

THE CORPORATION OF THE TOWNSHIP OF EAST HAWKESBURY

BY-LAW NUMBER 2021-63

BEING A BY-LAW TO AUTHORIZE THE EXECUTION OF A SERVICE CONTRACT BETWEEN THE CORPORATION OF THE TOWNSHIP OF EAST HAWKESBURY AND GRS SANITATION INC. FOR THE COLLECTION AND TRANSPORTATION OF NON-HAZARDOUS WASTE.

WHEREAS *Subsection 8(1) of the Municipal Act, 2001, S.O. 2001, Chapter 25* states, *inter alia*, that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to govern its affairs as it considers appropriate;

AND WHEREAS *Section 9 of the Municipal Act* states that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS *paragraph 3 of Subsection 11(3) of the Municipal Act* states, *inter alia*, that a lower-tier municipality may pass by-laws, subject to the rules set out in Subsection (3), respecting waste management;

AND WHEREAS *paragraph 3 of the "TABLE" entitled "Waste management" under Section 11 of the Municipal Act* does not assign this sphere of jurisdiction to an upper-tier municipality and, in such, being a lower-tier sphere of jurisdiction;

AND WHEREAS the Council of The Corporation of the Township of East Hawkesbury now deems it necessary and appropriate to enter into an agreement with GRS Sanitation Inc. for the collection and transportation of non-hazardous waste;

NOW THEREFORE the Council of The Corporation of the Township of East Hawkesbury hereby enacts as follows:

1. **THAT** a Services Agreement, the same being identified as Schedule "A" attached hereto and forming part of this By-Law, for the collection and transportation of non-hazardous waste, be authorized and is hereby approved.
2. **THAT** the Mayor and the Clerk be and they are hereby authorized to execute the said Agreement, the same being identified as Schedule "A" attached hereto and forming part of this By-Law, and they are further authorized to execute all other documents in order to give effect to these presents.
3. **THAT** if a court of competent jurisdiction should declare any part or paragraph of this By-Law including any part of the attached agreement identified as Schedule "A" attached hereto and being part of the By-Law to be invalid or *ultra vires*, such part or paragraph shall not construed as having persuaded or influenced the Council to approve the remainder of this By-Law including the attached Schedule "A" and therefore it is declared hereby that, under such circumstances, the remainder of this by-law including Schedule "A" shall be valid and shall remain in force.
4. **THAT** this By-Law shall take effect only upon the adoption of the two parties, being the Corporation of the Township of East Hawkesbury and GRS Sanitation Inc., of the said agreement as identified as Schedule "A" attached hereto and forming part of this By-Law.

READ A First, Second and Third Time and Enacted and Passed this 12th day of October, 2021.

Robert Kirby- Mayor

Hémi Villeneuve – Clerk

Contract for Services

Between:

The Corporation of the Township of East Hawkesbury
Hereinafter called the "Municipality"

and

GRS SANITATION INC.
Hereinafter called "GRS"

WHEREAS the Contract for the collection and transportation of non-hazardous waste with GRS Sanitation Inc. is expiring on December 31, 2021,

WHEREAS the Municipality is satisfied with the services provided by GRS Sanitation in the last nineteen years and is desirous to enter into a new contract with said contractor,

WHEREAS the Municipality has passed By-Law 2021-63 authorizing the Municipality to enter into an agreement with GRS Sanitation Inc. whereas GRS Sanitation Inc will collect on a regular basis non-hazardous solid waste from all ratepayers within the Municipality and transport it to a designated site known as the GFL landfill site,

WHEREAS the Municipality is responsible to enter into an agreement with GFL Environmental Inc. for the disposal of said waste,

WHEREAS GRS Sanitation Inc. is presently providing such a service to the Municipality and it has done so since January 15th, 2003 and;

WHEREAS both the Municipality and GRS Sanitation Inc. are intent upon entering into a written contract for the collection and transportation of non-hazardous waste;

NOW THEREFORE IN CONSIDERATION OF the sums expressed herein the parties hereto agree as follows:

