

The Corporation of the City of Thorold

By-law No. 146-2019

Being a By-law respecting litter, yard waste and the maintenance of property

Whereas Section 127 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a local municipality may require 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; to regulate when and how such matters shall be done; to prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land; and to define refuse; and

Whereas Section 128 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become 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 motor vehicles for the purpose of wrecking or dismantling them or salvaging parts from them for sale or other disposition; and

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 446 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that where a municipality has authority under the Municipal Act or any other Act or under a by-law made under the Municipal Act 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 to do it, the matter or thing shall be done at the person's expense and the municipality may recover the expense incurred by action or by adding the cost to the tax roll and collecting them in the same manner as property taxes; and

Whereas Council desires to pass a by-law:

- (1) for the maintenance of yards by owners and occupants;
- (2) prohibiting the keeping of domestic and industrial waste on lands;
- (3) prohibiting littering on public and private land;
- (4) regulating the salvage of motor vehicles and their components with the intent of promoting proper recycling and reuse of resources, the limiting of waste and wasteful practices, the limiting or eliminating of nuisances, particularly from waste and naturalized areas to other properties in the municipality, and the limiting and eliminating of other unhealthy practices and conditions arising from litter, refuse or neglect.

Now therefore, the Council of The Corporation of the City of Thorold enacts as follows:

**1. SHORT TITLE**

- (1) This by-law shall be known as the "Clean Yards By-law".

## **2. GENERAL PROVISIONS**

### **2.1. DEFINITIONS**

(1) In this by-law:

“Agricultural Operation” means an Agricultural Operation as defined by the city’s Zoning Bylaw;

“City” means the Corporation of the City of Thorold or the geographical area of the municipality, as the context requires;

“Chief Building Official” means the Chief Building Official appointed by Council under the Building Code Act, S.O. 1992, c.23 as amended, or the Person who is appointed to act in that capacity during his or her absence;

“Indoor Furniture” means and includes any furniture intended for and made of such material that would require the furniture be sheltered from the natural elements such as rain and snow and shall include but not be limited to items such as couches, sofas, love seats, fabric covered chairs and mattresses;

“Inoperative Vehicles” means such items that are unable to operate as a result of being dismantled, broken or incomplete, decayed or dilapidated, and in particular includes Vehicles that are unlicensed which would require a licence under the HTA, with missing part(s), wheel(s), tire(s), engine(s), drive train or body components or window(s), unless it’s use is permitted under the zoning by-law or is necessary for the operation of a business enterprise lawfully situated on the Property;

“Last Known Address” means the address, which appears on the last revised assessment rolls of the Corporation of the City of Thorold;

“Noxious Weed” means a noxious weed designated by or under the Weed Control Act, R.S.O. 1990, c. W.5, including any weed designated as a local or noxious weed under a by-law of the City passed under that Act;

“Occupant” means any Person or Persons over the age of 18 years in possession of the Property;

“Officer” means a Municipal Law Enforcement Officer or other Person appointed or employed by the City for enforcement of by-laws and includes both Police and Peace Officers;

“Order” means any notice of non-compliance issued under this by-law;

“Owner” means any Person or Person who, or any firm, business, corporation or institute that is the registered owner of land or a building or buildings or premises under consideration or any agent or contractor or builder thereof, or a Person entitled to a limited estate in the Property, a trustee in whom the Property is invested, an executor, an administrator and a guardian, to whom the context applies.

“Perimeter Strip” means a minimum three (3) metre wide strip immediately adjacent to the lot lines of Vacant Lands;

“Person” means and includes an individual, firm, corporation, association or partnership and includes an Occupant or an Owner of a Property;

“Property” means any grounds, Yard or Vacant Lands;

“Refuse” means and shall include all manner of Waste, debris and sewage as provided for or defined in this by-law but does not include a building or buildings on a Property, but does include parts or pieces of such structures on the Property that are dismantled or are rubble, or which have become detached from a building, whether by construction, demolition, damage or deterioration and any article, thing, matter, substance or effluent that:

- (a) has been cast aside, discharged or abandoned, or
- (b) is disused from its usual and intended use, or
- (c) is used up, in whole or in part, or expanded or worn out, in whole or in part; and
- (d) shall include Waste.

