

CORPORATION OF THE MUNICIPALITY OF THE
TOWNSHIP OF BROOKE-ALVINSTON

BY-LAW No. 31 of 2009

CLEANING & CLEARING OF LAND

Being a By-Law for requiring and regulating the Cleaning and Clearing of Land,
the Clearing of Refuse or Debris from Lands and
Prohibiting the Depositing of Refuse or Debris on Land
Situated Within the Township of Brooke-Alvinston.

WHEREAS under Section 127 of the Municipal Act S.O., 2001 as amended, a local municipality may:

- i. *Require the 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;*
- ii. *Regulate when and how matters required under clause i. shall be done;*
- iii. *Prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land; and*
- iv. *Define "refuse" for the purpose of this section.*

AND WHEREAS under Section 130 of the Municipal Act S.O., 2001 as amended, a municipality may regulate matters not specifically provided for by this Act or any other Act for purposes related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS Zoning By-laws are in effect in the Township of Brooke-Alvinston applying to lands in the Township of Brooke-Alvinston to regulate the use of land and the erection, location and use of buildings and structures;

NOW THEREFORE the Council of the Township of Brooke Alvinston enacts as follows:

1. Short Title

This by-law may be cited as the *Cleaning and Clearing of Land By-law*.

2. Definitions

- 2.1 "Built-Up Area" means any lands used for a residence, household, dwelling unit or family in the Township of Brooke Alvinston. Normal farm operations are not affected by this By-law.
- 2.2 "By-law Enforcement Officer" means the person appointed, by by-law, by the Municipality for the purposes of administering and enforcing the provisions of this By-law.
- 2.3 "Cleared" means the removal of weeds or grass more than 20 centimetres (8 inches) in height and the removal of stockpiles of soil or other earthen material not required for lawn or garden-related purposes or to complete the grading of the lot on which the stockpile is located.
- 2.4 "Domestic Refuse" means any article, thing, matter or effluent belonging to or associated with a place of 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 packaging and wrapping, clothing;
- iii. kitchen and table waste, of animal or vegetable origin resulting from the preparation or consumption of foods;
- iv. cans, glass, plastic containers, dishes;
- v. new or used material resulting from or for the purpose of construction, alteration, repair or demolition of any building, structure or equipment;
- vi. refrigerators, stoves, dishwashers, freezers or other appliances and furniture;
- vii. bathroom fixtures and plumbing parts and materials;
- viii. furnaces, 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. tires;
- xi. derelict machinery and equipment;
- xii. rubble and inert fill;
- xiii. sewage.

2.5 "Excavation" means any man-made opening or depression in the ground, but shall not include a pit licensed under the Aggregate Resources Act, an abandoned pit, an irrigation pond, a fish pond or a water garden.

2.6 "Irrigation Pond" means a body of water situated outdoors, contained by natural or artificial means and designed, used or intended for irrigation purposes and not for recreational or beautification purposes.

2.7 "Fence" means a wall (other than the wall of a building), gate or other barrier constructed of wood, masonry, metal, vinyl, plastic or other manufactured material, or combination thereof, which is continuous throughout its entire length where required, save and except where access areas and lines of sight are required for safety purposes.

2.8 "Industrial Refuse" means any article, thing, matter or effluent belonging to, or associated with, industry or 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. Pipes, tubes, conduits, cable, fittings or other accessories or adjuncts thereof;
- ii. Containers of any size, type or composition;
- iii. Rubble and 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. Derelict machinery and equipment;

- vi. Articles, things, matter or effluent which is whole or in part or fragments thereof which are derived from or are constituted from or consists of agricultural, animal, vegetable, paper, lumber or wood products; or mineral, metal or chemical products, whether or not the products are manufactured or otherwise processed;
 - vii. Bones, feathers, furs, hides or other animal parts or by-products;
 - viii. Paper, cardboard packaging or wrapping;
 - ix. 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
 - x. Sewage.
- 2.9 "Land" means grounds, property, yard(s) or vacant lot(s) or any part of a lot which is not beneath a building.
- 2.10 "Landscaped Open Space" means the area of a lot which is used for the growth and maintenance of grass, flowers, shrubbery and other landscaping materials, both natural and artificial, and includes any surfaced walk, patio, or similar area, but does not include any access driveway or ramp, parking lot, deck or any space beneath or within any building or structure.
- 2.11 "Motor Vehicle" means an automobile, motorcycle, motor assisted bicycle and any other vehicle propelled or driven other than by muscular power.
- 2.12 "Motor Vehicle, Derelict or Abandoned" means a motor vehicle that is in a state of advanced disrepair having missing or damaged parts or deteriorated body conditions which render it inoperative, and may include a motor vehicle that has been evidently abandoned by its owner and left in a place or state of apparent disuse or disinterest by the owner, regardless of whether it is either operable or inoperable or licensed or unlicensed for operation.
- 2.13 "Municipality" means the Township of Brooke-Alvinston.
- 2.14 "Owner" means the person or legal entity who or which holds legal title to land and includes an owner, occupant, lessee, tenant and mortgagee of land and also includes any other person in charge of Land.
- 2.15 "Rubble" means broken concrete, bricks, broken asphalt, patio or sidewalk slabs or combination thereof.
- 2.16 "Sewage" means any waste containing animal, 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 water run-off.
- 2.17 "Sight triangle" means the triangular space formed by the street lines of a corner lot where such lot is located at the intersection of two or more streets and a line drawn from a point in one street line to a point in the other street line, each such point being nine (9.0) meters from the point of intersection of the street lines measured along the said street lines, and where the two streets lines intersect at a point, the point of intersection of the street line shall be deemed to extremities of the interior lot lines.
- 2.18 "Yard" means the land around and appurtenant to the whole or any part of a building, and used or intended to be used or capable of being used in connection with that building and, notwithstanding the foregoing, shall mean land as defined herein.

