

THE CORPORATION OF THE VILLAGE OF SOUTH RIVER

BY-LAW 9-2018

Being a By-law to Establish Standards for the Maintenance of Lands in a Clean and Clear Condition (Clean Yard By-law)

WHEREAS Section 8 of the *Municipal Act, 2001, S.O. 2001, c.25* (hereinafter referred to as the “Municipal Act”) provides that the powers of a municipality under the Municipal Act 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 Section 9 of the Municipal Act provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Municipal Act or any other Act;

AND WHEREAS pursuant to Section 11(2) of the Municipal Act, a municipality may pass by-laws respecting the environmental well-being of the municipality, the health, safety and well-being of the persons and the protection of persons and property;

AND WHEREAS pursuant to Section 11(3) of the Municipal Act, a municipality may pass by-laws including but not limited to regarding, Highways and Parking, Waste management, Public utilities, Parks, Drainage and Flood control, Structures, Fences and Signs and Animals.

AND WHEREAS pursuant to Section 127 of the Municipal Act, a municipality may define what constitutes debris and refuse and may require the owner or occupant of land to clean and clear land, to clear refuse or debris from the land, to regulate how cleaning and clearing is to be done and to prohibit the depositing of refuse or debris without the consent of the owner or occupant of the land;

AND WHEREAS pursuant to Section 128 of the Municipal Act, 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 pursuant to Section 131 of the Municipal Act, a 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 pursuant to Section 425 of the Municipal Act, 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, no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this Act or under a by-law passed under this Act;

AND WHEREAS pursuant to Section 436 of the Municipal Act, a By-Law Enforcement Officer may enter upon any land at any reasonable time for the purpose of carrying out an inspection to determine compliance with this by-law;

AND WHEREAS pursuant to Section 446(1) of the Municipal Act, a municipality may direct or require a person to do a matter or thing and that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

AND WHEREAS pursuant to Section 446(2) of the Municipal Act, for the purpose of subsection (1), the Municipality may enter upon land at any reasonable time.

AND WHEREAS pursuant to Section 446(3) of the Municipal Act, a municipality may recover the costs of doing a matter or thing under subsection (1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes

THEREFORE, The Council of the Corporation of the Village of South River enacts as follows:

1. In this by-law,
 - (a) 'MLEO' means the Municipal Law Enforcement Officer of the Corporation of the Village of South River;
 - (b) 'Village' means the geographic entity Village of South River;
 - (c) 'Village property' means any lands situated with the Village which is owned by the Corporation or controlled by the Corporation by lease or otherwise;
 - (d) 'Corporation' means the Corporation of the Village of South River;
 - (e) '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 certain, but not so as to restrict the generality of the foregoing terms of the clause it is hereby declared that domestic waste extends to and includes the following classes of waste material:
 1. Accumulation, ash, deposits, leavings, litter, remains, rubbish, trash, and dead branches;
 2. Refrigerators, freezer, or any parts thereof;
 3. Furnaces, furnace parts, pipes, fittings to pipes, water and fuel tanks, or plumbing fixtures;
 4. Inoperative motor vehicles, trailer, vehicle parts and accessories;
 5. Paper, cartons, fabrics, or carpets;
 6. Furniture;
 7. Crockery;
 8. Sewage.
 - (f) garbage' has the same meanings as 'waste material';
 - (g) Graffiti means one or more letters, symbols, marks, pictorial representations, messages or slogans howsoever made on any property, but does not include a sign or traffic control marking when authorized by the Government of Canada, the Province of Ontario, the District or the Village
 - (h) 'grass' means any plant of a large family (Gramineae) characterized by rounded and hollow jointed stems, narrow sheathing leaves, flowers borne in spikes and hard grain-like seeds;
 - (i) 'ground cover' means plants or shrubs characteristically forming an extensive dense growth close to the earth'
 - (j) industrial waste' means any article, thing, matter or any effluent belonging to or associated with industrial or commercial or concerning or relating to manufacture or concerning or relating to any trade, business, calling or occupant 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 and included the following classes of waste material:
 - (1) Articles, things, matter, effluent which in whole or in part or fragments thereof, are derived from or are constituted from or consist of:

- (a) agricultural, animal, vegetable, paper, lumber, or wood products or
- (b) mineral, metal, or chemical products,

whether or not the products are manufactured or otherwise processed.

