

INCORPORATED VILLAGE OF HILTON BEACH

By-law Number 2019-19

"Being a By-law to Regulate the Maintenance and Care Of land in the Village of Hilton Beach"

WHEREAS Section 8 of the Municipal Act, 2001, S.O., 2001, c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person, for the purpose of exercising its authority under this or any other Act;

AND WHEREAS Section 11(s)(6) of the Municipal Act, 2001, S.O., 2001, c.25, as amended, provides that a municipality may pass by-laws respecting the health, safety and well-being of persons;

AND WHEREAS Council may pass by-laws under the following provisions of the Municipal Act, as amended:

AND WHEREAS Section 127 of the Municipal Act, 2001, S.O., 2001, c.25, as amended, provides that a municipality may require the owner or occupant to clean and clear the property, not including buildings, or to clear refuse or debris from the property, not including buildings;

AND WHEREAS Section 128 of the Municipal Act, 2001, S.O., 2001, c.25, as amended, permits a municipality to pass by-laws prohibiting and regulating 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, permits a municipality to prohibit and regulate the use of any land for the storage of used motor vehicle for the purpose of wrecking or dismantling them or salvaging parts from them for sale or other disposal;

AND WHEREAS Section 425 of the Municipal Act, 2001, S.O., 2001, c.25, as amended, to pass by-laws providing that any person who contravenes any by-law of the municipality is guilty of an offence;

AND WHEREAS the Municipal Act, 2001, S.O., 2001, c.25, as amended, further authorizes the Village of Hilton Beach, amongst other things, to delegate its authority, to impose fees or charges on persons for services or activities provided or done by or on behalf of it, to provide for inspections and inspection orders and to make orders to discontinue activity or to do work;

AND WHEREAS Section 446 of the Municipal Act, 2001, S.O., 2001, c.25, as amended, provides that if a municipality has the authority under this or any other Act or under a by-law under this 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 or required to do it, the matter or thing shall be done at the person's expense and the municipality may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS the Council of the Incorporated Village of Hilton Beach deems it necessary for the health, safety and welfare of the inhabitants to enact a by-law requiring owners and occupants of land to maintain their land free from refuse, debris, excessive growth of grass and weeds and conditions which may pose an unsafe condition;

NOW THEREFORE the Council of the Incorporated Village of Hilton Beach hereby enacts as follows:

1. SHORT TITLE

- 1.1 This By-law may be cited as the “Yard and Property Maintenance By-law.”

2. DEFINITIONS

- 2.1 In this By-law:

“Council” means the Council of the Incorporated Village of Hilton Beach;

“Debris” shall mean any material whatsoever capable of holding water, and without limiting the generality of the foregoing, includes, but is not limited to, tires, motor vehicles, boats, wheelbarrows, containers of any kind and garden fixtures.

“Derelict” shall mean any vehicle, machinery, trailer, boat, or vessel:

- (a) Which has broken or missing parts of such sufficiency so as to render it incapable of being licensed to operate where such licensing as necessary in its current condition but shall not include a motor vehicle actively being repaired or restored by the owner or
- (b) Which is in a wrecked, dismantled, discarded, inoperative or abandoned condition.

“Derelict Vehicle” shall mean a vehicle having missing bodywork components or parts, including tires or damaged components, parts, bodywork, glass or deteriorated or removed adjuncts, which prevents its mechanical function, and includes a motor vehicle that is not licensed for the current year.

“Domestic Waste” shall mean any debris, rubbish, refuse, sewage, effluent, discard or garbage of any type arising from a residence belonging to, or associated with a house or use of a house, or residential property, including, but not limited to, garbage, discarded material or things, broken or dismantled things, and materials or things exposed to the elements, deteriorating or decaying on a property due to exposure to the weather.

“Dwelling Unit” shall mean one or more habitable rooms within a building which is designed, occupied and/or used as a single housekeeping unit, in which separate kitchen and sanitary facilities are provided for the exclusive use of such individual or individuals.

“Grass” shall include all forms, types and species of grass, weeds and or any other plant material.

“Highway” includes a common and public highway, street, driveway, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

“Industrial Waste” shall mean any debris, refuse, sewage, effluent, discard or garage of a type arising from industrial waste or commercial operation, or belonging to or associated with industry or commerce or industrial or commercial property including, but not limited to garbage, discarded material or things, broken or dismantled things, materials or things exposed to the elements, and deteriorating or decaying on a property due to exposure to the weather.

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“Municipal By-law Enforcement Officer” shall mean a By-law Enforcement Officer as appointed by the Council of the Village of Hilton Beach.

“Municipality” means the Incorporated Village of Hilton Beach.

“Person” includes an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and their heirs, executors, or legal representatives and includes an owner.

“Pests” means rodents, vermin or insects.

