by action or by adding the costs to the tax roll and collected in the same manner as property taxes. The Municipality may charge an administration fee in the amount of \$150.00, which may then be recovered from the Owner.
- 5.2 Any person or Owner who contravenes any provisions of this By-Law and who fails to remedy any non-compliance is guilty of an offence.
- 5.3 Where an offence is a continuing offence, each day that the offence is continued shall constitute a separate and distinct offence.
- 5.4 Pursuant to section 429(1) of the Municipal Act, a person convicted of an offence contrary to a provision of this By-Law in a proceeding commenced under Part III of the Provincial Offences Act, R.S.O. 1990, c. P. 33, is liable to a maximum fine of \$25,000.
- 5.5 A person charged of an offence contrary to a provision of this By-Law in a proceeding commenced under Part I of the Provincial Offences Act, R.S.O. 1990, c. P. 33, shall be liable to a fine as set out in Appendix "1".
- 5.6 In addition to the foregoing remedial costs, where a vehicle has been removed, impounded, restrained or immobilized according to Section 170 (15) of the Highway Traffic Act, R.S.O. 1990, as amended, in violation of this By-Law, all costs associated with the removal, impoundment, restraining or immobilization will be the responsibility of the registered owner of the vehicle.



THE CORPORATION OF THE TOWN OF COBALT
Appendix “1” of Schedule “A”
CLEAN YARDS BY-LAW 2021-12

PART 1 PROVINCIAL OFFENCES ACT
SET FINES

Item	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Fail to keep ground, yards or vacant land clear of all garbage, refuse or domestic or industrial waste of any kind	Sch. “A”, Section 3.1	\$150.00
2	Fail to cut/trim/remove grass/weeds more than eight inches in height	Sch. “A”, Section 3.2 (b)	\$150.00
3	Owner permit refuse to remain on a property	Sch. “A”, Section 3.4	\$150.00
4	Fail to keep property free of health, fire, or safety hazard	Sch. “A”, Section 3.5	\$150.00
5	Fail to maintain hedge, shrub, or tree	Sch. “A”, Section 3.6	\$150.00
6	Fail to maintain swimming pool/hot tub/wading pool/pond	Sch. “A”, Section 3.7	\$150.00
7	Commercial Waste Bin- Prohibited Residential Property	Sch. “A”, Section 3.8	\$150.00
8	Cause, permit, throw, place or deposit refuse on Town of Cobalt property without written authority	Sch. “A”, Section 3.9	\$150.00
9	Cause, permit, throw, place or deposit refuse on private property without written authority	Sch. “A”, Section 3.10	\$150.00
10	<i>At residential building place approved container before 8:00 p.m. previous day</i>	Sch. “A”, Section 3.12	\$125.00
11	<i>At residential building fail to remove approved container before 10:00 p.m. collection day</i>	Sch. “A”, Section 3.13	\$125.00
12	<i>At residential building fail to remove uncollected waste before 10:00 p.m. collection day</i>	Sch. “A”, Section 3.13	\$125.00
13	<i>At ICI establishment place approved container before 5:00 p.m. previous day</i>	Sch. “A”, Section 3.12	\$125.00
14	<i>At ICI establishment fail to remove empty approved container before 5:00 pm collection day</i>	Sch. “A”, Section 3.13	\$125.00
15	<i>At ICI establishment fail to remove uncollected waste before 5:00 pm collection day</i>	Sch. “A”, Section 3.13	\$125.00

16	Store inoperative vehicle	Sch. "A", Section 3.14 (a)	\$400.00
17	Store unlicensed vehicle	Sch. "A", Section 3.14 (a)	\$400.00
18	Fail to comply with an order	Sch. "A", Section 5.1	\$150.00

Note: The general penalty provision for the offences listed above is Section 61 of the Provincial Offences Act, R.S.O. , 1990, c. P 33, as amended.



**THE CORPORATION OF THE TOWN OF COBALT
Appendix "2" of Schedule "A"
CLEAN YARDS BY-LAW 2021-12**

BY-LAW ENFORCEMENT - NOTICE OF REMEDY

Pursuant to section _____ of Town of Cobalt By-Law #2021 - 12 (Clean Yards By-Law), you are hereby required to remove items from your property located at _____ in the Town of Cobalt in order to comply with the provisions of section _____ of the By-Law.

The items to be removed are _____ as defined in section _____.

If the items are not removed from the property by _____, the Town of Cobalt will remove and dispose of the items pursuant to section 6.1 of the By-Law, and any costs associated with the removal and disposal may be added to the tax roll for the property.

If you have any questions regarding this matter, please contact me by phone or email.

Yours truly,