

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW No. 2023- 28

**BEING A BY-LAW FOR PROHIBITING OR REGULATING THE OBSTRUCTING,
ENCUMBERING, INJURING OR FOULING OF HIGHWAYS OR BRIDGES**

WHEREAS *The Municipal Act, R.S.O., 2001* Section 10 (1) Authorizes Broad authority, to single-tier municipalities so that they may provide any service or thing that the Municipality considers necessary or desirable for the public. 2006, c. 32, Sched. A, s. 8.;

AND WHEREAS *The Municipal Act, 2001, S.O. c. 25, Section 10(6)* authorizes the Council of a Municipality to pass By-laws respecting health, safety, and well-being of persons;

AND WHEREAS *The Municipal Act, 2001, S.O. c.25, Section 391(1)* authorizes the Council of a Municipality to impose fee and charges for services provided;

AND WHEREAS *The Municipal Act, 2001, S.O. c.25, Section 434.1 (1)* authorizes the Council of a Municipality without limiting sections 9, 10 and 11, that a Municipality may require a person, subject to such conditions as the Municipality considers appropriate, to pay an administrative penalty if the Municipality is satisfied that the person has failed to comply with a By-law of the Municipality passed under this Act. 2017, c. 10, Sched. 1, s. 75.

NOW THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the Municipality of Magnetawan enacts as follows:

SHORT TITLE: This By-law may be cited as "The Roads Fouling By-Law".

1. DEFINITIONS:

- 1.1 **"Bridge"** means a public bridge and includes a bridge forming part of a highway or on, over or across which a highway passes.
- 1.2 **"By-law Enforcement Officer"** includes any person so designated by Council to administer and enforce this By-Law.
- 1.3 **"Council"** shall mean the Council of the Corporation of the Municipality of Magnetawan.
- 1.4 **"Chief Building Officer"** includes any person so designated by Council and having the authority to issue building permits.
- 1.5 **"Highway"** means a common and public highway within or forming a boundary of the Municipality and includes a street and a bridge forming part of a highway or on, over or across which a highway passes, this shall include undeveloped or unused road allowances.
- 1.6 **"Municipality"** shall mean the Corporation of the Municipality of Magnetawan.
- 1.7 **"Occupant"** means any person(s) over the age of eighteen (18) who is a tenant or lessee, or otherwise in lawful possession of a parcel of real property capable of being legally described in a deed or transfer who shall constitute the occupant or occupants of that real property.
- 1.8 **"Owner"** means any of the following: A person who is shown as one of the registered owners of real property in the records of the Land Registry or Land Titles Office or a person who is shown as the assessed owner of real property on a current assessment roll for the Municipality or a person who, for the time being, is managing or receiving rent of the land or premises, whether on his own account or as an agent or trustee for any other person.

- 1.9 **“Public Highway”** except in so far as they have been stopped up according to law, includes all allowances for roads made by the Crown surveyor, all highways laid out or established under the authority of any statute, all roads on which public money has been spent for opening them or on which labour has been usually performed, all roads passing through Indigenous lands, all roads dedicated by the owner of the land to public use, and all alterations and deviations or and all bridges over any such allowance for roads.
- 1.10 **“Running at large”** means unattended by a competent person.
- 1.11 **“Sewage”** includes drainage, storm water, residential, commercial, and industrial waste.
- 1.12 **“Stop Up”** means that highway land ceases to be a highway and the public rights of way are extinguished when an applicant completes the road closing process through the proper authority (Council).

2. DAMAGES

- 2.1 A owner and/or occupant of land or anyone acting on behalf of an owner and/or occupant of land shall not permit the crossing of curbing s, sidewalks or paved boulevards by vehicles delivering materials to or removing materials from abutting land on which a dwelling and/or building may or may not be erected.
- 2.2 The Chief Building Officer upon issuing a building permit may require the applicant to pay a deposit to the Municipality.
- 2.3 This money held on deposit shall be used to meet the cost of repairing any damage to the sidewalk, curbing, or paved boulevard, or to any water service box or other service therein caused by the crossing thereof by such vehicles.
- 2.4 The owner and/or occupant of the land shall take all necessary steps to prevent building material, waste, soil, or any other thing from being spilled or tracked onto a highway by vehicles going to or coming from the land.
- 2.5 In addition to any penalty otherwise provided by law, the owner and/or occupant shall be responsible to the Municipality for the cost of removing such building material, waste, soil, or any other thing. Such cost may be deducted from the deposit if applicable.
- 2.6 If the cost of the repair exceeds the deposit the owner and/or the occupant shall be liable to pay excess cost to the Municipality on demand and the Municipality will pursue any other collection mechanisms available to the Municipality pursuant to the Regulations or at law which may include deeming the outstanding amount to be unpaid taxes and adding this outstanding amount to the tax roll and collecting it in the same manner as Municipal Taxes.

