

Consolidation - July 2011

This consolidation is prepared for convenience only. For accurate reference, recourse should be had to the Original By-law and approved corresponding amendments.

THE CORPORATION OF HALDIMAND COUNTY

By-law No. 731 /06

Being a by-law respecting litter, yard waste and property maintenance

WHEREAS Sections 8, 9 and 10 of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended ("the Act"), authorize Haldimand County to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6 and 8 of subsection 10(2) authorize by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; and the protection of persons and property; and (Amended by By-law 1202/11)

WHEREAS Section 127 of the *Municipal Act*, S.O. 2001, c.25, as amended, provides that a local municipality may require an owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings; to regulate when and how such matters shall be done; to prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land; and to define refuse;

WHEREAS Section 128 of the *Municipal Act*, S.O. 2001, c.25, as amended, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become public nuisances;

~~**WHEREAS** Section 130 of the *Municipal Act*, S.O. 2001, c.25, as amended, provides that a municipality may regulate matters not specifically provided for by this Act or any other Act for purposes related to health, safety and well being of the inhabitants of the municipality;~~
(Amended by By-law 1202/11)

WHEREAS Section 131 of the *Municipal Act*, S.O. 2001, c.25, as amended, provides that a local 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;

~~**WHEREAS** Section 8 through 11 of the *Municipal Act*, S.O. 2001, c.25, as amended, provide that a municipality may pass by-laws respecting, inter alia, waste management;~~
(Amended by By-law 1202/11)

~~**WHEREAS** Section 427 of the *Municipal Act*, S.O. 2001, c.25, as amended, provides that where a municipality has authority by by-law or otherwise, to direct that a matter or thing be done, the municipality may direct that, in default of it being done by the person required to do it, such matter or thing be done by the municipality at the person's expense and the municipality may recover the expense incurred by action or by adding the cost to the tax roll and collecting the cost in the same manner as taxes;~~
(Amended by By-law 1202/11)

WHEREAS Sections 446 (1) and 446 (3) of the Act provide that where a municipality has authority by by-law or otherwise, to direct that a matter or thing be done, the municipality may direct that, in default of it being done by the person required to do it, such matter or thing be done by the municipality at the person's expense and the municipality may recover the expense incurred by action or by adding the cost to the tax roll and collecting the cost in the same manner as taxes; and
(Amended by By-law 1202/11)

AND WHEREAS Council desires to pass a by-law:

- (a) for the maintenance of yards by owners and occupants;
- (b) prohibiting the keeping of domestic and industrial waste on lands;
- (c) prohibiting littering on public and private land;
- (d) regulating the salvage of motor vehicles and their components with the intent of promoting proper recycling and reuse of resources, the limiting of waste and wasteful practices, the limiting or eliminating of nuisances, particularly from waste and naturalized areas to other properties in the municipality, and the limiting and eliminating of other unhealthy practices and conditions arising from litter, refuse or neglect;

NOW THEREFORE, the Council of the Corporation of Haldimand County enacts as follows:

PART I – DEFINITIONS

- 1. In this by-law,
 - a. "*Agricultural Operation*" means an agricultural operation as defined by the *Farm and Food Protection Act*;
 - b. "*County*" means the Corporation of Haldimand County;
 - c. "*Domestic waste*" shall mean any debris, rubbish, refuse, sewage, effluent, discard, or *garbage* of a type arising from a residence, belonging to or associated with a house or use of a house or residential property, which for greater certainty includes all garbage, discarded material or things, broken or dismantled things, and materials or things exposed to the elements, deteriorating or decaying on a property due to exposure or the weather, and for even greater certainty, it is hereby declared that "domestic waste" includes but is not limited to the following classes of materials regardless of the nature or condition of the material, article or thing:
 - i. broken or torn bits of twigs, splinters or rags, tree cuttings or cut limbs and brush from any shrub or tree, waste lumber, except only cut and stacked firewood for use in a fireplace on the property;
 - ii. paper, paper cartons, and other paper products;
 - iii. rotting vegetable matter, or rotting animal matter;

