

THE CORPORATION OF THE TOWN OF HANOVER

BY-LAW NUMBER 2893-15

BEING a by-law respecting litter, yard waste and the maintenance of property.

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

AND WHEREAS Section 127 of the Municipal Act, 2001 S.O. 2001, c.25 as amended authorizes municipalities to pass by-laws for requiring the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse and debris from the land, not including buildings and to regulate when and how such matters shall be done and 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" for the purpose of the by-law.

AND WHEREAS Section 128 (1) of the Municipal Act, 2001 S.O. 2001, c.25 as amended authorizes municipalities to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances.

AND WHEREAS Section 131 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality may prohibit and regulate the use of any land for the storage of motor vehicles for the purpose of wrecking or dismantling them or salvaging parts from them for sale or other disposition.

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

AND WHEREAS it is deemed desirable to enact this by-law to extend the useful life of individual properties to enhance the quality of communities and neighbourhoods, to protect the safety, health and well-being of the public and to ensure the continued enjoyment of property for residents and property owners in the Town of Hanover.

NOW THEREFORE, the Council of the Town of Hanover hereby enacts as follows:

1. SHORT TITLE

This by-law shall be known as the "Clean and Clear Yards By-Law"

2. APPLICATION

This by-law shall apply to all properties within the Town of Hanover

3. DEFINITIONS

"AGRICULTURAL OPERATION" means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward

"DONATION BOX" means a container used to collect second- hand clothing or other second-hand items

"EXCESSIVE GROWTH OF GRASS AND WEEDS" shall mean grass and or weeds which have grown to a height so as to be inconsistent with the surrounding environment

"FARM" means a lot in excess of 4ha (10 acres), held for the purpose of agricultural use, together with or without its dependent buildings including one single-detached dwelling with private garage as the principal farm dwelling, barns, pens, sheds, and similar accessory buildings except that in areas where buildings and structures are prohibited such uses shall refer only to the land

"INDOOR FURNITURE" shall mean and include 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, pillows and cushions, mattresses and box springs

“INOPERATIVE MOTOR VEHICLE” shall mean and include any motor vehicle other than a motor vehicle which is currently licensed, and operable and owned by an owner or occupant of the property on which it is stored, unless it is permitted for the operation of a business enterprise lawfully situated on the property

“INOPERATIVE VEHICLES, MACHINERY, TRAILERS OR BOATS” shall mean such items that are unable to operate as a result of being dismantled, broken or incomplete, decayed or dilapidated, and in particular includes vehicles with missing part(s) such as but not limited to wheel(s), tire(s), engine(s), drive train or body components or window(s), unless such item is operable, not dismantled, broken or incomplete, decayed or dilapidated and its 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” shall mean the address, which appears on the last revised assessment rolls of the Corporation of the Town of Hanover

“MUNICIPALITY” shall mean the Corporation of the Municipality of Hanover

“MUNICIPALLY OWNED LANDS” shall mean the property owned or maintained by the Corporation of the Town of Hanover shown on the last revised assessment roll and shall include all municipal road allowances and rights of way

"NORMAL FARM PRACTICE" means a practice that,

- a) is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances, or
- b) makes use of innovative technology in a manner consistent with proper advanced farm management practices.

"NOTICE" means a Notice as set out in Appendix 'A' of this by law

“NOXIOUS WEED” shall mean a species of weed designated by or under the *Weed Control Act*, R.S.O. 1990, c. W.5, as a noxious weed

"OCCUPANT" means the registered owner of property, tenant or occupant or person for the time being managing or receiving the rent from the property, whether on his or her own account or on account of an agent or trustee of any person or any one of the aforesaid

"OFFICER" means a Municipal Law Enforcement Officer appointed under the authority of the *Police Services Act* for the purpose of enforcing by-laws by Council of The Town of Hanover, an agent and /or his or her designate assigned the responsibility for enforcing and administering this by-law

“OFFICIAL PLAN” shall mean the municipal document that contains goals, objectives and policies established primarily to manage and direct physical change and the effects on the social, economic and natural environment of the municipality or part of it, as well as a description of the measures and procedures proposed to attain the objectives of the Plan

“ORDER” shall mean any notice of non-compliance issued under this By-Law

“OWNER” shall mean the person in whom is vested the ownership, dominion or title of property and includes his or her agent, administrator or assignee

"PERSON" means an individual, firm, corporation, association or partnership, and shall include the occupant as defined in Section 3.0 above

"PROPERTY" means any parcel of land or registered water lot and, without limiting the generality of the foregoing, shall mean lands and premises appurtenant to a building or structure whether residential, institutional, commercial or industrial and includes vacant property, but shall exclude any building or structure

"REFUSE OR DEBRIS" means any article, thing, or matter that has been cast aside or discarded or abandoned, whether of any value or not, or that has been used up in whole or in part, or expended, or worn out in whole, or in part.