“Sewage” means any one of or a combination of domestic sanitary sewage and/or water borne Waste, and/or non-domestic sanitary sewage and/or water borne Waste, discharged from residences, businesses, recreational facilities, institutions or industry;

“Standing Water” means any water on a Property other than:

- (a) a natural moving body of water that exists on a permanent basis;
- (b) a body of water that is maintained in such a way so as to prevent the breeding of and/or larvae growth of mosquitos, through the operation of a re-circulation and filtration system and/or the additive of an approved substance that will prevent the breeding of and/or larvae growth of mosquitos;
- (c) any body of water containing live fish;
- (d) any body of water natural to its surrounding environment including natural ponds, bogs, marshes and wetlands;
- (e) any body of water within a municipally owned or regionally owned storm water management facility;
- (f) any body of water contained for less than four (4) days.

“Turf Grass” means ground cover, including weeds, with or without trees, shrubbery or maintained planting beds for other vegetation;

“Vacant Lands” means lands with no building(s) or having no land uses established;

“Vehicle” includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include motorized snow vehicle or a street car;

“Vehicle Parts” means and shall include any component or element, whether operable or not, used in the assembly, construction, maintenance or repair of a Vehicle;

“Waste” means any debris, rubbish, Refuse, Sewage, effluent, discard, or garbage which for greater certainty includes broken or dismantled things, and materials or things exposed to the elements, deteriorating or decaying on a Property due to exposure or the weather, unless it’s use is permitted under the zoning by-law or is necessary for the operation of a business enterprise lawfully situated on the Property and includes but is not limited to the following classes of materials regardless of the nature or condition of the material, article or thing:

- (a) broken or torn bits of twigs, splinters or rags, tree cuttings or cut limbs and brush from any shrub or tree, scrap lumber, except only cut and stacked firewood for use in a fireplace on the Property;

- (b) paper, paper cartons, and other paper products;
- (c) rotting vegetable matter, or rotting animal matter, unless it is contained in an appropriate composting container;
- (d) disconnected appliances, including refrigerators, stoves, dishwashers, microwaves, freezers, washers, dryers or any part or parts of such things;
- (e) electronic devices, including televisions, computers and related components, radios, amplifying devices, speakers, audio and visual players and any parts of such things;
- (f) furnaces or furnace parts, air-conditioners, ducting, pipes, heat pumps, fittings, pipes and wire;
- (g) water or fuel tanks;
- (h) Inoperative Vehicles or machinery and parts or accessories of such items;
- (i) inoperative bicycles, lawnmowers, engines, and mechanical tools;
- (j) accumulations, deposits, leavings or sweepings of litter, remains, rubbish, or trash or any sort, whether animal, mineral or vegetable;
- (k) dilapidated furniture and/or Indoor Furniture;
- (l) crockery, dishes, pots and pans, and small kitchen appliances;
- (m) Sewage;
- (n) animal feces, hides, parts of carcasses other than those arising from industrial or agricultural businesses legally operated on the land;
- (o) construction, demolition, repair or renovation debris or leftover from such work;
- (p) accumulation of broken concrete, asphalt pavement, brick pavers and side walk slabs; and
- (q) miscellaneous plastic, wood or metal parts, or combinations of such materials

Waste as defined in this by-law does not cease to become Waste by reason only that it may be commercially saleable or recyclable.

“Watercourse” means an identifiable depression in the ground in which a natural flow of water occasionally, regularly or continuously flows;

“Yard” means land, other than publicly owned land, around and appurtenant to the whole or part of a building (and used, or capable of being used in connection with the building).

## **1.2. INTERPRETATION**

- (1) In this by-law statutory references are to statutes of Ontario and the regulations made thereunder and shall be deemed to refer to such statutes and regulations as amended, consolidated, re-enacted and in force from time to time.
- (2) This by-law shall be read with all changes of gender and number required by the context or circumstances.

## **1.3. EXEMPTION**

- (1) The provisions and regulations of this by-law do not apply to materials or equipment directly related to construction works on lands on which construction is actively proceeding.
- (2) This by-law does not apply so as to prevent a farm, meeting the definition of “Agricultural Operation” under the City’s Zoning By-law, as amended.

## **2. APPLICABLE PROVISIONS**

### **2.1. MAINTENANCE OF PROPERTY AND DRAINS**

- (1) Every Person shall keep the vegetation on the Property clean and cleared-up.
- (2) For the purpose of sentence 2.1.(2), “clean” or “cleared-up” shall mean:
  - (a) the removal of Noxious Weeds from all Turf Grass areas and Perimeter Strips;
  - (b) except as permitted by clause 2.1.(2)(c), the cutting of all Turf Grass and/or weeds so that its height is maintained below 200 mm in height;
  - (c) the cutting of vegetation other than trees or shrubbery within a Perimeter Strip so that its height is maintained below 200 mm
- (3) For the purpose of clause 2.1.(2)(a), Noxious 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; or
  - (d) treating it with an herbicide that causes the plants to be destroyed, or which prevents the growth of plants or the ripening of their seeds.
- (4) No Person shall obstruct, or cause or permit the obstruction of a Watercourse on the land;

- (5) Sentence 2.1.(1), does not apply to crops being grown by an Agricultural Operation.

