

THE CORPORATION OF THE TOWN OF KINGSVILLE

BY-LAW 83-2015

Being a by-law to establish standards respecting yard waste & exterior property maintenance

WHEREAS section 127 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended provides that a municipality may pass by -laws requiring 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 and for regulating when and how such matters shall be done, and for prohibiting the depositing of refuse or debris on land without the consent of the owner or occupant of the land and for defining "refuse ";

AND WHEREAS Section 128 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may 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 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may regulate matters not specifically provided for in the act for purposes related to the health, safety and well-being of the inhabitants of the municipality;

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 any person who contravenes any by-law of the municipality is guilty of an offence;

AND WHEREAS section 446 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may pass by -laws directing or requiring that a matter or thing be done and that in default of it being done by the person directed or required to do it, such matter or thing shall be done at the person's expense and that a municipality may enter upon land and into structures at any reasonable times for the above purpose and further that a municipality may recover the cost of doing a thing or matter required above and may recover the costs by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS the Council of the Corporation of the Town of Kingsville deems standing water, loose rubbish and debris on lands and unkempt yards a nuisance could create a health and safety hazard for the public;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF KINGSVILLE ENACTS AS FOLLOWS:

1.2 Short Title

This by-law may be cited as the Yard Maintenance By-law.

1.3 Definitions

In this By-law:

- a) **Town** means the Corporation of the Town of Kingsville
- b) **Council** means The Council of the Corporation of the Town of Kingsville
- c) **Chief Building Official** means the Chief Building Official appointed by the Council of the Town pursuant to the *Building Code Act*, 1992, S.O. 1992, c.23 or any person to whom the Chief Building

Official has delegated his or her powers and duties provided under this By-law;

- d) **Debris** means the same as “refuse”
- e) **Deposit** means throw, place or set down
- f) **Domestic Waste** means any article, thing, matter or any effluent belonging to or associated with a house or household or concerning or relating to the home or occupant that appears to be waste material, including but not limited to the following classes of material:
 - I. Accumulations, deposits, leavings, remains: Ashes, grass clippings;
 - II. Large appliances, Furniture or any part thereof;
 - III. Paper, cartons, fabrics or carpets;
 - IV. Inoperative motor vehicles, trailers and vehicle parts and accessories;
 - V. Furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks, plumbing fixtures;
- g) **Dumping** means the depositing or placing of Fill in a location other than where the Fill was obtained and includes the movement or deposit of Fill from one location on a Property to another location on the same Property and “Dumped” and “Dump” have a corresponding meaning
- h) **Fill** means any type of material capable of being removed from or deposited on lands such as Chipped Wood, soil, dirt, stone, sod or turf either singly or in combination
- i) **Existing Grade** means the elevation of the existing ground surface of the lands upon which Dumping is proposed and of abutting ground surface up to 10 feet wide surrounding such lands, except that where Dumping has occurred in contravention of this By-law or when Dumped Fill is to be removed as in accordance with the Control Plan, “Existing Grade” shall mean the elevation of the ground surface of the lands as it existed prior to the Dumping.
- j) **Finished Grade** means the approved elevation of ground surface of lands upon which Fill has been placed in accordance with this By-law
- k) **Proposed Grade** means the proposed new elevation of ground surface of lands upon which Fill is proposed to be placed
- l) **Grass** means any plant characterized by rounded and hollow jointed stems, narrow sheathing leaves, flowers borne in spikes and hard grain like seeds
- m) **Ground Cover** means plants or shrubs characteristically forming and extensive dense growth close to earth
- n) **Highway** means a road allowance, highway, street or lane shown on a registered plan of subdivision and includes an unopened road allowance made by the Crown surveyors
- o) **Inoperative Motor Vehicle** means a licensed or unlicensed vehicle having missing bodywork, components or parts, including tires or damaged components, parts, bodywork, glass or deteriorated or removed adjuncts, which prevent its mechanical function, and includes a motor vehicle that is not licensed for the current year
- p) **Motor Vehicle** means an automobile, truck, boat, motorcycle, snowmobile, trailer, recreational vehicle and any other vehicle propelled or driven other than muscular power, but does not include cars of electric or steam railways, or other motor vehicles running

solely upon rails, or a traction engine, farm tractor, self-propelled implement of husbandry or road building machine within the meaning of the *Highway Traffic Act, R.S.O. 1990, c.H8*, as amended.

