

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2005-60

A by-law to establish standards for the maintenance
of lands in a clean and clear condition

WHEREAS the *Municipal Act*, 2001, S.O. 2001, c. 25, Section 127, authorizes the Councils of local municipalities to pass by-laws for requiring and regulating the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land;

AND WHEREAS pursuant Section 131 of the *Municipal Act*, 2001, S.O. 2001, c. 25, a local municipality may 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 disposition;

AND WHEREAS the Council of the Corporation of the Town of Amherstburg deems it expedient to establish standards for regulating and governing the maintenance of land;

NOW THEREFORE the Council of the Corporation of the Town of Amherstburg enacts as follows:

PART 1
DEFINITIONS

In this By-law:

- 1.01 "C.B.O" means the Chief Building Official of the Corporation of the Town of Amherstburg;
- 1.02 "Town" means the Corporation of the Town of Amherstburg;
- 1.03 "Domestic Waste" means any article, thing, matter or any effluent belonging to or associated with a house or household or concerning or relating to the home or family that appears to be waste material; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this clause it is hereby declared that domestic waste extends to the following classes of waste material:
- (a) Accumulation, deposits, leavings, litter, remains, rubbish, trash and dead branches;
 - (b) Refrigerators, freezers or any parts thereof;
 - (c) Furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks or plumbing fixture;
 - (d) Inoperative motor vehicles, trailers, vehicle parts and accessories;
 - (e) Paper, cartons, fabrics or carpets;
 - (f) Furniture;
 - (g) Crockery;
 - (h) Sewage.
- 1.04 "Garbage" has the same meaning as "Waste Material";
- 1.05 "Industrial Waste" means any article, thing, matter or any effluent belonging to or associated with industry or commerce or concerning or relating to manufacture of concerning or relating to trade, business, calling or occupation that appears to be

waste materials; and for greater certainty, but not so as restricted the generality of the foregoing terms of this clause it is hereby declared that industrial waste extends to the following classes of waste material:

- (a) Articles, things, matter, effluent which in whole or in part or fragments thereof are derived from or are constituted from or consist of:
 - (i) agricultural, animal, vegetable paper, lumber or wood products; or
 - (ii) mineral, metal or chemical products whether or not the products are manufactured or otherwise processed;
- (b) Automotive parts, inoperative motor vehicles, trailers, boats, vehicle parts, mechanical equipment, mechanical parts, accessories or adjuncts to the vehicles and mechanical equipment;
- (c) Piping, tubing, conduits, cable and fittings or other accessories or adjuncts to the piping, tubing conduits or cable;
- (d) Containers or pallets of any size, type or composition;
- (e) Material resulting from or as part of construction or demolition projects;
- (f) Rubble, insert fill;
- (g) Bones, feather, hides;
- (h) Sewage.

- 1.06 “Inoperative motor vehicle” means a motor vehicle which is without a current license plate and has its’ fenders, hood, trunk, roof, wheels or any part of its’ superstructure removed or a motor vehicle which is in a dilapidated condition;
- 1.07 “Inspector” means a person who has been assigned the responsibility of administering and enforcing this by-law;
- 1.08 “Owner” includes the person for the time being, managing or receiving the rent of the land or premises in connection with which the work is used whether on his own account or as an agent or trustee of any other person who would so receive the rent if such land and premises were let and shall also include a lessee or occupant of the property who under the terms of a lease is required to repair and maintain the property and shall include a person in control of the premises;
- 1.09 “Person” means an individual, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau and agency;
- 1.10 “Private Drain” means a drain or sewer or part thereof situated on private property;
- 1.11 “Refuse” has the same meaning as “Waste Material”;
- 1.12 “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;
- 1.13 “Waste Material” means material or effluent that in the opinion of the C.B.O. or an Inspector:
 - (a) appears to have been cast aside or discarded or abandoned; or
 - (b) appears to be worthless or useless or of no practical value; or
 - (c) appears to be used up in whole or in part of expended or worn out in whole or in part.