Without restricting the generality of the foregoing, refuse or debris may include:

- a) garbage, rubbish, junk or litter,

- b) excessive accumulations or piles of grass clippings, tree and garden cuttings, brush and leaves which are not part of a horticultural or composting process,
- c) unusable containers such as crockery, dishes, glassware, bottles, plastic containers and cans,
- d) discarded paper, paper products, cardboard, clothing,
- e) discarded weighty or bulky materials such as stoves, refrigerators and other such appliances, furniture, furnace parts, pipes, water or fuel tanks,
- f) any unused, abandoned, dismantled or inoperative vehicle, or any vehicle which is not licenced with a currently validated license plate pursuant to the provisions of the *Highway Traffic Act* as amended,
- g) any wrecked, dismantled, discarded vehicle or automotive parts or accessories, mechanical parts, unmounted or mounted tires, accessories or adjuncts to any vehicle or mechanical equipment,
- h) any all-terrain vehicle, motor home, motorized snow vehicle, motorized recreational vehicle or camper, traction engine, farm or lawn tractor, road-building machine or a vehicle drawn, propelled or driven by any kind of power including horse power or manpower, boat, watercraft or trailer or part thereof, which is unlicensed and/ or in a wrecked, discarded, dismantled, inoperative or abandoned condition unless it is necessary for the operation of a business lawfully situated on the property,
- i) discarded, unused or waste materials resulting from or as part of construction, alteration, repair or demolition of any building or structure or old or decayed lumber,
- j) debris, objects or conditions that may create a health, fire or accident hazard,
- k) dilapidated, collapsed or partially constructed structures which are not currently under construction or repair,
- l) discarded, dead, diseased, decayed or damaged trees or brush

"REPAIR" means the provision of such facilities and the making of additions or alterations or the taking of such action as in restoring, renovating or mending as may be required so that the property shall conform to the standards as established in this By Law

"STAGNANT WATER" means non-flowing, motionless or stale water that has remained in a location for a period exceeding four days as observed and recorded by an officer as defined in Section 9

"VEHICLE" means a motor vehicle, any all-terrain vehicle, motor home, motorized snow vehicle, motorized recreational vehicle or camper, traction engine, farm or lawn tractor, road-building machine or a vehicle drawn, propelled or driven by any kind of power including horse power and manpower, including a boat, watercraft or trailer or part thereof

"WASTE" means garbage, refuse and other waste materials generated from domestic household sources and similar uses, approved for disposal by the Ministry of the Environment and Energy and the Town Council, at the Municipal Waste Disposal Site, and shall for the purpose of this definition include solid commercial, residential and non-hazardous solid industrial waste

4. EXEMPTION

- 4.1. This by-law does not apply so as to prevent a farm operation or practice meeting the definition of "agricultural operation" and "normal farm practice" under the Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1, as amended from carrying out a normal farm practice as provided for and defined under that Act, and as defined above;
- 4.2. 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 in accordance with a permit issued pursuant to the Building Code Act.

5. PROPERTY MAINTENANCE STANDARDS

- 5.1. Every owner, tenant or occupant of property shall maintain said property clean and free from refuse and/or debris.

6. GRASS-TREES - BUSHES – HEDGES - LANDSCAPING

- 6.1. Every owner, tenant or occupant of property shall remove excessive weeds and noxious weeds as defined by the Weed Control Act R.S.O. 1990, Chapter W.5 as amended;

- 6.2. Every owner, tenant or occupant of property shall keep all sodded and grass covered areas in a good living condition and properly maintained including satisfactory cutting or mowing so as not to present an unsightly appearance;
- 6.3. Every owner, tenant or occupant of property shall maintain trees, bushes, hedges and other landscaping, non-organic ground cover and site facilities in living condition or a safe condition;
- 6.4. Every owner, tenant or occupant, shall keep hedges and trees adjacent to a public sidewalk, walkway or roadway cut and trimmed so as to allow safe unhindered passage;
- 6.5. No fill shall be allowed to remain in an unlevelled state on any property for longer than fourteen (14) days, unless the property is:
 - a) a construction site for which a building permit is in effect;
- 6.6. No fill shall be left in an uncovered state (not covered by sod, seed or agricultural crop) on any property for longer than thirty (30) days unless the property is:
 - a) a construction site for which a building permit is in effect,
 - b) a property being subdivided under subdivision agreement with the Town of Hanover; or
 - c) property being actively farmed;