1. **Definitions:** Assessed property: shall mean every assessed property within the Municipality upon which a residential, commercial, industrial or institutional premises is situated.
2. **Nature of Agreement:** GRS shall collect non-hazardous solid waste from all ratepayers within the Township including residential, commercial, industrial and institutional properties on a regular basis as specified below and transport the waste using its own vehicles, including "Packer" type equipment, when possible, to the GFL site (legal description of site attached as schedule "B").
3. **Regular pick-up schedule:** GRS shall be responsible to make one pick-up every seven (7) days from every assessed property. The day of pick-up shall be the same from week to week as previously agreed between the parties. Any variation of the specified day of pick-up shall only occur with the knowledge and consent of the Municipality. In such event GRS Sanitation Inc. shall incur any cost attributable to notifying the ratepayers of such change. Both Parties intend that any such notice would be delivered to the ratepayers at least forty-eight (48) hours prior to the usual day of pick-up.
4. **Term of Agreement:** **The** Parties intend that this Agreement be for a period of six (6) years effective January 1st, 2022 to December 31st, 2027.

5. **Consideration - Monetary Compensation to GRS Sanitation Inc.:** The Municipality shall pay to GRS for its services to the Municipality the following:

- (i) the sum of one hundred thirteen dollars and ninety-six cents (\$113.96) plus HST per assessed property coded RU, FRU and RDU as per last revised assessment roll for the year.
- (ii) the sum of one hundred thirteen dollars and ninety-six cents (\$ 113.96) plus HST multiplied by the domestic equivalent specified for each of the commercial, industrial and institutional establishments listed in Schedule "C" of each annual taxation by-law. For example: a commercial establishment with a domestic equivalent of 2, means the Municipality shall pay GRS 2 x \$113.96 or \$227.92 annually plus HST.
- (iii) the Parties acknowledge that because the number of assessed properties may fluctuate during any given year, the Municipality shall make the adjustment at the end of the given year.

The fixed annual fee charged by GRS shall be increased January 1st, 2023 and for each subsequent year effective January 1st, by the cost of living if greater than zero. The cost of living is established by calculating “the annual average of the previous calendar year Consumer Price Index (CPI) for the Province of Ontario released monthly by Statistic Canada.

<https://www.statcan.gc.ca/eng/subjects-start/prices and price indexes/consumer price indexes>

iv) **Fuel Cost Adjustment (FCA)**

The Township of East Hawkesbury will make adjustments to the monthly payment owing the contractor to compensate for fluctuations in the price of diesel fuel only, based upon changes to the Ministry of Transportation Fuel Cost Adjustment Index (FCAI). The index will be as calculated by the Ministry of Energy and published monthly in the Ministry of Transportation Contract Bulletin for each calendar month and will reflect the previous month’s prices.

For FCAI see:

<https://www.raqs.merx.com/public/bulletin/bulletin.jsf>

An FCA per liter of diesel fuel will be made each month when the FCAI for the month differs by more than ten (10) cents per liter from the FCAI for the month of the tender closing date as follows:

1. When the FCAI differential is equal to or less than ten (10) cents per liter there will be no FCA for that month;
2. When diesel fuel prices rise more than ten (10) cents per liter as per the FCAI, the FCA per liter will be the FCAI for the month being invoiced less that of the tender closing, less ten (10) cents, paid with the monthly payment;
3. When diesel fuel prices fall more than ten (10) cents per liter as per the FCAI, the FCA per liter will be the FCAI for the month being invoiced less that of the tender closing, plus ten (10) cents, withheld from the monthly payment.

For the purposes of the calculation of the FCA, the contractor must provide the Township of East Hawkesbury with their monthly invoice for payment detailed diesel fuel consumption figures for the previous month.

The FCA will be calculated using the following formula:

$$FCA = DCF \times (FCAI(m) - FCAI(rfp) \pm 10) / 100$$

iv) **Fuel Cost Adjustment (FCA) (cont'd)**

FCA = fuel cost adjustment

DCF = diesel fuel consumption

FCAI(m) = fuel cost adjustment index for the month being invoiced

FCAI (rfp) = fuel cost adjustment index for the month of the closing date.

Examples:

FCAI (rfp) = 92.00

DCF= 10,000 liters

(1) if FCAI(m) = 98.50, then FCA = 10,000 x (98.50-92.00-10)/100 = \$350.

(2) if FCAI(m)=85.50, then FCA=10,000 x (85.50-92.00+10)/100= (\$350.)