- iv. appliances, including refrigerators, stoves, dishwashers, microwaves, freezers or any part or parts of such things;
- v. electronic devices, including televisions, computers and related components, radios, amplifying devices, speakers, audio and visual players and any parts of such things;
- vi. furnaces or furnace parts, air-conditioners, ducting, pipes, heat pumps, fittings, pipes and wire;
- vii. water or fuel tanks;
- viii. inoperative vehicles or machinery, inoperative motor vehicles, and parts or accessories of such items;
- ix. inoperative bicycles, lawnmowers, engines, and mechanical tools;
- x. accumulations, deposits, leavings or sweepings of litter, remains, rubbish, or trash or any sort, whether animal, mineral or vegetable;
- xi. broken or indoor furniture
- xii. crockery, dishes, pots and pans, and small kitchen appliances;
- xiii. sewage;
- xiv. animal waste products, hides, parts of carcasses other than those arising from industrial or agricultural businesses legally operated on the land; and
- xv. construction, demolition, repair or renovation debris or leftover from such work;

Domestic waste as defined in this by-law does not cease to become domestic waste by reason only that it may be commercially saleable or recyclable.

- d. *“Industrial waste”* shall mean debris, rubbish, refuse, sewage, effluent, discard or garbage of a type arising from industrial or commercial operations, or belonging to or associated with industry or commerce or industrial or commercial property, which for greater certainty includes all garbage, discarded material or things, broken or dismantled things, and materials or things exposed to the elements, deteriorating or decaying on the property due to exposure or the weather, and for even greater certainty it is hereby declared that *“industrial waste”* includes but is not limited to the following classes of material regardless of the nature or condition of the material, article or thing:
 - i. debris, discarded things or matter, or effluent which in whole or in part are derived from or are constituted from or consist of,
 - 1. animal or vegetable matter, paper, lumber or wood, or
 - 2. mineral, metal or chemicals or fill contaminated with petrochemical or petroleum products;

- ii. piles of miscellaneous plastic, wood or metal parts, or combinations of such materials;
- iii. automotive parts not packaged for immediate shipment, inoperative vehicles, vehicle parts, inoperative mechanical equipment, mechanical parts, accessories or adjuncts to the vehicles and mechanical equipment not contained in a legal salvage yard;
- iv. motor vehicle parts, including tires, wheel rims, engines, body parts, windows, drive train components etc.
- v. inoperative vehicles or machinery, inoperative motor vehicles, and parts or accessories of such items;
- vi. piping, ducting, tubing, conduits, cable, wire and fittings or related accessories, with or without adjuncts and not packaged for immediate shipment;
- vii. material resulting from or as a part of, construction, demolition, repair or renovation projects including debris and leftovers;
- viii. rubble or fill;
- ix. bones, feathers, hides or other animal parts or carcasses;
- x. sewage;
- xi. dust emanating from the operation of the enterprise;
- xii. ashes; and
- xiii. broken bricks, concrete or asphalt.

Industrial Waste as defined by this by-law does not cease to be industrial waste by reason only that it may be commercially saleable or recyclable.

- e. *“Inoperative motor vehicle”* shall mean and includes any motor vehicle other than a motor vehicle, which is currently licensed, and operable and regularly driven by an owner or occupant of the property on which it is stored, unless it is permitted for the operation of a business enterprise lawfully situated on the property.
- f. *“Inoperative Vehicles , Machinery, Trailers or Boats”* shall mean such items that are unable to operate as a result of being dismantled, broken or incomplete, decayed or dilapidated, and in particular includes vehicles with missing part(s), wheel(s), tire(s), engines, drive train or body components or window(s) including any vehicle, machinery, trailer or boat remaining on the property for a period of three months, unless such item is operable, not dismantled, broken or incomplete, decayed or dilapidated and it’s use is permitted under the zoning by-law or is necessary for the operation of a business enterprise lawfully situated on the property;

Amended by
By-law
1202/11
Alphabetized
“a” in error.
Revised to “f”
and realpha-
betized
remaining.