- (2) Automotive parts, inoperative motor vehicles, trailers, vehicle parts, mechanical equipment, mechanical parts, accessories or adjuncts to the vehicle or mechanical equipment;
 - (3) Piping, tubing conduits, cable and fittings or other accessories, or adjuncts to the piping, tubing, conduits, or cable;
 - (4) Containers or pallets of any size, type or composition;
 - (5) Material resulting from, or as part of, construction or demolition projects;
 - (6) Rubble, inert fill
 - (7) Bones, feathers, hides;
 - (8) Sewage
- (j) ‘inoperative motor vehicle’ means a motor vehicle which is without a current license plate, and has its fender or fenders, hood, truck, roof, wheel or wheels or any part of its superstructure removed, or a motor vehicle which is in a dilapidated condition;
- (k) ‘local board’ means any school board, municipal service board, public library board, board of health, or any other board, commission, committee, or local authority established or exercising any power or authority under any general or specific Act with respect to the affairs or purposes, including school purposes of the Village or any part thereof;
- (l) ‘local weed’ means any plant designated by by-law of the Corporation as a noxious weed;
- (m) ‘noxious weed’ means any other weeds set out in the following table or a plant designated by the by-law of the Corporation as a local weed:

Item	Common Name	Scientific Name
1.	Barberry, common	<i>Berberis vulgaris</i> L.
2	Buckthorn, European	<i>Rhamnus cathartica</i> L.
3	Carrot, wild	<i>Daucus carota</i> L.
4	Colt’s-foot	<i>Tussilago farfara</i> L.
5	Dodder spp.	<i>Cuscuta</i> spp.
6	Goat’s-beard spp.	<i>Tragopogon</i> spp.
7	Hemlock, poison	<i>Conium maculatum</i> L.
8	Johnson grass	<i>Sorghum halepense</i> (L.) Persoon
9	Knapweed spp.	<i>Centaurea</i> spp.
10	Milkweed spp.	<i>Asclepia</i> spp.
11	Poison-ivy	<i>Rhus radicans</i> L.
12	Proso millet, black-seeded	<i>Panicum miliaceum</i> L. (Black-seeded biotype)
13	Ragweed spp.	<i>Ambrosia</i> spp.
14	Rocket, yellow	<i>Barbarea</i> spp.
15	Sow-thistle, annual,	<i>Sonchus</i> spp.

	perennial	
16	Spurge, Cyprus	<i>Euphorbia cyparissias</i> L.
17	Spurge, lefty	<i>Euphorbia esula</i> L. (complex)
18	Thistle, bull	<i>Cirsium vulgare</i> (Savi) Tenore
19	Thistle, Canada	<i>Cirsium arvense</i> (L.) Scopoli
20	Thistle, nodding, spp.	<i>Carduus</i> spp.
21	Thistle, Russian	<i>Salsola pestifer</i> Aven Nelson
21	Thistle, Scotch	<i>Onopordum acanthium</i> L.
23	Vetchling, tuberous	<i>Lathyrus tuberosus</i> L.
24	Giant hogweed	<i>Heracleum mantegazzianum</i>

- (n) ‘Officer’ means a person appointed by by-law as a Municipal Law Enforcement Officer;
- (o) ‘owner’ includes the registered owner, occupant, tenant, 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 their own account or as agent or trustee of any other person who would so receive the rent if such land and premises were let, person in control of the premises or any of the aforesaid;
- (p) ‘person’ means an individual, firm, proprietorship, partnership, associates, syndicate, trust, corporation, department, bureau, agency or any of the aforesaid;
- (q) ‘private drain’ means a drain or sewer or part thereof situated on private property;
- (r) ‘private property’ means property which is privately owned and is not Village property or property of a local board or property of any of the Crown in Right of Ontario, the Crown in Right of Canada or any emanation there;
- (s) ‘property’ means land, tenements, and hereditaments or any estate or interest herein and any right or easement affecting the land;
- (t) ‘refuse’ has the same meaning as ‘waste material’;
- (u) ‘sewage’ includes any liquid waste containing human, vegetable, or mineral matter, waste that is in suspension whether domestic or industrial or any other waste where in suspension or precipitate, but does not include roof water or storm run-off;
- (v) ‘waste materials’ means material or effluent that, in the opinion of the MLEO
 - (1) appears to have been cast aside or discarded or abandoned; or
 - (2) appears to be worthless or useless or of no practical value; or
 - (3) appears to be used up, in whole or in part, or expended or worn out in whole or in part.
- (w) ‘weeds’ includes local weeds and noxious weeds or any one of or all of them.
- (x) “yard/garage sale” means, a temporary sale of used household or personal articles (such as furniture, tools, or clothing) held on the seller's own premises, for no longer than 48 hours.

