

The Corporation of the Township of Huron-Kinloss



BY-LAW No.

2023 -

Being a By-Law to Prescribe Standards for the Maintenance of Yards in the Township of Huron-Kinloss

WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended provides that a municipality may pass by-laws respecting, inter alia, health, safety and the well-being of persons and waste management;

AND WHEREAS Section 127 of the *Municipal Act, 2001* S.O. 2001, c.25 as amended authorizes municipalities to pass by-laws requiring land to be kept in a safe condition and free of debris and refuse;

AND WHEREAS Section 128 of the *Municipal Act, 2001* S.O. 2001, c.25 as amended authorizes municipalities to 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 Section 131 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that 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 Section 425 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that 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 2006, c. 32, Sched. A, s. 184;

AND WHEREAS Section 429 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may establish a system of fines for offences under a by-law of the municipality passed under this Act. 2006, c. 32, Sched. A, s. 184

AND WHEREAS Section 446 of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended authorizes municipalities to direct that where a *person* has defaulted, the municipality may have the default remedied at the *owner's* expense and add the cost to the tax roll.

AND WHEREAS the Council of The Corporation of the Township of Huron-Kinloss deems it expedient to establish standards for the maintenance of yards and properties in the Township of Huron-Kinloss;

NOW THEREFORE the Council of The Corporation of the Township of Huron-Kinloss **ENACTS** as follows;

1. DEFINITIONS

For the purposes of this by-law:

"Accessory Building" means any subordinate building or structure which is separate from or attached to the main building on the same lot and subordinate to a principle use of a building or structure, is not used for human habitation, is located on the same lot and may, without limiting the generality of the foregoing, include a private garage, private greenhouses, patios, carports, boat houses, solar collectors, garbage bin enclosures, raised play structures and gazebos;

"Boat" means any personal watercraft or similar vessel that is designed and intended to permit the operator the ability to travel upon the surface of water;

"Building" has the same meaning as defined in section 1(1) of the Act;

"Building Code" means Ontario Regulation 332/12, as amended, or any successor regulation thereto;

"Council" means the Council of the Township;

"Derelict Vehicle" means a vehicle, trailer, motorized snow vehicle, off-road vehicle, boat or any other recreational vehicle that:

- (a) is inoperative by reason of removed wheels, motor, transmission or other parts or equipment necessary for its operation;
- (b) is not in roadworthy condition;
- (c) is in a wrecked, dismantled, discarded, inoperative or abandoned condition;
- (d) is in a state of disrepair or unsightly by reason of missing doors, glass or body parts; or,
- (e) has broken or missing parts of such sufficiency so as to render it incapable of being licensed to operate, where such licensing is necessary;

" Dwelling " means a building or structure, or any part of it, occupied or capable of being occupied, in part, for the purpose of human habitation and includes a dwelling unit and a building that would be used for this purpose except for its state of disrepair;

" Fence " means a barrier erected or grown dividing two or more lot lines, which marks or substantially marks the boundary of a property, and includes any hedge or grouping of shrubs used for the same purpose;

" Grade " means the average level of the proposed or finished ground adjoining a building at all exterior walls or, if no building exists, the average level of finished ground of adjacent property;

" Graffiti " means one or more letters, symbols, etchings, figures, inscriptions, or stains howsoever made or otherwise affixed to a property or other markings that disfigure or deface a property.

" Ground Cover " means organic or non-organic material applied in a manner to prevent the erosion of soil including, but not limited to, concrete, flagstone, gravel, asphalt, interlocking stone, grass, or other forms of landscaping.

