



The Corporation of the Town of Milton

Report To: Council

From: Meaghen Reid, Director, Legislative & Legal Services/Deputy Clerk

Date: May 25, 2020

Report No: CORS-027-20

Subject: Regulation of Donation Bins and Housekeeping Amendments to Clean Yards By-law (Community Standards By-law)

Recommendation: THAT the draft Community Standards By-Law recommended as option three and attached as Appendix A be considered at the June Council meeting for approval;

AND FURTHER THAT, prior to Council consideration of the draft by-law attached as Appendix A, staff be authorized to make any amendments necessary as recommended by legal counsel.

EXECUTIVE SUMMARY

- In an effort to address the community standards issues associated with donation bins, regulations have been drafted to ensure that such bins are in compliance with zoning regulations, address the tidiness and safety of such bins and address the illegal placement of donation bins.
- Minor housekeeping amendments have been included within the proposed by-law to update definitions and provisions to ensure consistency and clarity for enforcement purposes, to provide for flexible service options when an Order has to be issued, and to revise the penalty clauses and set fines to strengthen enforcement of all offences. Upon Council direction, an updated by-law (renamed as the Community Standards By-law) will be brought forward to repeal and replace the existing Clean Yards By-law.

REPORT

Background

Donation bins are containers used to collect used goods, clothing and other items for donation.

Staff have received concerns about tidiness and overflow of discarded materials in the area surrounding these bins. In an effort to address the community standards concerns with respect to donation bins, regulations for clothing donations bins have been drafted for inclusion within the Town's Clean Yards By-law (to be referred to as the Community Standards By-law within the proposed by-law).

In addition to regulations related to donation bins, minor housekeeping amendments have been included within the proposed by-law to ensure consistency and clarity for enforcement purposes.

Discussion

To address this community standards issue, staff reviewed the following options available for consideration:

1. Prohibition or location restrictions: To consider the prohibition of donation bins or restrict their location to certain properties (i.e. head office of a charitable organization), a zoning by-law amendment would be required, as there are current provisions in the Town's Zoning By-law related to donation bins. Section 4.20.3 states that donation bins are permitted in commercial zones provided that they meet certain location and height requirements. A zoning by-law amendment would entail a lengthy process, which would require public input on any proposed prohibitions or restrictions.
2. Licensing and regulation: The Municipal Act, provides that businesses may be licensed for the reasons of health and safety, nuisance control and/or consumer protection. Establishing the necessary administrative practices and procedures to support a new licensing regime at this time would be time-consuming and challenging given our current environment. In addition, a licensing regime creates a layer of complexity that at this time does not seem to be required to address the issue.
3. Regulatory by-law (recommended and included as proposed by-law): To immediately and effectively address this community standards concern while reducing red tape, it is recommended by staff to proceed with a regulatory by-law.

With respect to donation bins, the proposed regulatory by-law includes the following requirements:

- Compliance with Milton's Zoning Bylaw
- Consent from the property owner to place a donation bin on private property and removal of the bin if the owners consent is not obtained or withdrawn
- Bins are to be maintained in tidy condition and emptied as necessary
- Discarded items placed around the bin are to be removed by 5:00 p.m. each day
- Maintenance of the bin to ensure there is no risk to public health and safety or public nuisance.



Enforcement of section 12 will be conducted proactively and reactively throughout the community resulting in quicker compliance, clean up or remedial work. Donation bins that are operated by unrecognized organizations will be removed if property owner consent is not obtained. The appropriate cost recovery measures will be applied to these organizations. Enforcement against such organizations are more challenging to enforce and may lead to difficulty with cost recovery or the issuance of POA penalties. Staff will ensure that these organizations are dealt with through more complex investigations, which may include legal support, industry consultation or information sharing with municipal enforcement partners.

To address concerns regarding the placement of donation bins without consent of the owner, an Order requesting the removal of the donation bin may be addressed to the corporate organization identified on the bin. Failure to comply with the Order issued by a Municipal Law Enforcement Officer will result in remedial action taken. Though the Owner is responsible for the tidy condition of legally placed bins, the Owner may also be responsible for the removal of bins as part of remedial action should the bin be found in a manner that is unsanitary or presents a public safety concern.