- q) **Noxious Weed** means weeds designated under the *Weed Control Act* including any weed designated as a local or noxious weed under a by-law of the Town passed under this Act.
- r) **Nuisance** means an injurious, offensive or objectionable condition and, without limiting the generality of the foregoing, shall include a condition which is offensive or obnoxious by reason of the emission of gas, fumes, dust, sawdust or objectionable odour or by reason of the unsightly storage of goods, wares, merchandise, rubbish, salvage, refuse matter, waste or other material
- s) **Occupant** means any person or persons over the age of eighteen years in possession of the property
- t) **Officer** means a person appointed by by-law as a By-law Enforcement Officer in and for the Town of Kingsville
- u) **Refuse** means any article, thing, matter, substance or effluent that is or appears to be: cast aside, discharged or abandoned, discarded from its usual and intended use, used up in whole or in part or is expended or worn out in whole or in part, and Domestic Waste, whether it is commercially saleable or recyclable or not
- v) **Unlicensed** shall mean the lack of a currently validated permit for the motor vehicle within the meaning of the *Highway Traffic Act*, displayed on the motor vehicle
- w) **Unsafe Condition** means any condition that could cause undue hazard to the health or safety of any person, authorized or unauthorized on or about a property
- x) **Yard** means land that is not a highway, including vacant lots or any part of a lot, which is not beneath a building and for the purpose of this by-law, includes unenclosed decks, unenclosed porches, balconies, patios, unenclosed carports and unenclosed garages accessory to a residential use

Part 2 – General Provisions and Administrative Matters

2.1 Administration of By-law

This By-law shall be administered by the Chief Building Official.

2.2 Application of By-law

This By-law shall apply to all persons within the geographic boundaries of the Town of Kingsville including occupants and owners of property.

Part 3 – Maintenance of Yards

3.1 Clean and Clear Yards

Every owner of property shall ensure that the yard is kept free of refuse and shall ensure that grass and ground cover is trimmed or cut to a height of 25 centimetres (10 inches) or less shall ensure that noxious weeds are removed or destroyed.

3.1.1 Yard Conditions

Every owner of property shall ensure that the yard is kept free of dead, decayed or damaged trees or other natural growth, and the branches or limbs thereof which create an unsafe or unsightly condition.

3.1.2 Hedges and Landscaping

Every owner of property shall ensure that hedges, plantings, trees and other landscaping on a property shall be maintained in a healthy condition, acceptable to the Officer.

3.1.3 Trees and Landscaping

Every owner of property shall ensure that all dead, diseased or decaying hedges, plantings, trees, or other landscaping which may be a hazard in the opinion of the Officer be removed or returned to a healthy condition.

3.1.4 Rodents and Pests

Every owner or occupant of property shall maintain the property free from rodents, vermin or other pests and free from conditions that may attract such.

3.2 Non Applicability to Agricultural Operations

Despite the provisions of Sections 3.1 to 3.1.4 inclusive, nothing in this section shall be deemed to prevent a farm, meeting the definition of "agricultural operation" under the *Farming and Food Protection Act, 1998*, S.O. 1998, c.1, as amended, from carrying out a "normal farm practice" as defined by that Act.

Part 4 – Maintenance of Abutting Untravelled Portions of Highways

4.1 Requirement to Maintain

Every owner of property shall ensure that the untravelled portion of highway abutting their residential home on their property be kept free or refuse and shall ensure that grass and ground cover is trimmed or cut to a height of 25 centimetres (10 inches) or less and shall ensure that weeds are removed or destroyed.

Part 5 – Prohibition of Littering within the Town of Kingsville

5.1 No Littering

No person shall deposit any refuse on Public Property or Private Property without the consent of the owner.

5.2 Refuse Deposited at Approved Location

Refuse may be deposited at a waste disposal site that has been approved by the Ministry of Environment pursuant to the *Environmental Protection Act*, R.S.O. 1990, c. E19, as amended, if the owner of such a waste disposal site has granted permission for the deposit.

Part 6 – Inoperative Motor Vehicles

6.1 Storing of Inoperative Motor Vehicles

No person shall keep inoperative motor vehicles or parts thereof upon a yard. Vehicles lacking current valid license plates shall be parked or stored only within an enclosed private garage other buildings or on property that is properly zoned or licensed by the municipality to permit that use.

6.2 Yard and Storage

All properties including vacant lots and every yard shall be kept clean and free from unusable, wrecked, dismantled, discarded or partially dismantled or abandoned appliances, machinery, boats, vehicles, trailers or parts thereof, except as provided in subsection(6.1) of this Section.

6.3 Motor Vehicle Salvage Prohibited

No person shall use any land in the Town for storing inoperative motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal including for purposes of repairing other vehicles.

Part 7 – Dumping and/or Placing Fill

7.1 No person shall Dump and/or Place Fill on any Property that would have the effect of becoming a nuisance or prevents an owner from properly maintaining their property in accordance with this by-law.

