

# THE CORPORATION OF HALDIMAND COUNTY

## By-law No.1507/15

### Being a by-law to license, regulate and govern salvage yards and scrap material collection bins and to repeal By-law 1341/13

**WHEREAS** Section 151 of the *Municipal Act*, 2001 S.O. 2001, c. 25, as amended (“The Act”), provides that a local municipality may provide for a system of licences with respect to a business, wholly or partly carried on within the municipality;

**AND WHEREAS** the Council of the Corporation of Haldimand County deems it expedient to enact a by-law with respect to the licensing of salvage yards and scrap material collection bins;

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

#### **PART I – DEFINITIONS**

1. In this by-law,
  - a. “*Clerk*” means the Clerk of the Corporation of Haldimand County or his or her designate;
  - b. “*Council*” means the Council of the Corporation of Haldimand County;
  - c. “*Enclosure*” means a fence constructed of sheet metal, solid wood boards, chain link or a natural barrier in the form of trees or berms, which provides a barrier and which has a minimum height of 2.13 metres;
  - d. “*Fire Chief*” means the Fire Chief of the Corporation of Haldimand County or in the alternative, someone designated to act on his or her behalf;
  - e. “*Issuer*” means the Clerk of the Corporation of Haldimand County or his or her designate;
  - f. “*Manager of Building and By-law*” means the Manager of Building and By-law Enforcement for the Corporation of Haldimand County or his or her designate.
  - g. “*Municipal Law Enforcement Officer*” shall mean a Municipal By-law Enforcement Officer appointed by Council.
  - h. “*Municipality*” means the Corporation of Haldimand County;
  - i. “*Owner*” and/or “*Operator*” includes any person, proprietorship, partnership, corporation or other entity which carries on a salvage yard and/or scrap material collection bin in the Corporation of Haldimand County;

- j. “*Person*” includes any individual, firm, corporation, association or partnership and shall include any group of persons comprising a society or other organization and shall include the plural where the context requires;
- k. “*Salvage Yard*” means any land, including buildings or structures thereon or any part thereof, where used merchandise or vehicles, or parts thereof, are dismantled, stored or processed for further use and includes a junk yard, scrap metal yard and automobile or farm machinery wrecking yard or retail sales incidental thereto;
- l. “*Scrap Material Collection Bin*” means a receptacle operated by a charitable organization or in relation to a charitable purpose, and used for the collection of scrap material from the public.

**PART II – LICENCES**

- 2. Every owner of a Salvage Yard shall procure and maintain in good standing a licence authorizing him or her to carry on or engage in the trade, calling, business or occupation of a salvage yard within the boundaries of Haldimand County.
- 3. No Person shall carry on or engage in any trade, calling, business or occupation of a salvage yard within the boundaries of Haldimand County unless he or she has a valid and current licence permitting him or her to do so.
- 4.
  - a. The requirement of obtaining a licence under this by-law is in addition to and not in substitution for any other requirement to obtain a licence or regulatory approval under any other federal, provincial or municipal regulation.
  - b. No Person shall operate a Salvage Yard and/or a Scrap material Collection Bin on any land that is not zoned for use in accordance with the applicable Haldimand County Zoning By-law.

**PART III – APPLICATION FOR A LICENCE FOR A SALVAGE YARD**

- 5. Any Person wishing to make an application for a licence in relation to a salvage yard shall file with the Issuer a completed application in the form provided by the Municipality and the following documentation
  - a. a letter of approval from the Planning Division of the Municipality to the effect that the operation of the business is unobjectionable on zoning grounds;
  - b. a letter of approval from the Fire Chief to the effect that the operation of the business is unobjectionable on fire safety grounds;
  - c. a letter from the Manager of Building and By-law to the effect that there is no objection to the operation of the business;

- d. approval from the Ministry of the Environment to the effect that the operation of the business is unobjectionable on environmental grounds;
  - e. payment of the application fee as set out in the Haldimand County User Fees and Charges by-law; and
  - f. a copy of the current site plan agreement with the Municipality, where one has been required.
6. Upon receipt of the application and documentation referenced above, the Issuer shall issue a licence to the applicant provided that all approvals set out above have been obtained.
  7. In the case of an application for renewal, a licensee shall make application at least fifteen (15) days prior to the expiration of an existing licence, and a licence shall be renewed unless the Issuer determines that the licence not be renewed, and in that event, the licensee shall be given reasonable notice and a hearing shall be conducted in the like manner to the hearing set out in Section 13 below.
  8. Prior to the issuance of any licence under this by-law, any outstanding fines owing to the Municipality that have been imposed pursuant to this licensing by-law must be satisfied.
  9. The expiry date for all annual licences under this by-law shall be June 30<sup>th</sup> of each year.
  10. A Licence issued under this by-law is non-transferable.