2.1 Every owner shall ensure that his or her property is kept free and clear of any:

- (a) groundcover exceeding 30 centimetres (12 inches) in height;
- (b) garbage, refuse, domestic waste or industrial waste;

- (c) wrecked, dismantled, abandoned or inoperable appliance, machine or derelict motor vehicle
 - (d) hedge, tree or branch that hinders pedestrian traffic on a Village maintained sidewalk.
 - (e) accumulation of animal excrement;
- 2.2 every owner shall keep all landscaped features on their property in good repair;
 - 2.3 Every owner shall keep in repair his or her private drain.
 - 2.4 Every owner shall alter or relay the private drain as may be required by the MLEO.
 - 3.1 No person shall throw, place or deposit refuse or debris on private property without the written consent of the owner or occupant of the property.
 - 3.2 No person shall throw, place or deposit refuse or debris on Village property without the written consent of the Corporation, and where such property is occupied by a person other than the Corporation, without the written consent also of the occupant.
 - 3.3 No person shall throw, place or deposit refuse or debris on the property of a local board without the written consent of the local board, and where such property is occupied by a person other than the local board, without the written consent also of the occupant.
 - 4. Every owner shall provide for the sanitary disposal of sewage and drainage from his or her land or buildings.
 - 5. Every owner shall remove all slanderous or objectionable signs, markings, graffiti, or other defacement on their property to restore the surface and adjacent areas to, as near as possible, to their appearance before the markings, signs, graffiti, or other defacement occurred.
 - 5.1 Except as provided in Section 3 and in subsection 5.4, every owner shall keep his or her property free and clear of all garbage, refuse, debris, or domestic or industrial waste of any kind.
 - 5.2 No person shall use any property or structure within the limits of the Village for dumping or disposing of garbage, refuse, debris or domestic or industrial waste of any kind.
 - 5.3 Subsection 1 and 2 do not apply to:
 - (a) property or structures used by the Corporation for the purpose of dumping or disposing of garbage, refuse, debris or domestic or industrial waste;
 - (b) property designated by a by-law of the Corporation for the purpose of dumping or disposing of garbage, refuse, debris or domestic or industrial waste;
 - (c) property used for the natural decomposition of domestically generated organic material to produce compost provided that all the following regulations are strictly complied with:
 - 1. There shall be no bones, meat, dairy or other fat or fat products added in or contained in the composting material;
 - 2. Composting shall take place behind the building line and no closer than 0.6 meters (2 feet) to the property line. The compost or compost pile shall be of a size no greater than 3 meters by 1.5 meters by 1 meter or 4.5 cubic meters (10 feet by 5 feet by 3 feet or 150 cubic feet);
 - 3. The compost shall emit no offensive odor and it shall not be allowed to attract or harbor any vermin;
 - 4. Food waste in the compost shall be covered by yard waste, soil or compost;
 - 5. The composting shall take place on the property of the person owning, having charge of or harboring the compost or compost pile.