## **2.2. STANDING WATER**

- (1) Every Person shall keep the land free of Standing Water.
- (2) Every Person shall keep the land free of containers or debris capable of holding Standing Water in such a manner as to be exposed to the breeding of and/or larvae growth of insects.
- (3) Every Person shall ensure that any artificial body of water is maintained in proper operating condition, and in good repair.

## **2.3. LITTER**

- (1) No Person shall cause, permit, throw, place or deposit Refuse and/or debris on private land without the written authority of the Owner or Occupant of the land.
- (2) No Person shall throw, place or deposit Refuse and/or debris on owned or occupied land by the City or a local board of the City without the written authority of the City or the local board where such land is occupied by a Person other than the Owner without the written authority of the Occupant.
- (3) A Person does not breach sentences 2.3.(1) and 2.3.(2) by placing garbage out for collection on their Property in accordance with municipal by-laws and collection schedules, but no Person shall leave out garbage contrary to such by-laws or schedules.
- (4) An Owner or Occupant of land shall clean or clear exterior walls of any building or structure on the land and their components so as to be free of posters, which are for the giving of notice for an event that has already occurred, or where the message contained is not readable due to damage or deterioration to the poster or its content, or where the posters are loosened, dislodged, torn or otherwise in a condition that may permit them to detach and become litter.
- (5) Pursuant to the Municipal Act, S.O. 2001, c.25 as amended, the cost of removal of posters by the City is collectable against the Owner of the advertising device under the terms of the Municipal Act, notwithstanding the content of this by-law.

## **2.4. GARBAGE AND WASTE DISPOSAL**

- (1) Every Owner and/or Occupant of land shall keep the Property free and clear of Waste, or any other thing in their possession that may constitute a health, fire or safety hazard.
- (2) No Person shall use any land or structure within the City for dumping or disposing of Waste or, or any other thing in their possession that may constitute a health, fire or safety hazard.

- (3) The Owner or Occupant of land used contrary to or on which there is a contravention of sentences 2.4.(1) and 2.4.(2), regardless of whether the use or contravention occurred prior to the enactment of this by-law, shall at the Persons own expense clean, clear and cease using such land or structure for such prohibited purposes.
- (4) Sentences 2.4.(1) and 2.4.(2) do not apply to:
  - (a) land or structures used by the City or any regional, provincial or federal body for the purpose of dumping or disposing of Waste; or
  - (b) land or structures designated by by-law for the City for the purpose of dumping or disposing of Waste.
- (5) No Person, other than the City or its agents, without the prior authorization of the City and except in accordance with such authorization, shall dump or dispose of garbage, Refuse or Waste or any kind on lands mentioned in sentence 2.4.(4).
- (6) Notwithstanding the provisions of this subsection, used lumber, used building materials, inoperative motor Vehicles, Inoperative Vehicles, machinery, trailers or boats, or Vehicle Parts may be stored on a Property used for an Agricultural Operation provided that:
  - (a) such material is screened from view from any residential parcel or public highway within 150 m (492 ft.); and
  - (b) the material used is required for use as replacement parts, Vehicles or materials as part of the Agricultural Operation.

## **2.5. MOTOR VEHICLE SALVAGE**

- (1) No Owner or Occupant of land shall use any land or structure in the City for storing used or Inoperative Vehicles or Vehicle Parts for the purpose of wrecking or dismantling them or salvaging Vehicle Parts thereof for sale or other disposal including the purposes of repairing other Vehicles.
- (2) Sentence 2.5.(1) does not apply if the City of Thorold Zoning by-law, as amended, permits the land to be used for such purposes and the Owner or Occupant of the land holds a current and valid licence for the land issued by the City or the body holding jurisdiction, permitting motor Vehicle salvage.

## **2.6. EXEMPTIONS**

- (1) Despite sentence 2.5.(1) of this by-law, this by-law does not apply to an inoperative Vehicle for which a:
  - (a) special interest Vehicle permit; or
  - (b) work in progress permit

has been issued by the City, provided such permit remains in good standing.