"Hazard" means any condition that poses or constitutes an undue or unreasonable hazard or risk to life, limb or health of any person;

"Municipal By-law Enforcement Officer" means the Municipal By-law Enforcement Officer of the Corporation of the Township of Huron-Kinloss;

"Maintain" means the preservation and keeping in good repair and "Maintenance" and "Maintained" shall have the same meaning;

"Natural Garden" means a defined area of vegetation that has been deliberately planted or cultivated with species of wildflowers, shrubs, perennials, ornamental grasses or combinations of them, consistent with a managed and natural landscape;

"Naturalized Property" means property that is owned by the Township, Bruce County, the provincial or federal government or a conservation authority that is left in a naturalized condition for the purposes of recreation or to protect the surrounding environment or any woodland as defined in the Township's Tree Protection By-law

"Non-residential Property" means a building or structure not occupied or capable of being occupied in whole or in part for residential occupancy and includes the lands and premises appurtenant thereto;

"Nuisance" means the use of land or building that creates, or is likely to create, destructive, offensive or unhealthy gas or fumes, dust, odour, noise, vibrations; or the unsightly storage of goods, wares, salvage or machinery parts, junk, waste or other material in such a manner that such may become hazardous or injurious with respect to the health and safety; or otherwise prejudices the character of the surrounding area or interferes with the normal enjoyment or any use of activity in respect of land or building;

"Occupant" means any person or persons over the age of 18 years in possession of the property;

"Owner" includes,

- (a) 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
- (b) 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 property;

"Person" means any human being, association, firm, partnership, incorporated company, corporation, agent or trustee, and the heirs, executors or other legal representatives of a person to whom the context can apply according to law;

"Property" means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property;

"Refuse or Debris" includes garbage of any kind and, without limiting the generality of the foregoing, includes rubbish, inoperative vehicles and mechanical equipment, automotive and mechanical parts, appliances, furnaces, heater or fuel tanks, furniture, table waste, paper, cartons, crockery, glassware, cans, garden refuse, earth or rock fill, material from construction or demolition projects and old clothing;

"Repair" includes the provision of such facilities, the making of additions or alterations or the taking of any other action that may be required to ensure that the property conforms with the standards established in this by-law;

"Residential Property" means any property that is designated for use, is used or is capable of being used as a dwelling or group of dwelling and includes any land or buildings that are appurtenant to such establishment including but not limited to all steps, walks, driveways, parking spaces and yards;

"Retaining Wall" means a structure which supports and confines a mass of earth or water where there is a change in ground elevation;

"Standards" means standards of physical condition and of occupancy prescribed for property in this by-law;

"Structure" includes but is not limited to play structures, sheds, gazebos and skateboard ramps;

"Township" -means The Corporation of the Township of Huron-Kinloss;

"Vacant Land" means lands with no buildings and not devoted to the practice of farming;

"Vehicle" includes a motor vehicle, trailer, boat, motorized snow vehicle, mechanical equipment and any vehicle drawn, propelled or driven by any kind of power, including muscular power;

"Vermin" means a mammal, bird or insect injurious to humans, game or crops including but not limited to foxes, rats, mice, moles, owls, weasels, ants, cockroaches, silverfish, fleas, bugs, bedbugs or lice;

"Yard" means the land, other than publicly owned land, around and appurtenant to the building and used, intended or capable of being used in connection with the building.

ARTICLE 2 APPLICATION

- 2.1 Every owner of property within the Township shall maintain such property to the applicable minimum standards prescribed in this by-law.
- 2.2 All repairs and maintenance of property shall be carried out with suitable and sufficient materials and in a manner accepted as good workmanship within the trades concerned.
- 2.3 The property standards set forth in Article 3 of this by-law are hereby prescribed as the general minimum standards for maintenance of property. Article 3 applies to all properties in the Township, regardless of property type or use.
- 2.4 Any provincial or federal regulation that imposes a higher maintenance standard shall supersede this by-law.
- 2.5 This by-law does not apply so as to prevent a farm, meeting the definition of "agricultural operation" under the *Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1*, as amended, from carrying out a normal farm practice.