Parties who do not comply with Orders issued under section 13 of the Community Standards By-law will be charged in accordance with the Town's User Fee By-law. The Municipal Law Enforcement Unit anticipates non-compliance occurrences will be minimal.

Staff have taken this opportunity to review related regulatory legislation and have identified various bylaws where these housekeeping amendments will be applied. Housekeeping amendments are included within the proposed by-law to: update definitions to ensure consistency with recently-passed regulations, revise enforcement powers to provide clarity on what the Town can do related to compliance and disposal of bins, provide flexible service options when an Order has to be issued, and provide a revision to the penalty clauses to strengthen enforcement of continuing offences. Bylaws 98-20005 and 92-2008 were repealed when bylaw 132- 2012 was approved by council. Bylaw number 44- 2009 deals with graffiti and is included in the consolidated version of 132-2012, it is unclear if this bylaw was repealed. The bylaw attached in Appendix A ensures that all amending provisions are captured into a consolidated version. Upon Council direction, an updated by-law (renamed as the Community Standards By-law) will be brought forward to repeal and replace the existing Clean Yards By-law.

Financial Impact



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Fees associated with enforcing the Community Standards By-law are charged in accordance with the Town's User Fee By-law. During regular comprehensive reviews of the Town's user fees, with the last review being CORS-047-16, the cost of providing the service is evaluated and fees are set with the intention of full cost recovery. On an annual basis fees are indexed to maintain the cost recovery ratio.

The amendments being proposed to the Community Standards By-law are not expected to impact the cost of providing the service or the resulting fees being charged.

Respectfully submitted,

Troy McHarg
Commissioner, Corporate Services / Town Clerk

For questions, please contact: Mary Beth Mitchell, Manager, Phone: Ext. 2133
Licensing and Enforcement

Attachments

Appendix A - Draft Community Standards By-Law

CAO Approval
Andrew M. Siltala
Chief Administrative Officer

THE CORPORATION OF THE TOWN OF MILTON

BY-LAW NO. **XXX-2020**

BEING A BY-LAW RESPECTING LITTER, WASTE AND PROPERTY MAINTENANCE

WHEREAS Section 9 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides 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 Section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, permits a lower-tier municipality to pass by-laws respecting matters within spheres of jurisdiction, including without restriction matters of health, safety and well-being of persons.

AND WHEREAS Section 127 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, permits a municipality may pass by-laws requiring an owner or occupant of land to clean and clear the land, not including buildings;

AND WHEREAS Section 128 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, permits a municipality to pass by-laws prohibiting and regulating with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

AND WHEREAS Section 129 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended permits a municipality to pass by-laws prohibiting and regulating with respect to odour and dust;

AND WHEREAS Section 131 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, permits a municipality to 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 disposal;

NOW THEREFORE the Council of The Corporation of the Town of Milton hereby enacts as follows:

1 SHORT TITLE

1.1 This By-law may be cited as the “Community Standards By-law”.

2 SCOPE AND INTERPRETATION

2.1 Where the provisions of this By-law conflict with the provision of any other By-law in force in the Town the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

- 2.2 Where the provisions of this By-law conflict with any Act, the provisions of the provincial standard shall prevail.
- 2.3 In the interpretation and application of the provisions of this By-law, unless otherwise stated to the contrary, the provisions shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare.
- 2.4 Council of the *Town* deems *standing water, litter*, loose rubbish and other *waste* and unkempt *yards* a nuisance that could create a health and safety hazard for the public.

3 DEFINITIONS

- 3.1 “*Derelect*” shall mean, with respect to any vehicle (other than a motor vehicle as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, as amended), machinery, trailer, boat, or vessel;
- (a) which has broken or missing parts of such sufficiency so as to render it incapable of being licensed to operate where such licensing as necessary in its current condition but shall not include a motor vehicle actively being repaired or restored by the owner or;
 - (b) which is in a wrecked dismantled discarded inoperative or abandoned condition.
- 3.2 “*Derelect vehicle*” means a motor vehicle as defined in the *Highway Traffic Act* that is;
- (a) is not licensed or eligible to be licensed by virtue of a current valid Safety Standards Certificate having been issued for that vehicle
 - (b) is in a state of disrepair by reason of missing doors, glass or body parts;
 - (c) is inoperative by reason of removed wheels battery motor transmission or other parts or equipment necessary for its operation; or
 - (d) otherwise appears inoperative or incapable of use as a means of lawful transportation or has an industry standard book value as a means of transportation that is less than the cost of repairs required to put it into a lawful operable condition unless otherwise demonstrated by an authorized licensed mechanic but does not include an antique or historic motor vehicle which is actively being restored as a collector s or *historic vehicle*.
- 3.3 “*Domestic waste*” means any debris, rubbish, refuse, sewage, effluent, discard or garbage of any type arising from a residence belonging to, or associated with a house or use of a house, or residential *property*, including, but not limited to, 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 to the weather.