### 3. ADMINISTRATION AND ENFORCEMENT

#### 3.1. ENFORCEMENT

- (1) Each Person who contravenes a provision of this By-law:
  - (a) may be given a Penalty Notice in accordance with the City of Thorold's Administrative Penalty By-law and be liable to pay to the City an Administrative Penalty in the amount specified by the Administrative Penalty By-law, for each day or part of a day on which the contravention continues; or
  - (b) upon conviction be liable to fines as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.
- (2) The Chief Building Official or an Officer may inspect the land or structures, for the purpose of determining whether:
  - (a) the Owner or Occupant has complied with any Order sent by the Chief Building Official or an Officer; or
  - (b) there is compliance or non-compliance with any other provision of this by-law.
- (3) Every Owner or Occupant shall permit the Chief Building Official or an Officer employed, upon production of identification and for the purpose of the inspection by the City, to inspect the land or structure for the purpose of sentence 3.1.(1).
- (4) No Person shall hinder or obstruct an Officer, appointed under this by-law or employed to enforce this by-law, from carrying out an inspection of lands, nor shall any Person obstruct any employee or agent authorized to carry out work for the City specified in an Order issued hereunder.
- (5) Notwithstanding sentence 3.1.(1), the Chief Building Official or an Officer may make an Order indicating;
  - (a) to clean and clear-up the Property and to bring the Property into compliance with this by-law;
  - (b) the time for complying with the notice;
  - (c) the required action for compliance; and
  - (d) if required action is not carried out within the time prescribed in the Order, the City may carry out the required remedial action at the Owner's expense.
- (6) Orders reference in sentence 3.1.(4) shall be sent by registered mail to the Last Known Address or personally delivered to the Person to which the Order is issued.
- (7) Service of an Order by registered mail is deemed to be effective on the fifth (5<sup>th</sup>) day following the date of mailing.

- (8) Notwithstanding sentence 3.1.(3), an Officer may also post an Order on the Property in a conspicuous location.
- (9) Where the Owner or Occupant fails to comply with an Order issued under this by-law within the time specified for compliance, the Chief Building Official or an Officer, with such assistance by others as may be required and upon reasonable notice, may bring a Property into compliance with any section of this by-law.
- (10) For the purposes of sentence 3.1.(8), “reasonable notice” shall be 8 days for a first time offence and 2 days for any subsequent offence.
- (11) Where any materials or things are removed in the process of bringing a Property into compliance, the materials or things may be immediately disposed of by the Chief Building Official, an Officer or a Person working under the direction of the Chief Building Official or an Officer.
- (12) Upon completion of the work, repairs or demolition by or on behalf of the City, the City shall have a lien on the land for the amount spent on the work, repair or demolition, and the amount shall be deemed to be municipal real Property taxes and may be added by the Clerk of the municipality to the tax roll and collected in the same manner and with the same priority as municipal real Property taxes as provided for by statute.

### **3.2. VALIDITY**

- (1) Should a court of competent jurisdiction declare a part or whole of any provision of this by-law to be invalid or of no force and effect, the provision or part is deemed severable from this by-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under the law so as to protect the public by ensuring a minimum standard for maintenance and occupancy is maintained.
- (2) Where a provision of this by-law conflicts with the provision of another by-law, Act, or Regulation in force within the City of Thorold, the provisions that establish the higher standards to protect the health and safety of Persons shall prevail.

### **3.3. TRANSITION RULES**

- (1) After the date of the passing of this by-law, those by-laws identified under subsection 4.1 shall apply only to those properties in which an Order has been issued prior to the date of passing of this by-law, and then only to such properties until such time as the work required by such Order has been completed or any enforcement proceedings with respect to such Order, including any demolition, clearance, or repair carried out by the City shall have been concluded.
- (2) In the recovery or enforcement of penalties and forfeitures incurred, or in any other proceeding in relation to matters in respect of a clean yards by-law of any former area municipality, including the predecessor to by-laws

mentioned in subsection 4.1, the process may be continued and carried out under this by-law.

#### **4. REPEAL AND ENACTMENT**

##### **4.1. BY-LAWS TO BE REPEALED**

- (1) By-Law 121-2007 of the Corporation of the City of Thorold and any amendments made thereto are hereby repealed.

##### **4.2. DATE OF ENACTMENT**

- (1) This by-law shall come into force and effect on the day after it has passed.

Read a first, second and third time and finally passed by Council this 17<sup>th</sup> day of December, 2019.

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Terry Ugolini, Mayor

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Donna Delvecchio, City Clerk