- g. “*Last known address*” shall mean the address, which appears on the last revised assessment rolls of the corporation;
- h. “*Municipally owned land*” shall mean property owned or maintained by the Corporation of Haldimand County shown on the last revised assessment roll and shall include all municipal road allowances and rights-of-way.
- ~~h. “*Naturalized area*” means land or a portion of lands covered by vegetation which is landscaped and maintained with a variety of flowers or plants, with or without grasses, or left to grow a variety of indigenous plants;~~
(Amended by By-law 1202/11)
- i. “*Naturalized area*” means land or portion of lands, not consisting of cut lawns and tended flower beds, which is covered by vegetation and is deliberately landscaped and planted, monitored, tended to and regularly maintained with a variety of flowers or plants or grasses; and
(Amended by By-law 1202/11)
- j. “*Officer*” shall mean a Municipal Law Enforcement Officer, a Building Inspector, a Fire Chief, a Deputy Fire Chief, a Fire Prevention Officer or a Health Inspector or other person appointed or employed by the County for enforcement of by-laws and includes police officer;
- k. “*Occupant*” means any person or persons over the age of 18 years in possession of the property;
- l. “*Owner*” includes,
- i. the 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 the person’s own account or as agent or trustee of any other person, or who would receive the rent if the land and premises were let, and
- ii. a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of the property;
- m. “*Order*” shall mean any notice of non-compliance issued under this by-law;
- n. “*Person*” shall mean an individual, firm, corporation, association or partnership and includes an owner;
- o. “*Refuse*” shall include all manner of waste, debris and sewage as provided for or defined in this by-law but does not include a building or buildings on a property, but does include parts or pieces of such structures on the property that are dismantled or are rubble, or which have become detached from a building, whether by construction, demolition, damage or deterioration and any article, thing, matter, substance or effluent that:
- i. has been cast aside, discharged or abandoned, or
- ii. is disused from its usual and intended use, or

- iii. is used up, in whole or in part, or expanded or worn out, in whole or in part; and
- iv. shall include domestic and industrial waste.
- p. “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;
- q. “Turf Grass” shall mean ground cover comprised of one or more species of growing grass with or without trees, shrubbery or maintained planting beds for other vegetation;
- r. “Vacant Lands” shall mean lands with no building(s) or having no land uses established.
- s. “Vehicle” shall include an automobile, motor cycle, motor assisted bicycle, traction engine, farm tractor or farm machinery, road building machine, construction vehicle, bulldozer, backhoe, excavator, grader, ashpalter, earthmover, compactor, crane, lift, skid steer, generator, welder, streetcar or other vehicle running only upon rails, motorized snow vehicle, off road vehicle, trailer, boat, bicycle or any vehicle drawn, propelled or driven by any kind of power, including but not limited to, mechanical power, muscular power or wind.
- t. “Vehicle Parts” shall include any component or element, whether operable or not, used in the assembly, construction, maintenance or repair of a vehicle.
- u. “Watercourse” shall mean an identifiable depression in the ground, including drainage swales in which a natural flow of water occasionally, regularly or continuously flows, even if the bed is sometimes dry, and even if the banks are sometimes overflowed or submerged; and
- v. “Weed” shall mean a noxious weed designated by or under the Weed Control Act, R.S.O. 1990, c.W.5, including weed designated as a local or noxious weed under a by-law of the County passed under that Act.
- w. “Yard” shall mean land, other than publicly owned land, around and appurtenant to the whole or any part of a building (and used, or capable of being used in connection with the building).

PART II – PROPERTY & DRAIN MAINTENANCE

- 2. Every owner or occupant of land shall keep the vegetation on the property clean and cleared-up.
- 3. For the purpose of Section 2 above, “clean” or “cleared-up” shall mean:
 - a. The removal of weeds from all turf grass areas, naturalized areas, buffer strip and perimeter strips;