- 3.4 “*Donation Bin*” means a container used to collect of used goods and/or clothing and other items for donation.
- 3.5 “*Dwelling Unit*” means one or more habitable rooms within a building which is designed, occupied and/or used as a single housekeeping unit, in which separate kitchen and sanitary facilities are provided for the exclusive use of such individual or individuals.
- 3.6 “*Fill*” means any type of material capable of being removed from or deposited on *property*, such as soil, stone, sod, turf, concrete, and asphalt either singly or in combination.
- 3.7 “*Graffiti*” shall mean one or more letters, symbols, marks, etchings, pictorial representations, messages or slogans, howsoever made, that disfigures or defaces a *property*, but does not include any of the following:
- (a) a sign, public notice, or traffic control mark authorized by the Town;
 - (b) a sign authorized pursuant to a permit issued by the Town’s Sign By-law;
 - (c) a sign, public notice or traffic control mark authorized by Regional, Provincial or Federal law.
- 3.8 “*Highway*” includes a common and public *highway*, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral *property* lines thereof.
- 3.9 “*Historic vehicle*” means a motor vehicle that is;
- (a) at least 30 years old; and
 - (b) substantially unchanged or unmodified from the original manufacturer’s product; and
 - (c) appropriately insured for storage or use on the *highway* Proof of such insurance shall be made available to the officer upon request.
- 3.10 “*Industrial waste*” shall mean any debris, 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* including, but not limited to, 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 to the weather.
- 3.11 “*Infestation*” shall mean the overrunning of a *property* by vermin, rodents and/or insects.

- 3.12 “*Litter*” includes debris, rubbish, filth, refuse, garbage or *waste* of any kind whatsoever and without limiting the generality of the foregoing shall include animal carcasses and droppings, ashes, bottles, cans, cartons, construction materials, discarded appliances, clothing, furniture and household effects, inoperative mechanical equipment, kitchen wastes, lumber, packing materials, paper, soil, soot, tree trimmings and pruning’s, garden waste, stumps, branches, worn automobile tires, used oil, and automobile parts.
- 3.13 “*Municipal Law Enforcement Officer*” shall mean a Municipal Law Enforcement Officer as appointed by the Council of the Town of Milton.
- 3.14 “*Naturalized Area*” means a portion of a lot or yard containing vegetative growth which may or may not have been previously maintained by the *owner*, which has been allowed to, or has been deliberately implemented to, re-establish a reproducing population of native species, through natural regeneration and/or deliberate plantings of species or other species to emulate a natural area other than regularly mown grass.
- 3.15 “*Normal farm practices*” means normal farm practices as defined in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, c. 1, as amended.
- 3.16 “*Owner*” any *person* who is the registered or beneficial owner of a *property* or who leases, rents, occupies, maintains, manages, receives rent from or otherwise controls a *property*.
- 3.17 “*Person*” includes a natural person and a company, corporation, cooperative, partnership, firm, sole proprietorship, trust, association, society, organization or other legal entity.
- 3.18 “*Property*” includes all land, buildings and structures within the legal boundary lines of a property, including without limitation, *yards*, parts of a building or structure, mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected and includes vacant property, real property and chattel.
- 3.19 “*Private property*” means *property* which is privately owned and is not *Public Property*; the.
- 3.20 “*Public Authority*” includes the *Town*, Region of Halton, Halton District and Halton Catholic School Boards, the Crown in Right of Ontario, the Crown in Right of Canada or any of their ministries, agencies, boards or Crown corporations.
- 3.21 “*Public property*” means *property* that is owned, leased or rented by a *Public Authority*.