The fuel cost adjustment index (FCAI (rfp)) used as a starting point will be the month of December from the previous year.

6. **Nature of waste collected:**

- (i) GRS acknowledges receipt of a copy of those parts of the agreement between GFL and the Municipality dated December 13, 2010 relating to the nature or type of waste which the Municipality is entitled to deposit at the GFL site. GRS agrees to abide by the terms of that Agreement and shall not pick up or haul any form of waste / garbage which is not authorized within the GFL - Municipality Agreement.
- (ii) Notwithstanding the obligation of GRS to make its Board of Directors aware of the nature and type of waste which is permitted to be deposited at the GFL site, GRS acknowledges that attached hereto as Schedule "B" to this Agreement is a list (not to be considered exhaustive) of various types of waste which is not acceptable and is not to be picked up. nor delivered to the GFL site by GRS Sanitation Inc or its agents.
- (iii) Only the 240 liters container, with an identification number and municipal logo, provided by the municipality, will be accepted for the disposal of household garbage or other waste unless existing container already meets our specifications and as been properly identified with our logo.
- (iv) Commercial garbage will be invoiced as per attached Schedule "C".
- (v) Large items: Each household is permitted to place 2 large items see Schedule "B" for items with restrictions and items not permitted for curb on the 3rd Tuesday of each month. Pick up will be done within that week.
- (vi) Tires: Each household is permitted to place 6 tires per year at curb on the 3rd Tuesday of any month. Pick up will be done within that week.
- (vii) Leaves and Yard Waste: Each household is permitted to place on the 3rd Tuesday of November. Pick up will be done within that week.

7. **Insurance:** GRS shall have in effect prior to execution of this Agreement a policy of Insurance which insures it against claims of any kind arising from the pick-up of the waste within the Municipality and the deposit of waste at the GFL site.

The policy of insurance shall be for a total amount of no less than \$5,000,000.00 (five million dollars).

The policy of insurance shall include an endorsement that the Municipality is named in the policy as a third party insured. A copy of the Endorsement shall be attached hereto as Schedule "D".

8. **Indemnity:**

- (i) GRS acknowledges and accepts all risk arising or pertaining to:
 - (a) the performance, partial performance or non-performance of its duties under the contract with the Municipality.
 - (b) the ownership, possession, use or operation of any garbage removal equipment or arising from any occurrence occasioned, whether in whole or in part, whether directly or indirectly, by any act, breach, omission, fault, default, or negligence of GRS or those for whom it is in law responsible.

8. **Indemnity (Cont'd)**

- (ii) GRS shall promptly indemnify and save harmless the Municipality from any and all claims, demands, actions, damages, losses or property damage arising directly or indirectly from the ownership, possession, use or operation of any garbage removal equipment or arising from occurrence occasioned, whether in whole or in part, whether directly or indirectly by any act, breach, omission, fault, default or negligence of GRS or those for whom in law it is responsible. In case the Municipality, through no fault of its own shall be made a party to any litigation commenced by or against GRS, GRS shall protect and hold the Municipality harmless and shall pay all costs, expenses and professional and legal fees incurred or paid by the Municipality in connection with such litigation. The indemnities contained herein shall not be prejudiced by and shall survive the termination of this agreement.

9. **Termination:** This Agreement and the rights conferred upon a party may be terminated at the option of either of them upon the occurrence of one or more of the following events:

- (i) If GRS fails to observe or perform any of the covenants or conditions of this Agreement to be observed or performed by it hereunder and such default is not cured within 30 days of written notice from the Municipality specifying the nature of the default;
- (ii) if the representations and warranties of GRS are not true, in all material respects, at any time during the term;
- (iii) upon GRS becoming bankrupt or insolvent or taking or attempting to take advantage of any statute for relief of bankrupt or insolvent debtors. Or a petition in bankruptcy being filed by or against GRS, or GRS commencing or becoming subject to any process that might result in its bankruptcy or liquidation, or GRS making any general assignment for the benefit of creditors, or receiver and/or manager being appointed over its assets or an application made therefore, or a resolution being passed or petition being filed or any order being made for the winding-up of GRS.