ARTICLE 3 GENERAL STANDARDS FOR ALL PROPERTIES

- 3.1 Yards
 - (a) All yards and vacant land shall be maintained in a neat and tidy condition so as not to present a hazard to any person.
 - (b) Without limiting the generality of subsection 3.1(a) of this by-law, every yard and vacant land shall be kept clean and free from:
 - (i) noxious weeds as defined in the regulations to the *Weed Control Act* or any other weed as may be defined in a by-law of the Township;

- (ii) long grass or weeds in excess of fifteen (15) cm (6");
 - (iii) refuse or debris;
 - (iv) derelict vehicles;
 - (v) trees, bushes, shrubs or hedges, including any branches or limbs thereof, which are dead, decayed or damaged, and brush;
 - (vi) injurious insects, termites, rodents, vermin and other pests or any condition which may promote an infestation of same;
 - (vii) dilapidated, collapsed, unsafe or unsecured buildings or structures;
 - (viii) unprotected wells; or,
 - (ix) objects or conditions that may create a health or accident hazard
- (c) Subsection 3.1(b) of this by-law does not apply to:
- (i) natural gardens;
 - (ii) naturalized property;
 - (iii) Township owned property; or,
 - (iv) land more than 100 metres in any direction from any land that is being developed.
- (d) Subsection 3.1(b)(iv) of this by-law does not apply to the owner of a property when any wrecked, discarded, dismantled, partially dismantled or abandoned machinery, motor, vehicles, recreational vehicles, trailers, mobile homes or other chattels or parts thereof are on a property where they are required and used for a lawful business purpose in accordance with the Township's Zoning By-laws and any other applicable legislation.
- (e) A tree or other plant, or limb or branch of it, that is dead, diseased, decayed, or damaged shall be removed from the property or otherwise pruned to remove the dead, diseased, dying or dangerous portions of the tree or plant so as to prevent a hazard or damage to any property.
- (f) All hedges, shrubs, trees or other plants located in a yard or vacant land shall be planted and maintained in a manner that, at the discretion of the Township, does not:
- (i) adversely affect the safety of the public;
 - (ii) adversely affect the safety of vehicular or pedestrian traffic;
 - (iii) constitute an obstruction of view for vehicular or pedestrian traffic; or,
 - (iv) wholly or partially conceal or interfere with the use of any hydrant or water valves .
- (g) A yard shall be protected by ground cover, which prevents the erosion of soil.
- (h) Yards shall be maintained so as:
- (i) to prevent the ponding of storm water;

- (ii) to prevent surface water run-off from entering basements;
 - (iii) to be kept free of deep ruts and holes; and,
 - (iv) to provide for safe passage under normal use and weather conditions, day or night.
- (i) No machinery or parts thereof, or other object, or material, not associated with the normal occupancy and use of a property, including among other things, appliances, fixtures, paper, cartons, boxes or building materials such as lumber, masonry material or glass, other than that intended for immediate use on the property, shall be stored or allowed to remain in any yard or vacant land.
- U) Despite the requirements of subsection 3.1(i) of this by-law, the temporary storage of materials or refuse resulting solely from the construction, demolition or alteration of a building or part thereof may be placed on the property, provided that:
- (i) it is removed frequently and in its entirety from the property;
 - (ii) it will not cause risk to the health or safety of any persons; and,
 - (iii) it is not stored in an unsightly manner.
- (k) Nothing in subsection 3.1U) of this by-law shall be deemed to prevent the lawful storage and keeping of material in or on any non-residential property, if a lawful use requiring that material is conducted on the property and the materials are stored in a neat and orderly fashion .
- (l) Any furniture that is used outdoors on any property shall be:
- (i) kept in a clean, neat and tidy condition ; and,
 - (ii) maintained in good repair.
- (m) Where landscaping, parking areas, walkways, steps, hedges, trees, fences, curbs, or similar changes to a property have been required by the Township as a condition of development or redevelopment, such works shall be repaired and maintained so as to ensure continuous compliance with the Township's requirements .
- (n) Every owner of a property on which a clothing drop box or similar container is used or located shall ensure that the clothing drop box is clean, in good repair and is free of *graffiti*, and shall ensure that all areas immediately adjacent to the clothing drop box are clean and free of litter, refuse and other debris.