- 2.19 "Refuse" means Domestic Waste and Industrial Waste as defined herein and also includes material or effluent that, in the opinion of the By-law Enforcement Officer:
- 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.

3. Prohibited Matters

- 3.1 No owner shall, unless otherwise exempted by this By-law, fail to clear land of domestic refuse, rubble and/or sewage, and/or industrial refuse, rubble and/or sewage.
- 3.2 No owner shall, unless otherwise exempted by this By-Law, fail to enclose an excavation in accordance with Section 4.
- 3.3 No owner shall, unless otherwise exempted by this By-Law, fail to drain an accumulation of standing water of any depth on the Land within a reasonable time frame.
- 3.4 No owner shall, unless otherwise exempted by this By-law, 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.

4. Ponds and Excavations

- 4.1 Every owner shall fill in any excavation to adjacent grade with non-contaminated fill unless:
- i. The excavation is enclosed completely by a fence a minimum height of one (1.0) metre (3.28 feet), and;
 - ii. Construction is proceeding for which a valid building permit has been issued.
- 4.2 Every owner shall drain land of accumulations of water that exceed 30 centimetres (12 inches) in depth unless the water:
- i. Is completely enclosed by a barrier of at least 1.0 meter (3.28 feet) in height; or
 - ii. Constitutes a storm water management pond approved in writing by the Municipality;
 - iii. Constitutes a natural body of water or results from the periodic flooding of a natural watercourse; or
 - iv. Constitutes an irrigation pond; or
 - v. Constitutes a water garden or fish pond; or
 - vi. Constitutes a private drain or a municipal drain; or
 - vii. Constitutes a legally maintained swimming pool provided that such pool is completely enclosed by a barrier satisfying the minimum requirements as set out in the most recent Swimming Pool Fence By-law.

5. Drainage

- 5.1 Storm water runoff from any downspout or any impervious surface shall be directed away from neighbouring lands. Lands shall be graded and maintained to prevent ponding or the entry of water into a basement or cellar.
- 5.2 Ditches, private drains, swales and watercourses shall be maintained to facilitate the unimpeded flow of water and prevent ponding.
- 5.3 No storm water or roof water shall be discharged onto a sidewalk, walkway, steps, porch or other pedestrian access which may be hazardous or result in a potential safety risk.
- 5.4 No weeping tile, foundation drain, roof drain, or land drain shall be connected or discharged into any sanitary sewage system.
- 5.5 Only Indirect connections of weeping tile, foundation drains, roof drains or land drains shall be made to storm drainage system.

6. Waste On Land

- 6.1 Every owner shall keep his land cleaned, cleared and free from domestic refuse, rubble and sewage and/or industrial refuse, rubble and sewage, unless:
 - i. The land is zoned for the purpose of outdoor storage of domestic refuse and industrial refuse and other materials, in compliance with the applicable zoning and licensing by-laws and regulations of the Municipality;
 - ii. The land is owned, licensed and used by the Municipality or the Corporation of the County of Lambton, for the purposes of dumping or disposing domestic refuse and/or industrial refuse.
- 6.2 Notwithstanding Section 6.1 to the contrary, land may be used for the sales and display of household goods, furnishings apparel and similar articles provided such sale and display is limited to not 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.
- 6.3 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 (3.28 feet) from a 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.
- 6.4 Waste generated by normal farming operations is exempt.

7. Derelict or Abandoned Motor Vehicle and Similar Items

- 7.1 Lands shall be kept free and clear of derelict or abandoned motor vehicles, railway cars, trailers, boats and street car bodies unless such land;
 - i. is licensed as a salvage yard by the Municipality; or
 - ii. constitutes a waste disposal site for which a Certificate of Approval or a provisional Certificate of Approval has been issued by the Ministry of the Environment under the Environmental Protection Act; or

- iii. constitutes a permitted use and is in conformity with the Zoning By-Law, or otherwise constitutes a legal non-conforming use under the Planning Act.

