

CORPORATION OF THE TOWNSHIP OF WARWICK

BY-LAW NO. 19 OF 2009

A By-law for Requiring and Regulating the Filling up, Draining and Cleaning of Land and Clearing Land of Waste

WHEREAS subsection 5(3) of the *Municipal Act, 2001* provides that a municipal power shall be exercised by by-law;

WHEREAS section 9 of the *Municipal Act, 2001* grants the council of a municipality the capacity, rights, powers and privileges of a natural person;

WHEREAS section 11 of the *Municipal Act, 2001* authorizes council to pass by-laws with respect to the health, safety and well-being of persons and the economic, social and environmental well-being of the municipality;

WHEREAS, without limiting the generality of sections 10 and 11 of the *Municipal Act, 2001*, section 127 of the *Municipal Act, 2001* authorizes the Council to pass a by-law to regulate the cleaning and clearing of land, including refuse and/or debris from land.

NOW THEREFORE the Council of the Township of Warwick enacts as follows:

1. Definitions

In this By-law,

- a) “Municipality” means the Corporation of the Township of Warwick;
- b) “Domestic Waste” means any article, thing, matter or effluent belonging to or associated with a residence, household, dwelling unit or family that appears to be waste material, and without limiting the generality of the foregoing includes the following classes of waste material:
 - i) grass clippings, weeds, tree cuttings, brush, leaves and garden refuse;
 - ii) paper, cardboard, clothing;
 - iii) kitchen and table waste, of animal or vegetable origin resulting from the preparation or consumption of food;
 - iv) cans, glass, plastic containers, dishes;
 - v) old or decayed lumber, new or used material resulting from or for the purpose of construction, alteration, repair or demolition of any building, structure or equipment;
 - vi) refrigerator, freezer, stove or other appliance and disused furniture;
 - vii) bathroom fixtures and plumbing parts and materials
 - viii) furnace, furnace parts, pipes, fittings to pipes, water or fuel tanks;

- ix) a motor vehicle that appears by reason of its age, appearance, mechanical condition or lack of current validated licence plate to be inoperative, inoperative mechanical equipment, automotive and mechanical parts and accessories;
 - x) rubble, inert fill, fencing materials; and
 - xi) sewage.
- c) “Industrial Waste” means any article, thing, matter or effluent belonging to or associated with industry, commerce or manufacturing or concerning or relating to any trade, business, calling or occupation that appears to be waste material and includes but is not limited to the following classes of waste material:
- i) piping, tubing, conduits, cable, fittings or other accessories, or adjuncts to the piping, tubing, conduits or cable;
 - ii) containers of any size, type of composition;
 - iii) rubble, inert fill;
 - iv) a motor vehicle that appears by reason of its age, appearance, mechanical condition or lack of current validated licence plate to be inoperative, inoperative mechanical equipment, automotive and mechanical parts and accessories, accessories or adjuncts to automotive and mechanical equipment;
 - v) articles, things, matter, effluent in whole or in part or fragments thereof which are derived from or consist of:
 - (1) agricultural, animal, vegetable, paper, lumber or wood products, or
 - (2) mineral, metal or chemical products; whether or not the products are manufactured or otherwise processed;
 - vi) bones, feathers, hides or other animal parts or by-products;
 - vii) paper or cardboard packaging or wrapping;
 - viii) old or decayed lumber, new or used material resulting from or for the purpose of construction, alteration, repair or demolition of any building, structure or equipment; and
 - ix) sewage.
- d) “Inspector” means a person appointed as Chief Building Official for the Municipality or his designate;
- e) “Land” includes any ground, property, yard, or vacant lot or any part of a lot which is not beneath a building;
- f) “Motor Vehicle”, shall mean an automobile, motorcycle, motor assisted bicycle and any other vehicle propelled or driven other than by muscular power.

- g) “Owner” includes an owner, occupant, lessee, tenant and mortgagee of Land and also includes any other person in charge of Land;
- h) “Rubble” includes broken concrete, bricks, broken asphalt, patio or sidewalk slabs;
- i) “Sewage” includes any liquid waste containing human, vegetable, or mineral matter, waste that is in suspension whether domestic or industrial or any other waste whether in suspension or precipitated, but does not include roof water or storm run-off.
- j) “Refuse” means Domestic Waste and Industrial Waste as defined herein and also includes material or effluent that, in the opinion of the Inspector:
 - i) appears to have been cast aside or discarded or abandoned; or
 - ii) appears to be worthless or useless or of no practical value; or
 - iii) appears to be used up, in whole or in part, expended or worn out in whole or in part.

2. Prohibited Matters

No person shall within the Municipality:

- a) as Owner of the Land, fail to clear his Land of Refuse, Rubble and/or Sewage;
- b) as Owner of the Land, fail to drain an accumulation of water exceeding 30 centimeters (12 inches) in depth on the Land; or
- c) throw, dump, place, deposit or cause or permit to be thrown, dumped, placed or deposited, Refuse, Rubble or Sewage on private property or on property owned by the Municipality.