3.2 Well, Pit, Excavation, Etc.

- (a) Any well, cistern, cesspool, privy vault, pit or excavation shall be filled in and the property left in a graded and level condition, unless it is in active use in which event it shall be secured by fencing and warning signs until the use has ceased, where upon they shall be filled and graded as required.
- (b) A property that has not, in the opinion of the Property Standards Officer, been developed or redeveloped within a reasonable timeframe or has been suspended or discontinued for a period of more than two (2) years shall have any pit or excavation filled in and the property left in a graded and levelled condition until such time that the development or redevelopment resumes.

- (c) Every yard and vacant land shall be graded in a manner satisfactory to the Municipal By-law Enforcement Officer to prevent the mounding of earth, dirt, rubble or ponding of water.

3.3 Fill

- (a) No fill shall be allowed to remain in an unlevelled state on any property for longer than thirty (30) days, unless the property is:
 - (i) a construction site for which a building permit is in effect;
 - (ii) a property under pre-service agreement with the Township;
 - (iii) property upon which material is being stored with the approval of the Township in connection with a public works project; or,
 - (iv) under any other similar agreement or permit with the Township.
- (b) No fill shall be left in an uncovered state (not covered by sod, seed, agricultural crop or other ground cover) on any property for longer than sixty (60) days unless the property is:
 - (i) a construction site for which a building permit is in effect;
 - (ii) a property under pre-service agreement with the Township;
 - (iii) property upon which material is being stored with the approval of the Township in connection with a public works project; or,
 - (iv) under any other similar agreement or permit with the Township.

3.4 Buffering

- (a) Commercial or industrial zoned properties that, because of its use, occupancy, or other reasons, creates a nuisance to other properties in the neighbourhood shall maintain buffering from these properties so as to minimize the effect of the nuisance by the provision and maintenance of:
 - (i) a barrier or deflectors to prevent lighting and vehicle headlights from shining directly into a dwelling;
 - (ii) a barrier to prevent wind-blown waste, wrappings, debris and similar things from littering or settling on adjacent properties;
 - (iii) a visual screen or fence, of uniform construction and appropriate to the nature of the adjacent use, to minimize the visual impact of nuisances to persons at grade on adjacent properties or a public highway; and,
 - (iv) the provision and maintenance of a barrier of sufficient size and strength to prevent the dumping of refuse or debris in yards or vacant property.

3.5 Swimming Pools, Hit Tubs, Ponds

- (a) All outdoor swimming pools, hot tubs, wading pools, and artificial ponds, including all accessories and appurtenances thereto shall be:
 - (i) maintained in good repair, free from leaks and safe from health and safety hazards; and
 - (ii) drained and removed or filled in and the property left in a graded and levelled condition if they are abandoned, derelict or otherwise

unused for the purpose for which it was originally designed.

- (b) Subsection 3.5(a) of this by-law does not apply to swimming pools regulated under the *Public Pools Regulation 565*, R.R.O. 1990, made under the *Health Protection and Promotion Act*, R.S.O. 1990, Chap. H.7, as amended.

3.6 Snow Disposal - Storage

- (a) A property owner shall cause any snow disposal site or a snow storage site on that property to be:
 - (i) maintained so as not to cause a hazard on the property; and
 - (ii) maintained in such a manner and location on a property so as to prevent a hazard, flooding, erosion and other damage to neighbouring private or public lands.

3.7 Accessory Buildings, Fences and Other Structures

- (a) An accessory building or other structure appurtenant to a property shall be:
 - (i) maintained with suitable and uniform materials;
 - (ii) kept in good repair and free from hazards; and
 - (iii) maintained application of paint, preservatives, or other weather-resistant materials
- (b) Fences, screens, retaining walls and other enclosure appurtenant to a property shall be:
 - (i) maintained in good repair;
 - (ii) free from hazards; and
 - (iii) maintained application of paint, preservative or other weather-resistant material, except for wooden fences made of cedar, redwood or treated wood;
- (c) Every retaining wall or part thereof appurtenant to a property shall be maintained in structurally sound condition so that it has sufficient capacity to resist safely and effectively all loads and the effects of loads and influences that may reasonably be expected, having regard to its expected use and service life.
- (d) Unsightly markings, stains or other defacements, including *graffiti*, on the exterior surfaces of fences, retaining walls or other enclosures or accessory structures shall be removed and the surface shall be refinished when necessary.