- ~~b. In turf grass areas, the cutting of grass so that its height is maintained below 20.32 centimetres (8 inches) in height;
(Amended by By-law 1202/11)~~
 - b. In turf grass areas, buffer strips and perimeter strips the cutting of grass so that its height is maintained below 20.32 centimetres (8 inches) in height; and
(Amended by By-law 1202/11)
 - ~~c. In a naturalized area on a residentially used parcel abutting another residential parcel, the cutting of vegetation other than trees or shrubbery so that its height is maintained below 20.32 centimetres (8 inches) along a minimum one metre (3.28 feet) wide strip immediately adjacent to the lot lines and along all boundaries of the whole lot or parcel of land which strip is herein called a “buffer strip”; or
(Amended by By-law 1202/11)~~
 - c. In a naturalized area on a residentially used parcel abutting another residential parcel, the cutting of vegetation other than trees or shrubbery in accordance with Section 3.b. along a minimum one metre (3.28 feet) wide strip immediately adjacent to the lot lines and along all boundaries of the whole lot or parcel of land which strip is herein called a “buffer strip”; and
(Amended by By-law 1202/11)
 - ~~d. In a naturalized area other than an area described by (c) above, the cutting of vegetation other than trees or shrubbery, so that its height is maintained below 20.32 centimetres (8 inches), along a minimum ten metre (32.8 feet) wide strip immediately adjacent to the lot line where the lot line adjoins a roadway or an occupied property, which strip is herein call a “perimeter strip”.
(Amended by By-law 1202/11)~~
 - d. In an area or parcel of land not consisting of cut lawns and tended flower beds, over .5 hectare (1.24 acres) in size, the cutting of vegetation other than trees or shrubbery in accordance with Section 3.b along a minimum 15 metre (49.2 feet) wide strip immediately adjacent to the lot line where the lot line adjoins a roadway or abuts a residential parcel or property, which strip is herein called a “perimeter strip”; and
(Amended by By-law 1202/11)
 - e. Notwithstanding Section 3.d. above, any area or parcel of land not consisting of cut lawns and tended flower beds, with an area of .5 hectare (1.24 acres) or less the cutting of vegetation other than trees or shrubbery, so that its height is maintained below 20.32 centimetres (8 inches) in its entirety; and
(Amended by By-law 1202/11)
4. For the purpose of Section 3(a) above, weeds shall be destroyed by the following means:
- a. pulling or otherwise removing the plants from the soil;
 - b. cutting the roots or stalks of the plants before the seeds have developed sufficiently to ripen after cutting;

- c. turning the soil in which the plants were growing so as to bury or kill the weeds;
or
 - d. in the case of poison ivy, treating it with herbicide that causes the plants to be destroyed, or which prevents the growth of plants or the ripening of their seeds, provided that nothing in this clause authorizes the use of any herbicide that is contrary to any other law in force in Ontario.
5. No owner or occupant of land shall obstruct, or cause or permit the obstruction of a watercourse on the land.
 6. Every owner or occupant of land on which there is a private drain shall keep the drain operational and in repair, and no owner or occupant of land shall obstruct, or cause or permit the obstruction of a private drain on the land, provided only that the subsequent connection of the property's private sewage system to the municipal sanitary sewer in a manner approved by the County, shall be permitted as a replacement to the private sanitary drain.
 7. Section 2 above, does not apply to crops being grown by an "Agricultural Operation".
 8. Section 2 above, does not apply to municipally owned land.
(Amended by By-law 1202/11)

PART III - LITTER

9. No person shall cause, permit, throw, place or deposit refuse and/or debris on private land without the written authority of the owner or occupant of the land.
10. No person shall throw, place or deposit refuse and/or debris on owned or occupied land by the County or a local board of the County without the written authority of the County or the local board where such land is occupied by a person other than the owner without the written authority of the occupant.
11. A person does not breach Sections 8 and 9 by placing garbage out for collection on their property in accordance with municipal by-laws and collection schedules, but no person shall leave out garbage contrary to such by-laws or schedules.
12. An owner or occupier of land shall clean or clear exterior walls of any building or structure on the land and their components so as to be free of posters, which are for the giving of notice for an event that has already occurred, or where the message contained is not readable due to damage or deterioration to the poster or its content, or where the posters are loosened, dislodged, torn or otherwise in a condition that may permit them to detach and become litter.
13. Pursuant to the Municipal Act, S.O. 2001, c.25 as amended, the cost of removal of posters by the County is collectable against the owner of the advertising device under the terms of the said Municipal Act, notwithstanding the content of this by-law.