For greater certainty, neither party may exercise rights to terminate this Agreement, in accordance with this section, solely as a result of its own default.

The parties hereto further agree that prior to termination taking effect, the parties shall avail themselves of the dispute resolution (clause 12) section of this Agreement and termination shall only occur once the dispute

resolution has taken place or SIXTY (60) DAYS following the end of the notice period, whichever occurs first.

10. **Right to assign this Agreement:**

GRS Sanitation Inc. shall not be entitled to assign all or any part of this Agreement without the prior written approval of the Municipality.

11. **Effective date:**

That this Agreement shall become binding upon the final passing of By-law 2021-63 by the Municipality and upon execution of this Agreement.

12. **Dispute Resolution:**

(i) The Parties will endeavor to resolve any differences between them on any matter in this agreement by negotiations between or by their lawyers, and, unless there is an emergency, neither party will initiate any other procedure until negotiations have exhausted all reasonable possibilities of resolution.

13. **Dispute Resolution (cont'd)**

(ii) The parties may choose to facilitate their negotiations (whether conducted between themselves or by their lawyers) by the appointment of a mediator they select. If negotiations are conducted with the assistance of a mediator and no agreement is reached, the mediator will disclose only this fact and make no report unless otherwise directed by both Parties;

(iii) No evidence of anything said or any admission or communication made in the course of the negotiations or mediation is admissible in any legal proceeding except with the consent of both parties;

(iv) If it is unreasonable to expect a difference between the parties to be resolved by negotiation or continued negotiations then every such dispute, difference or disagreement shall be referred to a single arbitrator, if GRS and the Municipality agree upon one, and failing agreement, a single arbitrator to be appointed by a Judge or a Court of competent jurisdiction in the Province of Ontario such arbitration to be conducted in accordance with the Arbitration Act of the Province of Ontario, as amended from time to time, and every award or determination thereof shall be final and binding upon the Parties with no right of appeal therefrom.

NOTICE:

Any notice, demand, request, consent or objection required, contemplated or permitted to be given or made by any provision of this Agreement shall be in writing and shall be delivered or sent by registered mail, postage prepaid, (except during a postal disruption or threatened postal disruption, in which case delivery shall be by hand to such address during normal business hours) addressed as follows:

GRS SANITATION INC.: 5520 County Road 14
St-Eugène ON KOB 1PO

**THE CORPORATION OF THE TOWNSHIP
OF EAST HAWKESBURY:**

5151 County Road 14
Box 340, St-Eugène ON KOB 1PO

Or to such other address as either party may from time to time designate by notice in writing. The time of giving or making such notice, demand, request, consent or objection shall be on the third (3rd) business day after the date of mailing, or upon receipt if delivered by hand.

Dated this 12 day of October 2021 at the Township of East Hawkesbury, in the County of Prescott.

The Corporation of the Township of East Hawkesbury

Per: _____
Mayor

Per: _____
Clerk

Seal

GRS SANITATION INC.

Per: _____
Pierre-Luc Sauvé - President

Seal

I have authority to bind the Corporation.

SCHEDULE “A”
(GFL Site)

Lots 17 and 18, West Half of Lot 16, Concession 10, Township of North Stormont, United Counties of Stormont, Dundas and Glengarry;

SCHEDULE “B”

(list of non-acceptable waste)

Category	Example	Pickup location
Hazardous Industrial Waste	Solvents, Wood preservatives, Paint	See website for prescribed collection dates and location.
Severely Toxic	Cyanide,	See website for prescribed collection dates and location.
Ignitable Waste	Propane, fuel or gas tanks, Used oil	See website for prescribed collection dates and location.
Corrosive Waste	Acid, Car Batteries	See website for prescribed collection dates and location.
P.C.B. Waste	Electrical transformers	See website for prescribed collection dates and location.
Bio-medical Waste	Medical Waste, drugs	Contact your local pharmacist
Any appliance containing Freon	Fridge, Freezer, Air Conditioner	Contact your Local Scrap yard
Plastic covering	hay bales only	Town Hall container
Construction materials and demolition waste	Gyprock, Flooring, Wood, Window and Doors	Contact your local waste disposal
Automobiles	vehicles, or any part	Contact your Local Scrap yard
Metal	Fences, fence posts, fence wire, bicycle, Tin	Contact your Local Scrap yard
Electronique appliances	Television, computers, printers	Contact Recycle Action (Convex Group) for disposal