3. ENCROACHMENT

- 3.1 Subject to any written agreement with the Municipality to the contrary the owner or occupant of land shall remove any doorsteps, porches or other erections or things projecting into or over any highway or bridge.
- 3.2 In addition to any penalty otherwise provided by law, the owner and/or occupant shall be responsible to the Municipality for the cost of removing any doorsteps, porches or other erections or things projecting into or over any highway or bridge.

4. OBSTRUCTION

- 4.1 No person shall build or maintain a fence on any highway or place or deposit firewood or any other thing calculated to obstruct it or to obstruct or interfere with public travel on it, on any highway or bridge.
- 4.2 Any person who has built, maintained, placed, or deposited any such thing calculated to obstruct any highway or bridge or interfere with public travel on it, on any highway or bridge, shall be required to remove such thing.
- 4.3 No person shall stop up a public highway without doing so according to law and shall be guilty of an offence.
- 4.4 In addition to any penalty otherwise provided by law, the person who has placed any thing on a highway calculated to obstruct it or to obstruct or interfere with public travel on it, on any highway or bridge, shall be responsible to the Municipality for the cost of removing such things.

5. WASTE AND DEBRIS

- 5.1 No person shall throw, place, or deposit any dirt, filth, glass, handbills, paper or other rubbish or the carcass of any animal, on any highway or bridge.
- 5.2 No person shall dump or dispose of residential wastes, commercial wastes, industrial wastes, or any other waste on a public highway and shall be guilty of an offence.

6. CULVERTS DITCHES

- 6.1 No person shall obstruct any culvert or ditch upon a highway.
- 6.2 No person shall dump or dispose of sewage, other than natural surface drainage or surface storm water, in a culvert or ditch upon a highway and shall be guilty of an offence.
- 6.3 No person shall dump residential wastes, commercial wastes or industrial wastes in a culvert or ditch upon a highway and shall be guilty of an offence.
- 6.4 In addition to any penalty otherwise provided by law, the person who has dumped commercial wastes and industrial wastes on a highway, or in the culverts or ditches upon a highway shall be responsible to the Municipality for the cost of removing such commercial and industrial wastes.

7. LIVESTOCK AND ANIMALS

- 7.1 No owner or person in charge of cattle, horses, livestock, or other animal shall permit such animals to run at large or trespass upon a highway or bridge.
- 7.2 No owner or person in charge of cattle, horses, livestock, or other animal shall fail to remove excrement from a highway or a bridge.
- 7.3 No owner or person in charge of cattle, horses, livestock or other animal or animals shall permit such animal or animals to trespass upon private property.
- 7.4 All of the provisions of the *Pounds Act, R. S. O. 1990, c.P.17*, shall apply to the Corporation of the Municipality of Magnetawan.

8. PENALTIES

8.1 Every person and/or owner and/or occupant who contravenes and/or directs another person(s) to contravene and/or permits another person the doing of any act which contravenes any of the provisions of this By-law is guilty of an offence and may be subject to:

- fees, fines, penalties, and/or charges under the Administrative Monetary Penalties By-law and/or
- fees or charges as per the current Fees and Charges By-law and/or
- upon conviction is liable to a fine, to a maximum of \$5,000 (five thousand dollars) for each offence exclusive of the costs, as prescribed by the *Provincial Offences Act, R.S.O. 1990, c.P. 33*, as amended.

And further, in addition to any other remedy and to any other penalty the person convicted may also be prohibited from continuing or repeating the offence in accordance with the provisions of section 442 of the *Municipal Act*.

8.2 Fees, fines, penalties, and/or charges are as Schedule "A" attached for 2023 and are to be incorporated into the current Fees and Charges By-law. Any changes to Schedule "A" will be made during the annual updating of the Fees and Charges By-law and will be contained therein.

9. ENFORCEMENT

9.1 That this By-law shall come into force and effect on the date of passing.

9.2 Nothing herein shall be deemed to limit the ability of the Ontario Provincial Police to enforce this By-law at any time.