3. Ponding and Excavations

- a) Subject to paragraphs b) and c) below, the Owner of a Land, on which water collects by reason of any depression, excavation or hole, shall cause the same to be properly drained and filled with clean earth.
- b) Every Owner shall fill in any excavation on his Land unless it is enclosed completely by a barrier of at least 107 centimeters (42 inches) in height.
- c) Every Owner shall drain his Land of accumulations of water that exceed 30 centimeters (12 inches) in depth, unless the accumulation is completely enclosed by a barrier of at least 107 centimeters (42 inches) in height or such water is located within a storm water management pond approved in writing by the Municipality.

- d) Subsection 3 b) above does not apply to Land on which construction is actively proceeding under a valid building permit issued by the Municipality.
- e) Subsections 3 a) and c) above do not apply to natural bodies of water and lawfully maintained swimming pools and ornamental ponds.

4. Waste on Land

1. Every Owner shall keep his Land cleaned, cleared and free of Refuse, Rubble and Sewage.
 - a) Furthermore, every Owner shall:
 - i) cut and remove weeds and grass of more than 20 centimeters (8 inches) in height from his Land; and
 - ii) remove stock piles of soil or other aggregate material not required to complete the grading of his Land on which the stock pile is located.
2. This section does not apply to:
 - a) any property which is lawfully used for outdoor storage of materials in compliance with the applicable zoning and licensing by-laws and regulations of the Municipality;
 - b) any property and/or structure designated by or operated by the Municipality or the Corporation of the County of Lambton for the purpose of dumping or disposing Refuse, Rubble or Sewage.
3. Notwithstanding Section 4.1 above, Land may be used for the sale and display of household goods, furnishings apparel and similar articles provided such sale and display is limited to no more than three days in any calendar year with the exception of homemade articles, crafts, things or goods made by those residing on the premises, provided the sale and display does not exceed 35% of the front yard or exterior side yard.

4. Leaves, twigs, branches, grass clippings, plants and other biodegradable matter may be composted on land provided such composting is confined to a rear yard, is situated at least one (1.0) meter from the Land's property line and is undertaken in a manner which prevents any noxious odour emitting therefrom or is otherwise disposed of in accordance with the standards and regulations of the Municipality.

5. Inspection of Land

1. The Inspector may, at any time, inspect and enter upon any Land, vehicle or structure in the Municipality for the purposes of determining whether:
 - a) The Land or structure is used for dumping or disposing of garbage or Refuse, Rubble or Sewage of any kind;
 - b) the Land or structure is used for the storing of used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or disposal;
 - c) the Owner is in compliance with this by-law; and if a notice has been issued to the Owner under this by-law, whether the Owner has and is complying therewith.
2. Every Owner shall permit the Inspector to enter the property and inspect the land, vehicle or structure for the purposes of subsection (1) above.

6. Notice and Remedy

- a. When an Inspector determines that there has been a contravention of this by-law, the Inspector shall cause written notice to be issued to the Owner of the Land. The notice may be delivered to the Owner in person, posted on the Land and/or sent by prepaid registered mail to the address of the subject Land.
- b. The Inspector may, subject to the provision of subsection 6(1) above, require the Owner to take such actions and do such things, within a specified time period, in order to bring the Land in compliance with this by-law.
- c. Subject to the provision of subsection 6(4) below, wherever this by-law or the Inspector directs the Owner to do such things, in default of it being done by the person directed or required to do it; such things may be done under the direction of the Inspector at the expense of the Owner.

- d. The Municipality may recover the expenses incurred in doing such things referred to in subsection 6(3) above and 6(6) below, by action, or in like manner as municipal taxes.
- e. At least five (5) days before proceeding under subsection 6(3) above, the Inspector shall give written notice to the Owner of the Land informing the Owner of his intention to proceed.
- f. Where any matters or things are removed from the Land in accordance with subsection 6(3) above, the matters or things may be immediately disposed of by the Inspector, his servants or agents.

7. Offence

1. Every person who contravenes any provision of this by-law is guilty of an offence and, upon conviction is liable to a fine and penalty prescribed in the *Provincial Offences Act*, R.S.O. 1990, c. P.33. Each day that such offence is committed, or permitted to continue, shall constitute a separate offence and may be punishable as such.
2. Upon conviction, the court in which the conviction has been entered and any court of competent jurisdiction thereafter, may enjoin the continuation or repetition of the offence by the person convicted.

8. Gender

All references to the masculine gender shall, where appropriate, include references to the feminine gender and all references to the singular shall, where appropriate, include references to the plural.

9. Title

The short title of this by-law is the “Clearing of Land By-law”.

10. Severability

If any section or sections of this by-law or parts thereof are found by any court to be illegal or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent there from and continue in full force and effect unless and until similarly found and this by-law shall be enacted as such.

11 Commencement

This by-law shall come into full force and effect upon third reading.

12. Repeal

By-law No. 11 of 1999 is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 25th day of
March, 2009.

Mayor – Todd Case

Administrator/Treasurer – Don Bruder