7.2 Non-Applicant of By-law

Notwithstanding section 7 of this By-law, the following does not apply to the Dumping and Placing of Fill:

- a) undertaken by a municipality or a local board of a municipality as it is defined in the Act;
- b) imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the *Planning Act*, R.S.O. 1990, c. P.13 or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- c) imposed after December 31, 2002 as a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act*, R.S.O. 1990, c. P.13 or as a requirement of an agreement entered into under that regulation;
- d) undertaken by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act, 1998*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- e) undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
- f) undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
 - i) that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and
 - ii) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act*, or
- g) undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*;
- h) on any Property that is subject to a regulation made under section 28 of the *Conservation Authorities Act*;
- i) on any Property upon which the Dumping and /or Placing of Fill is a permitted use or is necessarily incidental to a use specifically permitted by the Town's Zoning By -law, as amended from time to time;
- j) if a permit has been issued pursuant to the *Building Code Act* for the demolition or removal of a building and the accompanying plan provides sufficient information for the Chief Building Official to determine that the Placing or Dumping is for the purpose of elevating any excavation to the Existing Grade and otherwise conforms to the provisions of this By-law;
- k) if a building permit has been issued pursuant to the *Building Code*

Act and the accompanying plan provides sufficient information for the Chief Building Official to determine that the Placing or Dumping conforms to the provisions of this By-law; or

- l) is done for the purpose of lawn dressing, landscaping, adding to flower beds or vegetable gardens, provided however, that the Existing Grade does not adversely impact the adjoining property as determined by the Chief Building Official.

Part 8 – Enforcement & Penalties

8.1 Notice to Comply

The Chief Building Official may, by a notice delivered by personal service to the owner of property, or by a notice sent by prepaid mail to the owner of property, or by a notice posted on the property, or by a notice published once in a local newspaper of general circulation, or posted online to the Town's website, or by any combination of the above as the Chief Building Official deems necessary, require the owner or occupant, as the case may be, within seven (7) days of the notice being served:

- a) To provide for the sanitary disposal of sewage and drainage from the property;
- b) To clean, clear or remove from the property or yard any refuse;
- c) To cease using the property for dumping or disposing of refuse;
- d) To cover, screen, shield or enclose any refuse, in the manner specified in the Notice;
- e) To remove any inoperative motor vehicles from the property;
- f) To remove, trim or cut grass or ground cover to a height of less than 25 centimetres (10 inches);
- g) To take on any action the Chief Building Official deems necessary to bring the property into compliance with this By-law;
- h) To remove weeds, ashes, paper, building material, rubbish or other refuse

8.2 Where No Notice is Required

Where the condition of the yard is such that it constitutes a hazard to members of the public, the Chief Building Official or Designate is authorized to follow the provisions of Section 8.3 of the By-law, without having first issued the Notice.

8.1.2 Receipt of Notice

Where the Notice to Comply is sent by prepaid mail in accordance with Section 8.1 of the By-law, it is deemed to have been served on the fifth day after mailing.

8.2 Administrative Fees

In accordance with the Town of Kingsville Fees By-law, a minimum \$50.00 administrative fee will apply for the enforcement of a notice and \$25 per hour thereafter.

8.2.1 Property Identification

Every notice delivered, sent, posted or published shall identify the property by street number and name, and/or legal description.

8.2.2 Source of Mailing Address

Every notice to an owner that is sent shall be sent to the address shown on the last reviewed assessment roll and may be sent to the last address known to the Town of the owner if it differs from that on the roll.

8.2.3 Inclusion

Every notice delivered, sent, posted or published shall specify that if the owner defaults in doing the thing(s) required to be done under this by-law by the timeline specified in the notice, the Chief Building Official may take action to cause the Town to do the thing(s) required to be done as specified in the notice and that the Town may recover the costs of doing the thing(s) required to be done from the owner and that the Town may recover the costs by action or by adding the costs to the tax roll and collect them in the same manner as taxes.

8.3 Non-Compliance with Notice

If an owner or occupant, as the case may be, fails to comply with a notice issued under section 8.1, the Chief Building Official may take action to do the thing(s) required to be done as specified in the notice.

8.4 Recovery of Expense

If the Town takes action to do the thing(s) required to be done as specified in the notice, the costs of such action may be added to the tax roll and collected in the same manner as taxes.

8.5 Entry onto Property

8.5.1 Entry to Inspect

For the purposes of inspecting a property to determine compliance with the terms of this by-law, the Chief Building Official and/or Officer may enter onto any public or private property.

8.5.2 Entry to Remedy

Where the Town proceeds with action under section 8.1.1 or 8.3 of this by-law, the Chief Building Official or an agent appointed by the Town may enter onto the property accompanied by any person(s) under his or her direction and with the appropriate equipment as required bring the property into compliance with this by-law.

8.5.3 Non-Obstruction of Town Employee or Agent

No person shall hinder or obstruct an Officer employed to enforce this by-law from carrying out an inspection of lands nor shall any person obstruct any employee or agent authorized by the Town to carry out any work under authority of this by-law.

8.6 Offence

Every person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine and any other penalties as provided for in the *Provincial Offences Act*, R.S.O. 1990 c. P.33, as amended.

Part 9 – Severability

9.1 Severability

If a Court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, the remainder of this by-law shall continue in force unless the court makes an order to the contrary.

Part 10 – Repeals & Enactment

9.1 Effective Date

This by-law shall come into force and take effect on the day of the final passing thereof.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS
10th DAY OF AUGUST, 2015.**

MAYOR, Nelson Santos

CLERK, Sandra Kitchen