PART IV – GARBAGE AND WASTE DISPOSAL

14. Every owner or occupant of land shall keep the property free and clear of domestic or industrial waste, or any other thing in their possession that may constitute a health, fire or safety hazard to the yard or vacant lands of another person or to any municipally owned lands.
15. No person shall use any land or structure within the County for dumping or disposing of domestic or industrial waste, or any other thing in their possession that may constitute a health, fire or safety hazard to the yard or vacant lands of another person or to any municipally owned lands.
16. The owner or occupant of land used on which domestic or industrial waste has been thrown, placed, dumped or deposited shall immediately clean and clear the land of the waste material.
17. Sections 13 and 14 do not apply to,
 - a. land or structures used by the County for the purpose of dumping or disposing of waste; or
 - b. land or structures designated by by-law for the County for the purpose of dumping or disposing of waste.
18. No person, other than the County or its agents, without the prior authorization of the County and except in accordance with such authorization, shall dump or dispose of garbage, refuse or domestic or industrial waste of any kind on lands mentioned in Section 16.

PART V – MOTOR VEHICLE SALVAGE

19. No person shall use any land or structure in the County for storing used or inoperative motor vehicles for the purpose of wrecking or dismantling them or salvaging vehicle parts thereof for sale or other disposal including the purposes of repairing other vehicles.
20. Section 18 does not apply if zoning by-laws permit the land to be used and the person holds a current and valid license issued by the County for the land, permitting motor vehicle salvage.
21. Subsections 1(c), (e) and (f) shall not apply to a motor vehicle actively being restored and repaired to a road worthy condition and to be licensed.

PART VI – ENFORCEMENT

22. The Manager of Building & By-law Enforcement or an Officer may inspect the land or structures, for the purpose of determining whether;
 - a. properties and drains are being maintained in accordance to this by-law;

- b. the land or structure is used for dumping or disposing of garbage, refuse, fill domestic waste or industrial waste of any kind;
 - c. the land or structure is used for the storage of used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or disposal;
 - d. the owner or occupant has complied with any Order sent by the Manager of Building & By-law Enforcement or an Officer; or
 - e. whether there is compliance or non-compliance with any other provision of this by-law.
23. The Manager of Building & By-law Enforcement or an Officer may make an Order, sent by prepaid regular mail to the last known address, posted on-site or personally delivered to an owner or occupant requiring the owner or occupant within the time specified in the Order to:
- a. clean and clear-up the property and to bring the property into compliance with any Section of this by-law;
 - b. repair or remove obstructions from private drains and ensure drainage and proper connection of private drains to storm or sewage systems of the County or otherwise provide for the sanitary disposal of sewage or drainage from the lands;
 - c. alter or relay a private drain or fill up any property or part of a property;
 - d. remove obstructions from watercourses;
 - e. clean, clear or remove from the land or structure any or all garbage, refuse, fill, inoperative motor vehicle, sewage, long grass, weeds, or domestic or industrial waste of any kind or any other thing that may constitute a health, fire or safety hazard;
 - f. cease using the land or structure for the dumping or disposing of garbage, refuse, fill, inoperative motor vehicles, inoperative vehicles or machinery, motor vehicle parts, domestic or industrial waste of any kind or any other thing that may constitute a health, fire or safety hazard;
 - g. clean or clear exterior walls of a building or structure, and their components free of posters which are:
 - i. for events which have already occurred or where the message contained is unreadable, or
 - ii. which are loosened, dislodged, torn or otherwise in a condition that may permit them to detach and become litter; or
 - h. indicating the time for complying with the Notice and advising the Owner that if the remedial action is not carried out within the time prescribed in the Notice, that the municipality may carry out the required remedial action at the Owner's expense.