- 5.4 Every owner of property shall cover any permitted garbage, refuse, debris, domestic waste of any kind or industrial waste of any kind on the property in such a manner as may be prescribed by the MLEO in writing.
- 5.5 Every owner of property shall ensure that all yard/garage sales are clean and cleared within the permitted time.
6. Every notice delivered, sent or posted by the MLEO shall identify the property or structure.
7. Every notice delivered, sent, posted or caused to be published by the M.L.E.O. shall specify that if the owner defaults in doing the matter or thing required to be done under this by-law by the date specified in the notice, the M.L.E.O. may take action for the Corporation to do the matter or thing, required to be done under this by-law, and that the Corporation may recover the costs of doing the thing or matter required to be done from the person directed or required to do it and may recover the costs by action or by adding the costs to the tax roll and collecting them as the same manner as taxes.
- 8.1 An Officer may, at all reasonable times, enter upon land for the purpose of carrying out an inspection, taking photographs and obtaining evidence to determine whether the property complies with this by-law and an Officer may be accompanied by other Village of South River employees/agents for this purpose.
- 8.2 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer or employee/agent of the accompanying or Village of South River acting under the direction of the Officer in exercising a power or performing a duty under this by-law. Any person who is alleged to have contravened any of the provisions of this by-law shall identify him/herself to an Officer upon request. Failure to identify upon request shall be deemed as obstruction of the Officer.
- 8.3 Where an Officer has confirmed that a property is not maintained in accordance with the requirements of this by-law, the Officer may, in addition to verbally directing the owner to bring the property into compliance, serve the owner a notice in writing directing the owner to bring the property into compliance with the by-law requirements.
- 8.4 A written notice to the owner of a property may be served personally upon the owner of the property or sent by registered mail to the last known address of the owner according to the current assessment rolls. If sent by registered mail, the notice shall be deemed to have been served on the fifth day after mailing.
- 8.5 Where an owner, having been served with a notice in the manner described in section 8.4, fails to comply with the notice within the time specified, an Officer, employee or agent may, upon producing appropriate identification when so requested, enter onto the property at a reasonable time and carry out any or all of the work required to bring the property into compliance with this by-law.
- 8.6 When an Officer deems a violation under this by-law to pose an immediate risk to public health or safety, the notice provisions contained in section 8.4 may be waived and an emergency notice shall be posted on the property requiring immediate action or other remediation. No owner shall fail to comply with an emergency order within the period of time specified on the emergency order.
- 8.7 Any items or materials removed from a property during a clean-up conducted by the Village or an agent of the Village may be immediately disposed of by the Village or the agent of the Village without further notice to the property owner.
- 8.8 Once served upon an owner in accordance with section 8.4, a notice shall remain in effect on a property for the duration of a calendar year and further notices to the owner for similar violations within the same calendar year are not required.

- 8.9 Where the Village has conducted a property clean up as described in section 8.5, all expenses incurred by the Village in doing the work as well as any related administrative fees, shall be deemed to be taxes and may be collected by action or the costs may be added to the tax roll for the property and collected in the same manner as taxes.
9. The Village assumes no liability for property damage or personal injury resulting from remedial action or work undertaken with respect to any person or property that is subject to this by-law.
10. a) Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33.
- b) 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, pursuant to the Provincial Offences Act, set fines in accordance with Schedule “A” of this by-law.
11. If a Court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.
12. This By-law shall be administered and enforced by the M.L.E.O.
13. On the date this by-law comes into effect, By-Law 14-2016 and all previous property maintenance by-laws shall be hereby repealed.
14. The short title of this by-law is the Clean Yard By-law.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 26th DAY OF MARCH, 2018.

Mayor, Jim Coleman

Clerk Administrator, Susan L. Arnold

THE CORPORATION OF THE VILLAGE OF SOUTH RIVER
SCHEDULE "A"
By-law #9-2018
SET FINE AMOUNTS
Provincial Offences Act-Part I

OFFENCE	SECTION	SET FINE
fail to keep ground cover to less than 12" in height	2.1(a)	\$120.00
Fail to keep property clear of domestic waste	2.1(b)	\$120.00
wrecked, dismantled, abandoned or inoperable appliance or machine	2.1(c)	\$120.00
Fail to keep in repair his or her private drain.	2.2	\$120.00
deposit refuse or debris on private property without consent.	3.1	\$120.00
deposit refuse or debris on village property without consent.	3.2	\$120.00
Fail to provide the sanitary disposal of sewage and drainage from his or her land or buildings.	4.0	\$120.00
allow slanderous signs, banners or slogans to be posted on their building or property.	5.0	\$120.00
Fail to keep his or her property free and clear of all industrial waste of any kind.	5.1	\$120.00
use any property or structure within the limits of the Village for dumping refuse, domestic or industrial waste.	5.2	\$120.00
Fail to cover any permitted garbage, refuse, debris, domestic waste on the property.	5.4	\$120.00
Fail to permit the MLEO to inspect the property or structure.	8.2	\$150.00

Note: The general penalty provision for the offences listed above is section 10 of the bylaw 14-2016