- 3.22 “*Road Allowance*” includes all road allowances, highways, streets, roads, parkways, avenues, lanes, boulevards, squares, roundabouts, trails, paths, walkways, bridges, viaducts, trestles or other structure forming part of a highway, used by or intended for use by the general public for the passage of persons or vehicles;
- 3.23 “*Standing Water*” means any water, other than a natural body of water that exists on a permanent basis or contained within a municipally owned storm water management facility, that is found either on the ground or in *waste* as defined in this by-law, but shall not include any of the following maintained in good repair and working condition: swimming pool, hot tub, wading pool or artificial pond.
- 3.24 “*Town*” means the Corporation of the Town of Milton.
- 3.25 “*Waste*” means a substance or material that is unusable or unwanted and includes but is not limited to:
- (a) animal feces;
 - (b) broken or discarded material;
 - (c) disconnected appliances and parts of such appliances;
 - (d) firewood not stacked neatly;
 - (e) indoor furniture;
 - (f) *domestic waste*;
 - (g) *industrial waste*;
 - (h) *derelict* machinery, vehicles, trailers, boats, or vessels, *derelict* motor vehicles, and any parts thereof not packaged for immediate shipment;
 - (i) material resulting from construction, demolition, repair or renovation projects,
 - (j) piping, ducting, tubing, conduits, cable, wire and fittings or related accessories not packaged for immediate shipment;
 - (k) torn or cut twigs, tree trunk, stem or branches;
 - (l) *fill*;
 - (m) waste wood or lumber.
- 3.26 “*Weed(s)*” shall mean a noxious weed designated by or under the Weed Control Act, R.S.O. 1990, c. W.5, as amended, including weed designated as a local or noxious weed under a by-law of the County passed under that Act.
- 3.27 “*Yard*” means all land within the boundary lines of a *property* not occupied by a principal building, if any, and includes grounds or vacant *property*.

4 YARD & PROPERTY MAINTENANCE: “VEGETATION”

- 4.1 Every *owner* of a *property* shall keep the vegetation in the *yard* clean and cleared-up.

4.2 For the purpose of section 4.1 above, “clean” or “cleared-up” shall mean:

- (a) In all turf grass areas, *naturalized areas*, buffer strip and perimeter strips, the removal of *weeds* whether dead or alive;
- (b) in turf grass areas, the cutting of grass so that its height is maintained below 20.32 centimetres in height;
- (c) in a *naturalized area* within a residentially used *property* abutting another *property*, the cutting of vegetation other than trees or shrubbery so that its height is maintained below 20.32 centimetres along a minimum one metre wide strip immediately adjacent to the lot lines of the *property* and along all boundaries of the *yard*, which strip is herein called a “buffer strip; or
- (d) in a *naturalized area* other than an area described by (c) above:
 - (i) the cutting of vegetation other than trees or shrubbery, so to a height maintained below 20.32 centimetres, along a minimum ten metre wide strip immediately adjacent to the lot line of a *property*, where the lot line adjoins a roadway or an occupied *property* (other than a residential *property*), which strip is herein call a “perimeter strip”.
 - (ii) notwithstanding subsection 4.2 (a), *weeds* do not require removal provided the *weeds* are maintained in accordance with the *Weed Control Act* as amended and do not effect agricultural land uses. For clarity, this exemption does not include Giant Hogweed noted in Regulation 1096 of the *Weed Control Act*.

4.3 For the purpose of section 4.2 (a), *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*;
- (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; or
- (e) in a manner consistent with targeted and established provincially endorsed weed management strategies.

4.4 Every *owner* of a *property* shall ensure that:

- (a) all lawns, shrubs, vines, hedges, bushes and vegetation other than *weeds* and turf grass are be kept trimmed, and shall not be overgrown and/or unsightly;

- (b) vegetation other than *weeds* and turf grass are kept from becoming unreasonably overgrown in a fashion that may affect safety, visibility or passage of the general public, wholly or partially conceal or interfere with the use of any hydrant or water valves, or constitute an obstruction of view for vehicular traffic.

5 YARD & PROPERTY MAINTENANCE: “WASTE”

5.1 Every *owner* of a *property* shall:

- (a) keep his or her *yard* free and clear of all *litter* and *waste* of any kind; and
- (b) ensure that his or her *property* is free and clear of *infestation*.