7. UNENCLOSED PORCH - BALCONY - CARPORTS

- 7.1. Every unenclosed porch or unenclosed balcony, and every exterior and common area shall be kept free of garbage, waste, or appliances:
 - a) Every owner or occupant of a property shall not use a balcony except as per its universally intended and accepted use predominantly as outdoor living space,
 - b) Every owner or occupant of a property that contains an unenclosed porch, balcony or carport shall maintain the unenclosed porch, balcony or carport free of accumulation of unsightly materials or objects,
 - c) No person shall use a balcony for the storage or placement of waste,
 - d) No person shall use a carport for storage of waste,
 - e) No person shall use or store anything on a balcony in a manner to diminish the safety factor afforded by guardrails,
 - f) No person shall use or store anything on a balcony or guardrail to present falling hazards to below;

8. WALKWAYS AND DRIVEWAYS

- 8.1. Surface conditions of walkways, driveways and yards shall be installed and maintained in a safe condition with non-organic ground cover so as to:
 - a) prevent ponding of storm water,
 - b) not exhibit an unsightly appearance,
 - c) be kept free of garbage and waste,
 - d) be kept free of deep ruts and holes,
 - e) every owner shall provide for safe passage under normal use and weather conditions, day or night; and
 - f) not create a nuisance to other property;

9. STAGNANT WATER

- 9.1. Every owner, tenant or occupant shall keep their property free and clear of stagnant water. This section shall not apply to property designated as Environmentally Sensitive Policy Areas, Environmentally Sensitive Landscapes or Provincially Significant Wetlands as designated in the Official Plan or Environmental Preservation Areas in the Town of Hanover Official Plan, or to marshes, swamps, bogs, fens, natural bodies of water, storm water retention ponds and recreational types of ponds.

10. PESTS

- 10.1. Every owner, tenant or occupant shall keep their property free and clear of infestations of injurious insects, termites, rodents, vermin or other pests.

11. LITTER

- 11.1. No person shall throw, place or deposit any refuse or debris as herein defined on any property within the Town of Hanover, without the written consent of the property owner. Any person throwing, placing or depositing refuse or debris on any property without the written consent of the owner is guilty of an offence.

12. DONATION BOXES

- 12.1. No person shall place, erect or maintain or permit the placement, erection or maintenance of a donation box on any premises except on private property that is zoned to permit a commercial or industrial use;
- 12.2. Every owner or occupier shall ensure that there are no items discarded or placed in the area surrounding a donation box, regardless of whether such items left are donations.

13. LIABILITY

- 13.1. Pursuant to Section 448 of the Municipal Act S.O 2001, c.25, as amended, no proceeding for damages or otherwise, shall be commenced against a member of Council or an officer, employee or agent of the municipality or a person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this By-law for any alleged neglect or default in the performance in good faith of the duty or authority.

14. RIGHT OF ENTRY

- 14.1. Pursuant to Section 435 and 436 of the Municipal Act S.O, 2001, c.25, as amended, an Officer may enter upon property, at any reasonable time, for the purpose of carrying out inspections of or on such property to determine whether or not the provisions of this by-law are being complied with;
- 14.2. In accordance with the provisions of the Municipal Act S.O 2001, c.25, as amended, Section 426(1), no person shall hinder, interfere with, or otherwise obstruct, either directly or indirectly, an Officer in the lawful exercise or power or duty under this by-law;
- 14.3. Where an authorized officer has reasonable grounds to believe that an offence has been committed by a person, the authorized officer may require the name, address and proof of identity of that person, and the person shall supply the required information.

15. ADMINISTRATION AND ENFORCEMENT

- 15.1. When any property is not maintained to the requirements of this by-law, the Officer may notify the owner, tenant or occupant or other person responsible for the maintenance of the property, using the Notice in Appendix "A" hereto, directing that the property to comply with the provisions of this by-law within a defined period of time, but not less than seventy two (72) hours from the date of the Notice. Said Notice shall be sent to the last known address as shown on the last revised assessment rolls of the municipality or delivered personally to the owner, tenant or occupant or person responsible for the property;
- 15.2. In the event an Officer is unable to serve the notice by registered mail or personally, the notice may be posted in a conspicuous place on the property, and the placing of the notice shall be deemed to be sufficient service of the notice on the property owner;
- 15.3. Notice shall be in the form as set out in Appendix "A" to this by law;
- 15.4. Where a Notice has been sent pursuant to Section 15.1 and the requirements of the notice have not been complied with, the Officer may order that the work be done at the expense of the owner, tenant or occupant. The expense incurred may be recovered by action or by adding the costs to the tax roll and collecting them in the same manner as taxes pursuant to Section 446 (3) of the Municipal Act S.O 2001, c.25, as amended. The municipality has the option to apply a reasonable administration fee to this process should it be necessary;
- 15.5. An Order shall be in the form as set out in Appendix "B" to this by-law;
- 15.6. Where an owner is making reasonable effort to comply with a notice, but requires more time within which to complete the removal of the debris or standing water, the Officer may, in his or her discretion, approve up to two (2) time period extensions pursuant to this section of the By-Law. Each extension shall be for a time period no longer than thirty (30) days. In those circumstances, written notice of the change to the original notice shall be delivered to all persons who received the original notice;
- 15.7. In the case of a health, safety or fire hazard, an Officer may order that the said hazard be removed forthwith without the Notice as described in Section 15.1 being completed.

