

THE CORPORATION OF THE TOWN OF MILTON

BY-LAW NO. 132-2012

BEING A BY-LAW RESPECTING LITTER, YARD WASTE AND PROPERTY MAINTENANCE AND TO REPEAL BY-LAWS 98-2005, 092-2008, & 044-2009 IN THEIR ENTIRETY

WHEREAS Section 8 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.

AND WHEREAS Council may pass by-laws under the following provisions of the *Municipal Act*, as amended;

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, or to clear refuse or debris from the land, not including buildings and for regulating when and how such matters shall be done, for prohibiting the deposal of refuse or debris on land without the consent of the owner or occupant of land and for defining “refuse”;

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 noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors.

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;

AND WHEREAS Section 425 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, to pass by-laws providing that any *person* who contravenes any by-law of the municipality is guilty of an offence;

AND WHEREAS the Municipal Act, 2001 further authorizes the Town of Milton, amongst other things, to delegate its authority, to impose fees or charges on *persons* for services or activities provided or done by or on behalf of it, to provide for inspections and inspection orders, and to make orders to discontinue activity or to do work;

AND WHEREAS section 446 of the Municipal Act, 2001, S.O. 2001, c. 25 as amended provides that if a municipality has the authority under this or any other Act or under a by-law under this or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense and the municipality may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

1 SHORT TITLE

1.1 This By-law may be cited as the "Yard and Property Maintenance 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*, loose rubbish and debris on *lands* and unkempt *yards* a nuisance that could create a health and safety hazard for the public.

3 DEFINITIONS

3.1 "*Derelict*" shall mean any vehicle, 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 “*Derelict vehicle*” means a motor vehicle as defined in the Highway Traffic Act that is;
- (a) inoperative by reason of removed wheels battery motor transmission or other parts or equipment necessary for its operation;
 - (b) not in *roadworthy* condition;
 - (c) in a state of disrepair or unsightly by reason of missing doors glass or body parts; or
 - (d) inoperable and appears 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*” shall mean 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 “*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.
- 3.5 “*Fill*” means any type of material capable of being removed from or deposited on *lands*, such as soil, stone, sod, turf, concrete, and asphalt either singly or in combination.
- 3.6 “*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.
- 3.7 “*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.

- 3.8 “*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.
- 3.9 “*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.
- 3.10 “*Infestation*” shall mean the overrunning of a *property* by vermin, rodents and insects.
- 3.11 “*Lands*” means grounds, yard or vacant lot.
- 3.12 “*Litter*” includes debris, rubbish, filth, refuse, garbage or *waste* matter 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.

- 3.16 “*Person*” includes an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and their heirs, executors, or legal representatives and includes an owner.
- 3.17 “*Property*” shall mean a building or structure or part of a building or structure and includes the *yards, lands* and premises appurtenant thereto and mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected and includes vacant property, real property and personal property.
- 3.18 “*Private property*” means property which is privately owned and is not Town property or property of a local board, property of the Halton Regional Municipality or property of any of the Crown in Right of Ontario, the Crown in Right of Canada or any emanations thereof.
- 3.19 “*Public property*” means property that is owned by the Town or any of its Boards and agencies, Region of Halton, Halton District and Halton Catholic School Boards, the Crown in Right of Ontario or any of its agencies or property of the Crown in Right of Canada or any of its agencies.
- 3.20 “*Owner*” shall mean the registered owner, occupant, tenant, *person* for the time being managing or receiving the rent of the property, whether on his or her own account or on account of an agent or trustee of any other *person*, or any one of the aforesaid.
- 3.21 “*Roadworthy*” when used in reference to a motor vehicle means a motor vehicle that is licensed or is eligible to be licensed by virtue of a current valid Safety Standards Certificate having been issued for that vehicle.
- 3.22 “*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.
- 3.23 “*Town*” shall mean the Corporation of the Town of Milton.
- 3.24 “*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, *derelict* vehicles, parts of such machinery not packaged for immediate shipment or parts of vehicles 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) *waste* wood or lumber.

3.25 “Weed(s)” shall mean a noxious weed designated by or under the Weed Control Act, R.S.O. 1990, c.W.5, including weed designated as a local or noxious weed under a by-law of the County passed under that Act.

3.26 “Yard” means the 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* or occupant of land shall keep the vegetation on the yard clean and cleared-up.