5.2 Despite section 5.1, a farm may keep inoperative agricultural machinery and inoperative agricultural vehicles in a *yard* provided that the inoperative agricultural machinery or inoperative agricultural vehicles are placed or arranged so as not to create a safety or health hazard to *persons* on the *property*, and in particular so as not to block emergency access to or from the *property*, and;

- (a) the inoperative agricultural machinery or inoperative agricultural vehicles are kept in an area screened from view from outside the *property* lines by a fence, wall or other solid structure including a hedge at least 2 m high that complies with all other applicable by-laws or laws;
- (b) the inoperative agricultural machinery or inoperative agricultural vehicles are set back from the *property* lines by at least 100 m; or
- (c) the inoperative agricultural machinery or inoperative agricultural vehicles are temporarily not in use in accordance with *normal farm practices*.

5.3 No *person* shall use the *yard* of any *property* within the *Town* for depositing of any *litter* or *waste* of any kind.

5.4 Section 5.3 does not apply to prohibit those *properties* that comply with all applicable land use criteria which permits the retail, wholesale, repair and wrecking of motor vehicles or a competition or hobby vehicle located in a fully enclosed building or recreation vehicle parked in compliance with the Town’s Zoning By-law from carrying out these activities; or

5.5 Subsection 5.1(a) and section 5.3 do not apply to the depositing of *waste* within a waste disposal site operating under a valid *Environmental Compliance Approval*, as defined in *Environmental Protection Act, R.S.O. 1990, c. E.19*, as amended.

5.6 No *fill* shall be allowed to remain in an unlevelled state on any *property* longer than seven (7) days unless the *property* is:

- (a) a *property* on which a building permit or site alteration permit is in effect;
- (b) a *property* being subdivided under subdivision agreement with the *Town*;
- (c) *property* upon which material is being stored with the approval of the *Town* or the Regional Municipality of Halton in connection with a public works contract;
- (d) Zoned for such use pursuant to the Town of Milton's Zoning By-law

6 FIREWOOD

6.1 Firewood for domestic use may not be stored in a front *yard*. Firewood for domestic use may be stored in a rear *yard* if the area used for this storage is not more than 15% of the area of the rear yard.

6.2 The stored firewood shall be:

- (a) neatly piled not less than 30cm from any lot line;
- (b) stored at a height of not less than 15cm above grade;
- (c) stored with a total height of not more than 1.5 metres; and
- (d) not piled along a fence that borders a *property* containing a swimming pool.

7 DUST

7.1 Every *owner* of a *property* shall ensure that all *yards* are maintained to prevent accumulations of dust, dirt or silt from spreading to neighbouring properties.

8 DEPOSITING OF LITTER AND WASTE ON PUBLIC PROPERTY

8.1 No *person* shall throw, place, or deposit any *litter* or *waste* of any kind on *Public Property*.

8.2 For clarity, section 8.1 does not apply to *Public Authorities*.

9 COMPOSTING

9.1 Every *owner* of a *property* shall ensure that any composting is carried out in accordance with the following requirements:

- (a) composting is permitted only in a rear *yard*;
- (b) composting shall take place only in a container, pile or digester and only on a *property* on which a *dwelling unit* is located;
- (c) a compost container or digester used for composting shall be kept covered tightly at all times, except when being emptied or filled, and shall be kept in accordance with the guidelines on composting published by the Regional Municipality of Halton. The *owner* of the

property shall ensure that the composter is kept in a manner to control *infestation*;

- (d) there shall be no more than two (2) compost containers, piles or digesters used for composting on each *property* on which a *dwelling unit* is located, for a total composting capacity on the *property* of not more than two (2) cubic metres;
- (e) for multiple residential dwellings containing more than six (6) *dwelling units*, composting in a pile is prohibited;
- (f) no feces shall be placed in a compost container, pile or digester used for composting;
- (g) no offensive odour shall be permitted to emanate from the compost container, pile or digester used for composting;
- (h) organic materials placed in a compost container shall be kept covered with *yard waste*, soil or humus;
- (i) a compost container, pile or digester used for composting shall be set back at least 60cm from any lot line.