16. SEVERABILITY

- 16.1. If an article of this by-law is for any reason held to be invalid, the remaining articles shall remain in effect until repealed.

17. OFFENCES & PENALTIES

- 17.1. Every person who contravenes any of the provisions of this By-law is guilty of an offence and, on conviction, is liable to a fine pursuant to the Provincial Offences Act, R.S.O. 1990, c. P 33, as amended;
- 17.2. Any person who contravenes any of the provisions of this by-law or who fails to comply with the written Notice or Order of an Officer is guilty of an offence and on conviction is liable to a fine as set out in Schedule "A" of this by-law or as provided for in the Provincial Offences Act, R.S.O 1990, c P.33 as amended;
- 17.3. Every person who contravenes any provision of this By-law, or who fails to comply with the written Notice or Order of an Officer issued under this Bylaw, is guilty of an offence;
- 17.4. Every person who is convicted of an offence under this By-law shall be subject to a fine not exceeding \$10,000.00 for each offence and such fine shall be recoverable under the Provincial Offences Act;
- 17.5. A director or officer of a corporation who knowingly concurs in a contravention of this By-law by the corporation is guilty of an offence and is liable upon conviction to a fine not exceeding \$100,000.00 for each offence and such fines shall be recoverable under the Provincial Offences Act;
- 17.6. An offence under this By-law constitutes a continuing offence and for each day or part of a day that the offence continues, the fine shall not exceed \$10,000.00;
- 17.7. The conviction of a person under this By-law shall not operate as a bar to a prosecution against the same person upon any continued or subsequent breach of any provision of or order under this By-law and the court may convict such person repeatedly for continued or subsequent breaches of this By-law and the provisions of section 431 of the Municipal Act, 2001 shall further apply to any continued or repeated breach of this By-law;
- 17.8. Upon a conviction being entered, the court in which the conviction was entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed in this Bylaw, make an order prohibiting the continuation or repetition of the offence by the person convicted;
- 17.9. In addition to the foregoing penalties, where a vehicle has been removed, impounded, restrained or immobilized according to Section 170 (15) of the Highway Traffic Act, R.S.O. 1990, as amended, in violation of this by law, all costs associated with the removal, impoundment, restraining or immobilization will be the responsibility of the registered owner of the vehicle.

18. SCHEDULES

- 18.1. Schedule "A" (Short Form Wording and Set Fines) attached hereto does not form part of this By-law.

This By-Law shall come into force and take effect on the day it is passed.

READ A FIRST, SECOND and THIRD TIME and FINALLY PASSED this 25th day of May, 2015.

Susan Paterson, Mayor

Marilyn Zettler, Deputy Clerk

SCHEDULE ‘A’ TO BY-LAW NO. 2893-15

PART 1, PROVINCIAL OFFENCES ACT

BEING a by-law respecting litter, yard waste and the maintenance of property.

Short Form Wording	Provision Creating or Defining Offence	Set Fine
Fail to keep property clean	Section 5.1	\$150.00
Fail to keep property free of refuse	Section 5.1	\$150.00
Fail to keep property free of debris	Section 5.1	\$150.00
Fail to keep property free from vehicles as set out in the Bylaw	Section 5.1	\$150.00
Fail to keep property free from excessive weeds	Section 6.1	\$150.00
Fail to keep property free from excessive long grass	Section 6.2	\$150.00
Fail to maintain trees/brush/hedge	Section 6.3	\$150.00
Fail to trim trees and hedges adjacent to sidewalks, walkways or roadways	Section 6.4	\$150.00
Fail to keep property free from objects/conditions likely to create a safety hazard	Section 7.1(f)	\$150.00
Fail to keep property free from stagnant water	Section 9.1	\$150.00
Fail to keep property free from infestations of injurious insects or termites	Section 10.1	\$150.00
Fail to keep property free from infestations of rodents, vermin, or other pests	Section 10.1	\$150.00
Placing, throwing, depositing refuse or debris without permission of property owner	Section 11.1	\$150.00
Fail to keep clear of discarded items	Section 12.2	\$150.00
Obstruct, hinder or otherwise interfere with an Officer	Section 14.2	\$500.00
Fail to provide required information	Section 14.3	\$500.00
Fail to comply with a Notice	Section 15.1	\$300.00
Fail to comply with an Order	Section 15.4	\$400.00

The penalty provision for the offences indicated above is Section 61 of the *Provincial Offences Act*.
R.S.O 1990. C.P.33