3.8 Compost Heaps

- (a) The occupant of a residential property may provide for a compost heap in accordance with the health regulations, provided that the compost pile is no larger than one square metre and 1.8 metres in height and is enclosed on all sides by concrete block, or lumber, or in a forty-five gallon container, a metal frame building with a concrete floor, or a commercial plastic or wood container designed for composting.

3.9 Litter and Dumping

- (a) No person shall throw, place, deposit or dump or permit or cause to be permitted, the throwing, placing, depositing, or dumping of *refuse and debris* on Township property excluding the Township Landfill and other

Township designated areas.

ARTICLE 4 ADMINISTRATION AND ENFORCEMENT

- 4.1 Where the Township is satisfied that a contravention of this by-law has occurred , the *Officer* may notify the *owner* or *occupant* or other *person* responsible for the maintenance of the *property*, by delivering a *Notice* in the form attached hereto as Schedule "A" or in the form of an *Order* attached hereto as Schedule "B", directing that the *property* be made to comply with the provisions of this By-law within a defined period of time, but not less than seventy two (72) hours from the date of the *Notice*. Said *Notice* or *Order* shall be sent to the address as shown on the last revised assessment rolls of the Township by regular mail, or delivered personally to the *owner*, *occupant*, or person responsible for the *property*.
- 4.2 An *Officer* may direct or require a person to do a matter or thing, the *Township* may also provide that, in default of it being done by the person directed to do it, the matter or thing may be done at the *person* expense.
- 4.3 In the event an *Officer* is unable to serve the *Notice* or *Order* by regular mail or personally, the *Notice* or *Order* may be posted in a conspicuous place on the property, and the placing of the *Notice* or *Order* shall be deemed to be sufficient service.
- 4.4 Where the owner or occupant fails to comply with any final and binding *Order* issued under this By-law, the Township may have the matter done and the cost thereof, including an administration fee, shall be added to the property tax roll for the property and collected in the same manner of as municipal taxes.
- 4.5 The Township or its agent, is not liable to compensate the occupant, *owner*, or any other *person* by reason of anything done by or on behalf of the Township in the exercise of its powers carrying out compliance with this By-law.
- 4.6 Where an *officer* deems a violation of this By-law to constitute a hazard to the public, the *officer* may, without notice, cause the violation to be remedied at the expense of the owner. The Township shall not be responsible for any damages that may be sustained by the property of the owner.
- 4.7 Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to the penalties as provided for in the Provincial Offences Act, R.S.O. 1990, C.P. 33, as amended.
- 4.8 Every person shall comply with an *Order* or *Notice* issued under the authority of this By-law.
- 4.9 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 by-law.

ARTICLE 5 OFFICERS

- 5.1 The Council of the Municipality shall appoint a By-law *Officer* to be responsible for the administration and enforcement of this By-law.
- 5.2 Pursuant to section 435 and 436 of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended, an *Officer* may enter upon property at any reasonable time for the purpose of carrying out inspections to determine whether the provisions of this by-law are being complied with.
- 5.3 If an article of this By-law is for any reason held to be invalid, the remaining articles shall remain in full force and effect until repealed.
- 5.4 That By-law No. 2003-40, Urban Area Weed and Grass Cutting be hereby repealed.
- 5.5 This By-law shall come into full force and effect on the day of its passing.
- 5.6 This By-law may be cited as the "Clean & Clear Yards By-law".

READ a FIRST and SECOND TIME this

READ a THIRD TIME and FINALLY PASSED this

Mayor

Clerk

DRAFT