**PART IV – APPLICATION FOR A LICENCE FOR A SCRAP MATERIAL COLLECTION BIN**

11. Any person wishing to make an application for a licence in relation to a Scrap Material Collection Bin shall file with the Issuer a completed application in the form provided by the Municipality and the following documentation:
  - a. Concept plan outlining all of the applicable zoning provisions accompanied by a letter of approval from the Manager of Building Controls & By-law Enforcement Division; and
  - b. Signed affidavit that proceeds from material collected is for a charitable purpose, naming the specific benefitting charity or charities; and
  - c. Letter of authorization from the property owner.
12. Upon receipt of the application and documentation referenced above, the Issuer shall issue a licence to the applicant provided that all approvals set out above have been obtained.

13. In the case of an application for renewal, a licensee shall make application at least fifteen (15) days prior to the expiration of an existing licence, and a licence shall be renewed unless the Issuer determines that the licence not be renewed, and in that event, the licensee shall be given reasonable notice and a hearing shall be conducted in the like manner to the hearing set out in Section 17 below.
14. Prior to the issuance of any licence under this by-law, any outstanding fines owing to the Municipality that have been imposed pursuant to the licensing by-law must be satisfied.
15. The expiry date for all annual licences under this by-law shall be June 30<sup>th</sup> of each year.
16. A licence issued under this by-law is non-transferable.

#### **PART V - SUSPENSION AND REVOCATION OF A LICENCE**

17. If, during the term of a licence,
  - a. a licensee is convicted for contravening any provision of this by-law,
  - b. there are reasonable grounds for belief that any application or other document or information provided by or on behalf of a licensee contains a false statement or provides false information,
  - c. information contained in the original application form or any other information provided by the Issuer by or on behalf of the applicant, has ceased to be accurate and the licensee has not provided up-to-date, accurate information to the Issuer to allow the Issuer to conclude that the licence should be maintained as valid,
  - d. the licensee breaches a condition of the licence,
  - e. the Issuer becomes aware of any fact or facts which, if known at the time of the application, may have resulted in the Issuer refusing the licence,the Issuer may suspend the licence and notice of this suspension shall be given to the licensee.
18. Where the Issuer refuses to issue, or suspends a license, the Issuer shall notify the Applicant or Licensee that they may request that the Issuer's decision be reviewed by Council.
  - a. The Issuer's notice shall set out the grounds upon which the issue of the said license is refused, or suspended and shall state that the applicant or licensee may appeal such decision to Council.

- b. If the Applicant/Licencee wishes to request an opportunity to be heard before Council they must provide notice in writing to the Issuer within 15 days from the date of the Issuer's notice.
- c. Where the Issuer does not receive notice from the Applicant requesting an opportunity to be heard in accordance with subsection 18 b, the Issuer need not process the application further and no further notice is required to be served upon the Applicant. Where the Issuer does not receive notice from the Licencee requesting an opportunity to be heard in accordance with subsection 18 b, the Issuer will revoke the licence, and send notice of revocation to the Licencee.
- d. Where the Issuer has suspended a license and where the applicant or licensee has appealed such decision to Council, the license shall automatically be suspended until such time as a determination on the issue has been made by Council.
- e. Where the Issuer receives notice from the Applicant/Licencee in accordance with subsection 13b, the Issuer shall refer the matter to Council and give the Applicant /Licencee notice of the date and time when they will have the opportunity to be heard on the matter. The Clerk shall ensure that the hearing will be scheduled for a Council meeting within 30 days of notice, or at the earliest opportunity.
- f. At the meeting, Council can hear not only from the Applicant/Licencee, but also from the Issuer, other County staff, any governmental or public agency, or the general public.
- g. Council, after consideration of all evidence and all submissions made at the meeting, shall have the authority to:
  - i. order a licence be granted; or
  - ii. reinstate a licence; or
  - iii. refuse to issue a licence; or
  - iv. revoke a licence; or
  - v. impose conditions on a licence;
- h. The decision of Council shall be final.
- i. Where a Licence has been revoked upon an unsuccessful appeal by the applicant, no refund of any payment of fees paid by the applicant shall be made.