9.3 The enforcement of the By-law is assigned to any By-law Enforcement Officer for the Municipality of Magnetawan.

10. REPEAL

10.1 That By-law 2000-29 and previously conflicting Bylaws are hereby repealed.

11. SEVERABILITY

11.1 All sections of this By-law shall be deemed to be separate and independent and the invalidity of any section or provision thereof shall not affect the remaining sections.

Read a FIRST, SECOND, and THIRD time and finally PASSED this 12th day of July 2023

THE CORPORATION OF THE
MUNICIPALITY OF MAGNETAWAN



Mayor



CAO/Clerk



Municipality of
Magnetawan

SCHEDULE "A"

TO BY-LAW 2023-*28* Road Fouling

Part 1 Provincial Offences Act

Item	Short Word Form Wording	Provision Creating/Defining Offence	Set Fine
1	Crossing curbing, sidewalk, or paved boulevards	2.1	\$500
2	Spill or track building material, waste, or soil	2.4	\$300
3	Failure to remove any doorsteps, porches or other erections or things	3.1	\$500
4	Build/maintain fence – Obstruct or interfere with public travel	4.1	\$500
5	Failure to remove obstruction	4.2	\$500
6	Stop up public highway	4.3	\$500
7	Throw, place, deposit rubbish or animal carcass	5.1	\$500
8	Dump/dispose of waste on highway	5.2	\$500
9	Obstruct culvert or ditch	6.1	\$300
10	Dump sewage in culvert or ditch	6.2	\$500
11	Dump waste in culvert or ditch	6.3	\$300
12	Permit animal(s) to run at large/trespass on highway or bridge	7.1	\$500
13	Permit animal(s) to trespass on private property	7.3	\$500
14	Failure to remove excrement	7.2	\$500

Note: The general penalty provision for the offences listed above is section 8.1 of By-law 2023-*28*, a certified copy of which has been filed.

OFFICE OF THE REGIONAL SENIOR
JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
3rd FLOOR, SUITE 303
SUDBURY, ONTARIO P3E 6A5



CABINET DU JUGE PRINCIPALE RÉGIONALE
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU NORD-EST

159, RUE CEDAR
3^e ÉTAGE, BUREAU 303
SUDBURY (ONTARIO) P3E 6A5

TELEPHONE/TÉLÉPHONE (705) 564-7624
FAX/TÉLÉCOPIEUR (705) 564-7620

February 14, 2024

Ms. Laura Brandt, Deputy Clerk
P.O. Box 70
Magnetawan, ON
P0A 1P0

Dear Ms. Brandt;

Re: Set Fines – Provincial Offences Act
Part I – Municipality of Magnetawan, Parry Sound District

Enclosed herewith is an original Order and an original schedule of set fines for By-law No. 2023-28, the By-law indicated in the schedule. Please ensure that a copy of the said documents is forwarded to the Provincial Offences Office, which has jurisdiction for the Municipality of Magnetawan.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

I have forwarded the copy of the Order and the schedules of these set fines to the Ontario Court of Justice in Parry Sound, together with a certified copy of the By-Law.

Yours truly,

A handwritten signature in blue ink that reads "Karen Lische".

KAREN LISCHE
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

KLL/hrd

Encl.

c.c.: His Worship Gary McMahon, Regional Senior Justice of the Peace
Her Worship Ruby Beck, Local Administrative Justice of the Peace

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February 14, 2024

Ms. Melissa Adams, Crown Counsel
Crown Law Office, Criminal
720 Bay Street, 10th floor
Toronto, Ontario
M5G 2S9

Dear Ms. Adams:

RE: Set Fines - Provincial Offences Act
Part I, Municipality of Magnetawan, Parry Sound District

Please find enclosed a copy of an Order dated February 14, 2024, and a copy of a letter to Ms. Laura Brandt, Deputy Clerk.

Should you have any questions, please do not hesitate to contact me at (705) 564-7624.

Yours truly,

A handwritten signature in blue ink that reads 'Karen Lische'.

KAREN LISCHE
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

KLL/hrd

Encl.

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PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-Law No. 2023-28, of Municipality of Magnetawan, Parry Sound District, attached hereto is the set fine for that offence. This Order is to take effect February 14, 2024.

Dated at the City of Greater Sudbury, this 14th day of February, 2024.

A handwritten signature in blue ink that reads "Karen Lische".

KAREN LISCHE
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE



Municipality of
Magnetawan

SCHEDULE "A"

TO BY-LAW 2023-28 Road Fouling

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K. Krasch