PART 2
GENERAL MAINTENANCE STANDARDS

Drainage

- 2.01 Every owner shall keep his or her grounds, yard, or vacant land filled up and drained.
- 2.02 Every owner shall keep in repair his or her private drain.
- 2.03 Every owner shall direct surface drainage run off to:
- (a) a municipal storm sewer;
 - (b) a municipal drain;
 - (c) a swale connected to municipal drainage system.
- 2.04 No owner shall permit surface runoff to drain onto adjacent property unless authorized by agreement.
- 2.05 Every owner shall provide for the sanitary disposal of sewage in accordance with the municipal sewer by-law, Ontario Building Code or any other governing authorities.

Yard Maintenance

- 2.06 Every owner shall keep his or her grounds, yard and vacant land clean and cleared up. "Clean or cleared up" includes the removal, trimming or cutting of weeds, grass or ground cover more than eight (8") inches in height.
- 2.07 Every owner shall keep his or her land free and clear of all garbage, refuse or domestic or industrial waste or any kind.
- 2.08 No person shall use any land or structure within the limits of the Town of Amherstburg for dumping or disposing of garbage, refuse or domestic or industrial waste of any kind.
- 2.09 Subsection 2.07 and 2.08 do not apply to:
- (a) land or structures used by the Town for the purpose of dumping or disposing of garbage or refuse or domestic or industrial waste;
 - (b) land designated by a by-law of the Town for purpose of dumping or disposing of garbage or refuse or domestic or industrial waste.

Motor Vehicles, Trailers and Boats and Parts

- 2.10 Except as provided in the Town's zoning by-law, as amended from time to time, no person shall use any land or structure in the Town for sorting or storing of vehicles, trailers, boats; for sorting used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal.

PART 3
ADMINISTRATION AND ENFORCEMENT

3.01 This by-law shall apply to all properties within the limits of the municipality's jurisdiction.

Officers

3.02 The municipality shall assign a Chief Building Official and Inspector(s) responsible for the enforcement of this by-law.

Inspection

3.03 Where an inspector believes on reasonable grounds that this by-law is being contravened, the inspector may at all reasonable times and upon producing proper identification enter and inspect the use of any land or structure for the purpose of determining whether:

- (a) the land or structure is used for dumping or disposing of garbage, refuse or domestic or industrial waste of any kind;
- (b) that 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 has complied with any notice sent by the C.B.O. or an inspector.

3.04 Every owner shall permit the C.B.O. or any inspector to inspect the land or structure for the purposes of enforcing this by-law.

3.05 An inspector shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under that authority of a search warrant.

Orders and Notices

3.06 The C.B.O. or an inspector may by correction order posted on site or delivered by hand, or registered mail served on the owner of the land or structure, require the owner within the time specified with the notice:

- (a) to keep his or her private drains in repair;
- (b) to alter or relay his or her private drains;
- (c) to provide for the sanitary disposal of sewage and drainage from his or her land or structure;
- (d) to clean, clear or remove from the land or structure or domestic or industrial waste of any kind;
- (e) to cease using the land or structure for the dumping or disposing of garbage, refuse or domestic or industrial waste of any kind;
- (f) to cover over, screen, shield or enclose the garbage, refuse or the domestic or industrial waste in the manner prescribed by the C.B.O.

3.07 Every notice to an owner shall be sent to the address shown on the last revised assessment roll or to the last address.

3.08 Every notice sent by the C.B.O. shall identify the land or structure.

Non-Compliance

- 3.09 Where the owner is in default of doing the matter or things required to be done under this by-law, the C.B.O. may:
- (a) fill up, drain, clean or clear up the grounds, yard or vacant land;
 - (b) repair the private drain or alter or relay the private drain;
 - (c) remove refuse or debris;
 - (d) provide for the sanitary disposal of sewage and drainage;
 - (e) remove garbage, refuse or domestic or industrial waste;
 - (f) cover over, screen, shield or enclose domestic or industrial waste;
 - (g) remove used motor vehicles stored for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal.
- 3.10 Where any of the matters or things are removed in accordance with subsection 3.09 the matters or things may be immediately disposed of by the C.B.O.
- 3.11 The Town shall recover the expense in doing a matter or thing referred to in subsection 3.09 and 3.10 by action or in like manner as municipal taxes.