9.2 Section 9 of this By-law does not apply to A1 and A2 zones as defined in the *Town's Zoning By-law*.

10 STANDING WATER

10.1 No *owner* shall keep a swimming pool, hot tub, wading pool or artificial pond unless it is maintained in good repair and working condition.

10.2 No *owner* shall permit any *yard* to contain *standing water* for a period in excess of three (3) days.

10.3 Every *owner* shall take all necessary steps to prevent or remove *standing water* located in a *yard*. Such steps may include, but are not limited to: draining or filling of excavations and depressions, installing screening or netting equipment so as to prevent the breeding of mosquitoes, or the treatment of the *yard* or any part thereof with a *larvicide*.

11 GRAFFITI

11.1 No *person* shall place or cause or permit *graffiti* to be placed on *property*.

11.2 The *owner* of a *property* shall keep the *property* free of *graffiti*.

12 DONATION BINS

12.1 No *owner* shall place, maintain or permit the placement, erection or maintenance of a *donation bin* on any *property* except on *private property* that is zoned to allow the placement of a *donation bin*.

12.2 No *person* shall place or cause to be placed any *donation bin* on any *property* without the express written consent of the *owner*. Where an *owner* subsequently withdraws consent, the donation bin shall be immediately

removed by the *person* who placed or caused the placement of the *donation bin*.

12.3 Every *owner* or occupier must ensure that:

- (a) any *donation bin* placed contrary to section 12.1 or 12.2 is immediately removed together with any items discarded or placed in the area surrounding a *donation bin*, regardless of whether such items left are donations;
- (b) a *donation bin* that has been legally placed in accordance with sections 12.1 and 12.2:
 - (i) is at all times maintained in a tidy condition and emptied as often as necessary to avoid overflow;
 - (ii) any item discarded or placed in the area surrounding a *donation bin*, regardless of whether such items left are donations, are removed by 5:00 pm each day; and
 - (iii) does not present a risk to public health or safety or a public nuisance;

13 ENFORCEMENT

13.1 This By-law shall be enforced by *Municipal Law Enforcement Officers*, and Police Officers, except for orders, work or actions issued or conducted under sections 13.7, 13.11 and 13.12 of this By-Law, which may be issued or conducted only at the direction of a *Municipal Law Enforcement Officer* or the Town's of Manager of Licensing and Enforcement or such equivalent position as may exist at the Town at the time of enforcement.

13.2 For the purpose of ensuring compliance with this By-law, a *Municipal Law Enforcement Officer* or a Police Officer may, at all reasonable times, enter upon and inspect any *property* to determine whether or not the following are being complied with:

- (a) this By-law;
- (b) a direction or order made under this By-law; or
- (c) a prohibition order made under s. 431 of the *Municipal Act*, 2001.

13.3 A *Municipal Law Enforcement Officer* or a Police Officer may, for the purposes of the inspection under section 13.2:

- (a) require the production for inspection of documents or things relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information in writing or otherwise as required by the officer from any *person* concerning a matter related to the inspection; or

- (d) alone or in conjunction with a *person* possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 13.4 Any cost incurred by the *Town* in exercising its authority to inspect under subsection 13.3 (d) including but not limited to the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the *owner* of the *property* where the inspection takes place.
- 13.5 An officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001*, as amended where he or she has been prevented or is likely to be prevented from carrying out an inspection under section 13.2 and section 13.3.
- 13.6 No *person* shall hinder or obstruct, or attempt to hinder or obstruct, a *Municipal Law Enforcement Officer*, or a Police Officer from carrying out inspections of *property* to ensure compliance with this By-law.
- 13.7 A *Municipal Law Enforcement Officer* may make an Order requiring an *owner*, or other *person*, within the time specified in the Order, to:
- (a) discontinue the contravening activity,
 - (b) remove and/or dispose of anything that has been deposited, thrown, stored, placed or allowed to accumulate contrary to any provision of this By-law, including without restricting the generality of the forgoing, any *fill, waste, litter, derelict* motor vehicle, *derelict* vehicles, machinery, trailers, boats, or vessels;
 - (c) remove and/or dispose of any *donation bin* that that has been deposited, placed, stored or maintained contrary to this By-Law;
 - (d) remove an *infestation*; or
 - (e) take any other action or do any other work required to correct the contravention.
- 13.8 An Order under section 13.7 shall set out:
- (a) the name(s) of the *person* or *persons*, subject to the order
 - (b) reasonable particulars of the contravention adequate to identify the contravention and the location of *property* on which the contravention occurred;
 - (c) the work or other action to be completed or action taken, as the case may be; and
 - (d) the date or dates by which the work must be complete or action taken, as the case may be.
- 13.9 An Order under section 13.7 may be served by any of the following means:
- (a) delivered personally;
 - (b) posted on the *property* that is subject to the Order;