(list of acceptable waste with restrictions)

Pool filters and water softener tanks	Water and Sand must be emptied
Branches	Bundled and tied measuring no more than 1.2 m (4 ft) long

SCHEDULE “C”

(List of commercial garbage)

Roll Number	Street #	Property Street Name	Mailing Address 3	# Unit
00102900.0000	1500	GRANDE MONTÉE	CHUTE A BLONDEAU, ON K0B1B0	1
00102910.0000	1750	GRANDE MONTÉE	CHUTE A BLONDEAU, ON K0B1B0	2
00103300.0000	1950	GRANDE MONTÉE	CHUTE A BLONDEAU, ON K0B1B0	7
00119904.0000	3235	FRONT RD	HAWKESBURY, ON K6A2R2	7
00120120.0000	3435	COUNTY RD 17	HAWKESBURY, ON K6A2R2	1
00125449.0000	3780	COUNTY RD 17	GRENVILLE-SUR-LA-R, QC J0V1B0	1
00203355.0000	1570	CONCESSION 1	CHUTE-A BLONDEAU, ON K0B1B0	6
00208400.0000	3650	PATTEE RD	HAWKESBURY, ON K6A2R2	1
00403775.0000	725	COUNTY RD 10	ST- EUGENE, ON K0B1P0	1
00510502.0000	3270	COUNTY ROAD 10	VANKLEEK HILL, ON K0B1R1	2
00602705.0000		CONCESSION 7 RD	ST EUGENE, ON K0B1P0	1
00605400.0000	1575	CONCESSION 7 RD	ST EUGENE, ON K0B1P0	2
00607000.0000	2050	CONCESSION 6 RD	DALKEITH, ON K0B1E0	1
00703405.0000	965	COUNTY RD 18	STE ANNE DE PRESCOTT, ON K0B1M0	1
00806150.0000	1800	COUNTY RD 18	DALKEITH, ON K0B1E0	1
03110505.0000	1988	PRINCIPALE ST	CHUTE A BLONDEAU, ON K0B1B0	9
03110700.0000	2005	PRINCIPALE ST	ST. EUGENE, ON K0B1P0	3
03200100.0000	915	LABROSSE ST	ST-EUGENE, ON K0B1P0	1
03200120.0000	935	LABROSSE ST	ST EUGENE, ON K0B1P0	1
03201800.0000	1081	LABROSSE ST	ST EUGENE, ON K0B1P0	1
03201900.0000	1085	LABROSSE ST	ST EUGENE, ON K0B1P0	4
03202130.0000	4970	MILL ST	ST EUGENE, ON K0B1P0	10
03202600.0000		LABROSSE ST	ST. EUGENE, ON K0B1P0	1
03203400.0000	1155	LABROSSE ST	ST. EUGENE, ON K0B1P0	1
03206650.0000	1299	LABROSSE ST	ST EUGENE, ON K0B1P0	5
03212500.0000	1058	LABROSSE ST	ST EUGENE, ON K0B1P0	5
03213100.0000	1086	LABROSSE ST	ST EUGENE, ON K0B1P0	2
03213400.0000	1110	LABROSSE ST	ST EUGENE, ON K0B1P0	2
03214200.0000	1134	LABROSSE ST	ST EUGENE, ON K0B1P0	6
03215800.0000	5050	FATIMA ST	ST EUGENE, ON K0B1P0	12
03216100.0000	5085	FATIMA ST	ST EUGENE, ON K0B1P0	2
03217950.0000	5077	COUNTY RD 14	ST EUGENE, ON K0B1P0	4
03300102.0000	675	COUNTY RD 18	STE ANNE DE PRESCOTT, ON K0B1M0	5
03300400.0000	7979	COUNTY RD 14	ST EUGENE, ON K0B1P0	3
03300800.0000	7888	ARTHUR LAVIGNE ST	ST. EUGENE, ON K0B1P0	1
03301100.0000	701	COUNTY RD 18	STE ANNE DE PRESCOTT, ON K0B1M0	2
				115

SCHEDULE “D”

(Copy of insurance endorsement)