8. General

In addition to all other requirements of this By-Law, the following regulations shall apply to all properties not directly involved in farm operations:

- 8.1 Weeds and grass shall not be permitted to grow or stand greater than 15 centimeters (6 inches) in height on a continuous basis.
- 8.2 Hedges and trees adjacent to a public sidewalk or road shall be cut and trimmed so as to permit safe and unhindered passage.
- 8.3 Yards shall be kept free from undergrowth or underbrush, and from dead, decayed or damaged trees, and branches and limbs which may create an unkempt or unsafe condition, including a potential fire hazard, or harbor pests or vermin.
- 8.4 Yards shall be maintained as landscaped open space except where otherwise occupied by buildings and structures, driveways, fences, and/or patios or decks.
- 8.5 Within a sight triangle, no shrubs or foliage shall be planted or maintained and no fence, other than a chain link or similar type fence shall be erected or maintained greater than 0.6 meters (2 feet) in height above the centerline grade of the intersecting streets.
- 8.6 All sidewalks, driveways, parking areas and loading areas shall be maintained in good condition, so as to afford safe passage under normal use and weather conditions.
- 8.7 All fences shall be maintained in a safe and structurally sound condition and reasonable plumb unless specifically designed to be other than vertical. Wood fences shall be protected by preservative, paint or other weather resistant material unless constructed from pressure treated lumber.
- 8.8 All lands shall be kept free of rodents, vermin, termites and other injurious insects and pests.

9. Inspection of Land

- 9.1 The By-Law Enforcement Officer may, at any time upon instruction by the Municipality as represented by the Treasurer Administrator, Public Works Manager and/or Clerk, enter upon any Land, vehicle or structure in the Municipality for the purposes of determining whether:
 - i. The Land or structure is used for dumping or disposing of garbage or Refuse, Rubble or Sewage of any kind;
 - ii. 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;
 - iii. The Owner is in compliance with the By-law; and
 - iv. If a notice has been issued to the Owner under this By-law, whether the Owner has and is complying therewith.

- 9.2 Every Owner shall permit the By-Law Enforcement Officer to enter the property and inspect the Land, vehicle or structure for the purposes of subsection (1) above.

10. Notice and Remedy

- 10.1 When the Municipality determines that there has been a contravention of this By-law, then the By-law Enforcement Officer 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.
- a) Every notice issued shall identify the Land; and
 - b) Every notice issued shall be sent to the last known address of the Owner.
- 10.2 The By-Law Enforcement Officer may, subject to the provision of subsection 10.1 above, require the Owner to take such actions and do such things, within the time period as specified in Schedule 'B' attached hereto, in order to bring the Land in compliance with this By-law.
- 10.3 Subject to the provision of subsection 10.4 below, wherever this By-law or the By-law Enforcement Officer 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 By-law Enforcement Officer at the expense of the Owner.
- 10.4 The Municipality may recover the costs incurred in doing such things referred to in subsection 10.3 above, by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes as per section 446(4) of the *Municipal Act, S.O. 2001, as amended*.
- 10.5 At least five (5) days before proceeding under subsection 10.3 above, the By-law Enforcement Officer shall give written notice to the Owner of the Land informing the Owner of the Municipality's intention to proceed. The notice must be issued subject to the provision of subsection 10.1 above.
- 10.6 Where any of matters or things are removed from the Land in accordance with subsection 10.3 above, the matters or things may be immediately disposed of by the Municipality or the By-Law Enforcement Officer, his servants or agents.

11. Offence

- 11.1 Every person who contravenes any provision of this By-law is guilty of an offence and liable upon conviction to a penalty under the *Provincial Offences Act, R.S.O. 1990*, in accordance with Schedule "A" attached hereto.
- 11.2 Upon conviction, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

12. Gender

- 12.1 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.

13. Severability

- 13.1 If any section or sections of this By-Law or parts thereof be found by any court to be illegal or beyond the power of the Municipality 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.

14. Effective Date

- 14.1 This By-Law shall come into force on the date of passing thereof.

15. Schedules

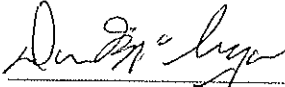
- 15.1 Schedule "A", Set Fine Schedule, attached hereto shall form part of this By-law.
- 15.2 Schedule "B", Time Period to Bring Land into Compliance, attached hereto shall form part of this By-law.

16. Repeal

- 16.1 By-law No. 16 of 2001 and By-law No. 21 of 2001 are hereby repealed.

Read a first and second time this 24 day of September, 2009.

Read a third time and finally passed this 24 day of September, 2009.




Mayor Don McGowan



Clerk Cathy Case

I, Cathy Case, Clerk of the Township of Brooke-Alvinston, do hereby certify this is a true copy of the original by-law.



Cathy Case
Clerk