**PART VI – GENERAL PROVISIONS**

- 19. Every Owner shall,
  - a. report any change of his or her residence address to the Issuer within two (2) days of the change; and

- b. produce his or her licence to permit the change to be entered thereon at the time of notification of the change.
20. a. An Owner shall not purchase, accept in exchange, receive, or permit an employee to purchase, accept in exchange or receive any goods, articles or other chattels from:
- i. a person under the age of eighteen (18) years without the written consent of the parent or guardian of that person, or
  - ii. a person apparently under the influence of alcohol or drugs.
- b. In any proceeding under this section, the onus of proving that a person is not under the age of eighteen (18) years shall be on the Owner.
21. a. Unless otherwise exempted by a by-law or provided for in an applicable zoning by-law or site plan agreement, no Person shall operate a Salvage Yard without erecting and maintaining an Enclosure that completely encompasses the area where salvage is being stored.
- b. Every licensee shall ensure salvage is stored in a safe manner, within the enclosed area, in such a manner that it does not come into contact with the Enclosure.
- c. No Owner of a Salvage Yard shall store, display or place any merchandise outside the Enclosure for any period exceeding twenty-four (24) hours.
22. A licence issued under this by-law shall be posted in a conspicuous place on the business premises of the licensee.
23. a. An Owner of a Salvage Yard shall,
- i. make all reasonable efforts to obtain the name, address and description of any person offering to him or her, any goods or articles which he or she reasonably believes may have been stolen, or otherwise unlawfully obtained, and
  - ii. report all known facts concerning such person to the nearest police station or police officer forthwith,
- b. Without limiting the generality of subsection 18 a. i., an Owner shall report any apparent removal or defacement of a serial number or model number of any goods or articles offered to him or received by him.

24. An Owner of a Salvage Yard shall,
- i. maintain a register to record all sales and purchases in legible handwriting, printing or typing; and
  - ii. produce the register for inspection by an Municipal By-law Enforcement Officer or police officer.
25. Every Owner and/or Operator of a Scrap Material Collection Bin shall:
- a. Ensure that the area around the scrap material collection bin shall be free and clear of any scrap material and be consistent with the Property Standards By-law; and
  - b. Ensure that regular monitoring and emptying of the bin shall occur.

**PART VII – CONFLICT WITH ZONING BY-LAWS**

26. In the event of a conflict between a provision of this By-law and the Municipality's Zoning By-law, the provision of the Zoning By-law shall apply.

**PART VIII - PENALTY**

27. a. Every person who contravenes any of the provisions of this by-law and, if the person is a corporation, every director or officer of the corporation who knowingly concurs in the contravention, is guilty of an offence and on conviction is liable,
- (i) On a first conviction to a fine of not more than \$25,000; and
  - (ii) On a subsequent conviction to a fine of not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted.
- b. If the person referenced in subsection 27. a) is a corporation, the maximum penalty that may be imposed is,
- (i) On a first conviction a fine of not more than \$50,000; and
  - (ii) On a subsequent conviction a fine of not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted, and not as provided in subsection (i).

**PART VIII – REPEAL OF PREDECESSOR BY-LAW**

28. By-law No. 1341/13 of the Corporation of Haldimand County is hereby repealed.

**PART IX - ENACTMENT**

23. The effective date of this by-law shall be the date of final passing thereof.

24. The short title of this By-law is the Salvage Yard Licensing By-law.

READ a first and second time this 9<sup>th</sup> day of February, 2015.

READ a third time and finally passed this 9<sup>th</sup> day of February, 2015.

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MAYOR

\_\_\_\_\_  
CLERK