Penalties

- 3.12 Every person who contravenes any provisions of this by-law is guilty of an offence and on conviction is liable to a fine and/or penalty as provided for in the *Provincial Offences Act*.

Validity

- 3.13 If a Court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

Repeal

- 3.14 The Town of Amherstburg By-law 1999-29, being a by-law to establish standards for the maintenance of lands in a clean and clear condition, passed May 10, 1999, be and the same is hereby repealed.
- 3.15 The short title of this By-law is the Yard Maintenance By-law.

This By-law shall come into force and take effect on the date of final passage thereof.

Read a first, second and third time and finally passed this 27th day of June, 2005.



Mayor



Clerk

Certified to be a true copy of By-law
No. 2005-60 passed by Council of the
Town of Amherstburg on the 27th
day of June, 2005.

Clerk

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
WEST REGION



CABINET DU JUGE PRINCIPAL REGIONAL
COUR DE JUSTICE DE L'ONTARIO
REGION DE L'OUEST

COURT HOUSE
15TH FLOOR, UNIT "G"
80 DUNDAS STREET
LONDON, ONTARIO
N6A 6B3

TELEPHONE/TÉLÉPHONE (519) 660-2292
FAX/TÉLÉCOPIEUR (519) 660-3138

RECEIVED
JUL 28 2005

July 26th, 2005

Mr. David Mailloux, Clerk
Corporation of the Town of Amherstburg
PO Box 159, 271 Sandwich St S
Amherstburg ON N9V 2Z3

Dear Mr. Mailloux:

**Re: Set Fines - Provincial Offences Act - Part I
By-law Number 2005-26, 2005-27 and 2005-60, of the Town of Amherstburg**

Enclosed herewith are copies of Orders, and copies of schedules of set fines for the above referenced By-Law, the By-law indicated in the schedule.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

I have forwarded the original of the Order and the schedule of the set fines to the Ontario Court of Justice in Windsor, together with a certified copy of the By-law.

Yours truly,

A handwritten signature in blue ink, appearing to read 'AMG', with a long horizontal stroke extending to the right.

Alexander M. Graham
Regional Senior Justice
West Region

Enclosures
/ec

ONTARIO COURT OF JUSTICE

PROVINCIAL OFFENCES ACT

PART I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2005-60, of the Town of Amherstburg, attached hereto are the set fines for those offences. This Order is to take effect July 26th, 2005.

Dated at London this 26th day of July, 2005.



Alexander M. Graham
Regional Senior Justice
West Region

SET FINE SCHEDULE

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2005-60

A By-law to Establish Standards for the Maintenance of Lands in a Clean and Clear Condition

PART I Provincial Offences Act

ITEM	SHORT FORM WORDING	PROVISION CREATING OFFENCE	SET FINE
1	Fail to keep grounds, yard or vacant lot filled up and drained	s. 2.01	\$100.00
2	Fail to keep in repair a private drain	s. 2.02	\$100.00
3	Fail to direct surface drainage run off to municipal storm sewer	s. 2.03 (a)	\$100.00
4	Fail to direct surface drainage run off to municipal drain	s. 2.03 (b)	\$100.00
5	Fail to direct surface drainage run off to swale connected to municipal drainage system	s. 2.03 (c)	\$100.00
6	Permit surface runoff to drain onto adjacent property without authorization	s. 2.04	\$100.00
7	Fail to keep grounds, yard or vacant lot clean and cleared up	s. 2.06	\$100.00
8	Fail to keep land free and clear of garbage, refuse or domestic or industrial waste	s. 2.07	\$100.00
9	Use land or structure for dumping or disposing of garbage, refuse or domestic or industrial waste	s. 2.08	\$100.00
10	Use land or structure for sorting or storing vehicles, trailers or boats	s. 2.10	\$100.00

NOTE: The general penalty provision for the offence listed above is section 3.12 of by-law 2005-60, a certified copy of which has been filed.