- (c) emailed to the last known email address of the *person* to whom the Order is directed;
- (d) deposited in the mailbox or mail slot of the *person* to whom the Order is directed;
- (e) sent by prepaid regular mail to the last known address of the *person* to whom the Order is directed or
- (f) sent by registered mail to the last known address of the *person* to whom the Order is directed.

13.10 Where service is effected by:

- (a) regular mail, it shall be deemed to be made on the fifth (5th) day after the date of mailing;
- (b) registered mail, it shall be deemed to be made on the second (2nd) day after the date of mailing;
- (c) any other means, it shall be deemed effective on the day the document served was delivered, posted, emailed or deposited; or
- (d) by multiple means, it shall be deemed effective on earliest applicable date set out in subsection 13.10 (a)-(c) .

13.11 Where a *person* or *persons* to whom an Order under section 13.7 is served fails to perform the work required by the Order within the time stipulated in the Order or otherwise contravenes the Order,, the *Town* may, without notice to any *Owner*, cause any work or other action to correct the contravention to be done at each *person's* expense. Without limitation, the *Town* may retain such *persons* to assist in completing the work as the *Town* determines appropriate.

13.12 Where anything has been deposited, thrown, stored, placed or allowed to accumulate on *public property* or a *Road Allowance* contrary to any provision of this By-law and without the consent of the *public authority* that owns the *public property* or *Road Allowance*, the *Town*, may cause it to be removed without notice to *any person*, other than the applicable *public authority*.

13.13 Where the *Town* undertakes any removal, repair, alteration, corrective action or work pursuant to sections 13.11 or 13.12:

- (a) anything removed may be destroyed or disposed of without notice or compensation to any *person*. Without limiting the generality of the forgoing, things that may be removed and disposed of include *donation bins, fill, waste, litter* and *derelict* motor vehicles and *derelict* vehicles, machinery, trailers, boats, or vessels;
- (b) *persons* named in the Order and any other *persons* the *Town* reasonably determines are in contravention of this By-law, shall be jointly and severally responsible for all costs of the *Town* incurred in the exercise of the powers under sections 13.11 or 13.12, including administrative costs and interest; and

- (c) said costs, as determined by the Town, shall constitute a charge under section 391 the *Municipal Act, 2001*, as amended, and may be added to the tax roll of property in the Town held by such persons as are jointly and severally responsible in accordance with subsection 13.13 (b) in the manner provided for under the Act.

14 PENALTY

14.1 Each *person* who contravenes any provision of this By-law or an Order is guilty of an offence. Where a contravention of a provision of this By-law or an Order is committed on or continues for more than one day, the *person* who commits the contravention is liable to be convicted for a separate offence for each day on which it is committed or continued. For clarity, in the case of an Order, a contravention continues for every day or part of a day past the date set out in the Order by which the work must be complete or action taken, as the case may be.

14.2 A *person* convicted of an offence contrary to a provision of this By-law in a proceeding commenced under Part III of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, is liable to a fine of no less than Five Hundred Dollars (\$500) and no more than Ten Thousand Dollars (\$10,000) for each day or part of a day on which the offence occurs or continues..

15 SEVERABILITY

15.1 Where a Court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of this By-law shall continue in force unless the Court makes an Order to the contrary.

16 REPEAL

16.1 By-law 132-2012 as amended is hereby repealed upon the coming into force and effect of this By-law.

17 ENACTMENT

17.1 This By-law shall come into full force and effect on the day it is passed.

PASSED IN OPEN COUNCIL ON _____, 2020

Gordon A. Krantz Mayor

Meaghen Reid Deputy Town Clerk