24. Every owner or occupant shall permit the Manager of Building & By-law Enforcement or an Officer employed, upon production of identification and for the purpose of the inspection by the County, to inspect the land or structure for the purpose of Section 21.
25. Where the owner or occupant fails to comply with an Order issued under this by-law within the time specified for compliance, the Manager of Building & By-law Enforcement or an Officer, with such assistance by others as may be required and upon reasonable notice as may be required in one or more of the methods provided in Section 22, may:
 - a. clean or clear-up a property and bring it into compliance with any section of this by-law;
 - b. repair, maintain or remove obstructions from private drains, and ensure drainage and property connection of private drains to storm or sewage systems of the County or otherwise provide for the sanitary disposal of sewage or drainage from the land;
 - c. alter or relay a private drain or fill-up any property or part of a property;
 - d. remove obstructions from watercourses;
 - e. clean, clear or remove from the land or structure any or all garbage, refuse, fill, sewage, inoperative motor vehicles, inoperative vehicles and machinery, long grass, weeds or domestic or industrial waste of any kind or any other thing that may constitute a health, fire or safety hazard;
 - f. remove used motor vehicles and other machinery, and any parts, stored for the purpose of wrecking or dismantling the materials or the salvaging parts thereof for sale or other disposal; or
 - g. clean or clear exterior walls of a building or structure, and their components free of posters which are:
 - i. for events which have already occurred or where the message contained is unreadable, or
 - ii. which are loosened, dislodged, torn or otherwise in a condition that may permit them to detach and become litter;
26. Where any of the materials or things are moved in accordance with Section 24, the materials or things may be immediately disposed of by the Manager of Building & By-law Enforcement or an Officer, and any recovered salvage value or other actual recovery of money made upon such disposal shall be credited first against costs, the balance shall be refunded to the person who was in possession of the materials or things prior to their removal from the land.

27. Upon completion of the work, repairs or demolition by or on behalf of the County, the municipality shall have a lien on the land for the amount spent on the repair or demolition, and the amount shall be deemed to be municipal real property taxes and may be added by the Clerk of the municipality to the tax roll and collected in the same manner and with the same priority as municipal real property taxes as provided for by statute.
28. The Manager of Building & By-law Enforcement or an Officer is authorized to give immediate effect to any order issued under Part VI that has not been complied with by the owner, under the provisions of the Haldimand County Procurement Policy.

PART VII – OFFENCES

29. The following penalties shall apply:
 - a. Subject to subsections (b) and (c) below, every person who contravenes any provision of this by-law, is guilty of an offence and upon conviction is liable to the penalties prescribed under the Provincial Offences Act, R.S.O. 1990, c.P.33, as amended.
 - b. Every person who contravenes section 13 or 14 of this by-law is guilty of an offence and upon conviction is subject to a fine of not more than \$10,000 for a first offence and \$25,000 for any subsequent offence of such subsections.
 - c. Where a corporation is convicted of an offence under sections 13 or 14 of this by-law, the maximum penalty that may be imposed on the corporation is \$50,000 for a first offence and \$100,000 for any subsequent offence of such subsections.
30. No person shall hinder or obstruct an Officer, appointed under this by-law or employed to enforce this by-law, from carrying out an inspection of lands, nor shall any person obstruct any employee or agent authorized to carry out work for the County specified in an Order issued hereunder.

PART VIII – GENERAL PROVISIONS

31. Should a court of competent jurisdiction declare a part or whole of any provision of this by-law to be invalid, or of no force and effect, the provision is deemed severable from this by-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under the law so as to protect the public by ensuring a minimum standard.
32. In the event of a conflict between a provision of this by-law and the County's zoning by-law, the provisions of the zoning by-law shall apply.

PART XI – REPEAL & ENACTMENT

(Amended by By-law 1202/11)

PART IX – REPEAL & ENACTMENT

(Amended by By-law 1202/11)

33. The following by-laws, as amended, of the former area municipalities are hereby repealed:
- a. Town of Dunnville By-law 08-2000
 - b. Town of Haldimand By-law 299/81
34. This by-law comes into force and effect on the date of its passing and enactment.

READ a first and second time this 27th day of June, 2011.

READ a third time and finally passed this 27th day of June, 2011.

MAYOR

CLERK