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

- (a) The removal of *weeds* whether dead or alive from all turf grass areas, *naturalized areas*, buffer strip and perimeter strips;
- (b) in turf grass areas, the cutting of grass so that its height is maintained below 20.32 centimetres in height;
- (c) in a *naturalized area* on a residentially used parcel abutting another residential parcel, the cutting of vegetation other than trees or shrubbery so that its height is maintained below 20.32 centimetres along a minimum one metre wide strip immediately adjacent to the lot lines and along all boundaries of the whole yard, lot or parcel of land which strip is herein called a “buffer strip; or
- (d) in a *naturalized area* other than an area described by (c) above, the cutting of vegetation other than trees or shrubbery, so that its height is maintained below 20.32 centimetres, along a minimum ten metre wide strip immediately adjacent to the lot line where the lot line adjoins a roadway or an occupied property, which strip is herein call a “perimeter strip”.
 - (i) a *naturalized area* with a perimeter strip maintained in compliance with section (d) above is exempt from the provisions of section (a) above insofar as the *weeds* within the *naturalized area* comply with the Weed Control Act and do not effect agricultural. 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* or occupant of land 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 land shall keep his or her land free and clear of all:
- (a) garbage, and
 - (b) refuse, and
 - (c) *waste* of any kind, and
 - (d) shall ensure that his or her land 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 Garbage, refuse or *waste*.

5.4 No person shall cause, permit or deposit any litter or waste on Public Property or on Private Property without the consent of the owner. Section 5.3 does not apply to those lands and 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.

5.5 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 All exterior *property* areas, including vacant land, shall be maintained to prevent accumulations of dust or dirt from spreading to neighbouring properties.

8 LITTERING

- 8.1 No *person* shall throw, place or deposit any *litter* or *waste* on *Public Property* or on *Private Property*.
- 8.2 No *person* shall throw, place or deposit any *litter* or *waste* on any *highway* within the boundaries of the *Town of Milton*.

9 COMPOSTING

- 9.1 All composting shall be carried out by the *owner* of the land in accordance with the following requirements:
- (a) composting is permitted only in the rear of a *dwelling unit*;
 - (b) composting shall take place only in a container, pile or digester and only on land 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 land 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 parcel of land on which a *dwelling unit* is located, for a total composting capacity on the land 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 *person* 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 *person* shall permit on the ground or in *waste* located in any of his or her *yards* to contain *standing water* for a period in excess of three (3) days.
- 10.3 An *owner* of *property* in the *Town* shall take all necessary steps to remove or dispose of *standing water* located on the *property* when required by a *Municipal Law Enforcement Officer*. 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 *property* 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 ENFORCEMENT

- 12.1 This By-law shall be enforced by *Municipal Law Enforcement Officers*, and Police Officers.
- 12.2 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 land 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.
- 12.3 An officer may, for the purposes of the inspection under section 12.2:
 - (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.
- 12.4 Any cost incurred by the *Town* in exercising its authority to inspect under subsection 12.3 (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* or occupant of the *property* where the inspection takes place.

- 12.5 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 where he or she has been prevented or is likely to be prevented from carrying out an inspection under section 12.2 and section 12.3.
- 12.6 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 land to ensure compliance with this By-law.
- 12.7 A *Municipal Law Enforcement Officer* may make an Order, sent by prepaid regular mail to the last known address, posted on-site or personally delivered to an *owner*, *person* or occupant requiring the *owner*, *person* or occupant within the time specified in the Order to:
- (a) discontinue the contravening activity, and/or
 - (b) do work to correct the contravention
- 12.8 An order under section 12.7 shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of *property* on which the contravention occurred;
 - (b) the work to be completed; and
 - (c) the date or dates by which the work must be complete.
- 12.9 Where an *Owner* contravenes an Order issued under section 12.7, the *Municipal Law Enforcement Officer* may, without notice to any *Owner*, cause the work to correct the contravention to be done at each *Owner's* expense. Without limitation, the *Municipal Law Enforcement Officer* may retain such *persons* to assist in completing the work as the *Municipal Law Enforcement Officer* determines appropriate.
- 12.10 Upon completion of the work to correct the contravention by or on behalf of the *Town*, the municipality shall have a lien on the land for the amount spent on the work to correct the contravention and the amount shall be deemed to be municipal *property* taxes and may be added to the tax roll and collected in the same manner and with the same priority as municipal *property* taxes as provided for by statute.
- 12.11 Each *Owner* is jointly and severally liable to the *town* for all costs incurred in any way related to work done to correct the contravention for the purpose of section 12.10 including, without limitation, interest as per *Town* policy.

13 PENALTY

- 13.1 Each *person* who contravenes any provision of this By-law is guilty of an offence.
- 13.2 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 provided that the total of all daily fines for the continuing offence shall not exceed One Hundred Thousand Dollars (\$100,000).
- 13.3 A person convicted of an offence contrary to a provision of this By-law in a proceeding commenced under Part I of the Provincial Offences Act, R.S.O. 1990, c. P.33, is guilty of an offence and on conviction is liable to a fine as provided in the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.
(Amended by By-law 166-2012)

14 SEVERABILITY

- 14.1 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.

15 REPEAL

- 15.1 By-law 044-2009, By-law 98-2005 amended by 092-2008 are hereby repealed in their entirety.

16 ENACTMENT

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

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 29th day of October, 2012.

Gordon A. Krantz Mayor

Troy McHarg Town Clerk