“Refuse” means any article or thing that has been cast aside, discarded or abandoned, whether of any value or not; has been used up, in whole or in part, whether of any value or not; or, has been expended or worn out, in whole or in part, whether of any value or not.

“Waste” means a substance or material that is unusable or unwanted and includes but is not limited to:

- (a) Animal feces;
- (b) Broken or discarded material;
- (c) Disconnected appliances and parts of such appliances;
- (d) Firewood not stacked neatly;
- (e) Indoor furniture;
- (f) Domestic waste;
- (g) Industrial or commercial waste;
- (h) Derelict machinery, derelict vehicles, parts of such machinery not packaged for immediate shipment or parts of vehicles no packaged for immediate shipment;
- (i) Material resulting from construction, demolition, repair or renovation projects;
- (j) Piping, ducting, tubing, conduits, cable, wire and fittings or related accessories not packaged for immediate shipping;
- (k) Torn or cut twigs, tree trunk, stem or branches;
- (l) Waste wood or lumber

“Weeds” shall mean all noxious and local weeds designated as such under the Weed Control Act R.S.O. 1990, c.w.5.

“Yard” shall mean the land within the boundary lines of a property not occupied by a principal building, if any, and includes grounds or vacant property.

3. SCOPE AND APPLICATION

- 3.1 This By-law shall apply to all lands within the Village of Hilton Beach.
- 3.2 Where a provision of this By-law conflicts with a provision of another By-law in force and effect in the Municipality, the provision that established the higher standard shall prevail in order to protect the health, safety and welfare of the general public.

4. YARD AND PROPERTY MAINTENANCE

- 4.1 Every owner, lessee or occupant shall keep their ground, yard or vacant land clear and free from holes and excavations, adequately drained, graded, clean or cleared up and free from conditions that may be considered a health hazard or nuisance by the surrounding lands and neighbourhood.
- 4.2 For the purpose of subsection 4.1, “Keeping clear” includes:
 - (a) The removal of dead, decayed or damaged trees or other natural growth and the branches or limbs thereof which create an unsafe condition in relation to their environment;

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- (b) The removal, trimming or cutting of weeds or grass more than 20 centimeters (8 inches) in height;
 - (c) The removal of standing, ponding and stagnant water;
 - (d) The removal of objects or conditions that create or might create a health, fire or accident hazard;
 - (e) The removal of any domesticated animal excrement;
 - (f) The removal of all garbage, refuse and domestic, commercial or industrial waste of any kind;
 - (g) The general maintenance and up keeping of a property, including keeping various household items in a tidy manner and off the ground or yard for prolonged periods of time exceeding one week
- 4.3 Every owner, lessee or occupant shall ensure that his or her land is free and clear of infestation.

5. VEHICLES

- 5.1 No person shall use any land in the Village of Hilton Beach for storing inoperative motor vehicles or used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal.
- 5.2 No machinery, vehicle, boat, trailer or part thereof which is in an unusable, wrecked, discarded, dismantled, partially dismantled or abandoned condition shall be stored or allowed to remain on any land by an owner or occupant.

6. ENFORCEMENT

- 6.1 This By-law shall be enforced by Municipal By-law Enforcement Officer(s).
- 6.2 For the purpose of ensuring compliance with this By-law a Municipal By-law Enforcement Officer may, at all reasonable times, enter upon and inspect any land to determine whether or not the following are being complied with:
- (a) This By-law;
 - (b) A direction or order made under this By-law; or
 - (c) A prohibition order made under s.431 of the Municipal Act, 2001.
- 6.3 An officer may, for the purposes of the inspection under 6.2:
- Require the production for inspection of documents or things relevant to the inspection;
 - Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - Require information in writing or otherwise as required by the officer from any person concerning a matter related to the inspection; or alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection;
- 6.4 Any cost incurred by the Village in exercising its authority to inspect under subsection 6.3(d) including but not limited to the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the owner or occupant of the property where the inspection takes place.
- 6.5 An officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the Municipal Act, 2001 where he or she has been prevented or is likely to be prevented from carrying out an inspection under section 6.2 and section 6.3.
- 6.6 No person shall hinder or obstruct, or attempt to hinder or obstruct, a Municipal By-law Enforcement Officer from carrying out inspections of land to ensure compliance with this By-law.

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- 6.7 A Municipal By-law Enforcement Officer may make an Order, sent by prepaid regular mail to the last known address, posted on-site or personally delivered to an owner, person or occupant requiring the owner, person or occupant within the time specified in the Order to:
- (a) Discontinue the contravening activity, and/or
 - (b) Do work to correct the contravention.
- 6.8 An order under Section 6.7 shall set out:
- (a) Reasonable particulars of the contravention adequate to identify the contravention and the location of property on which the contravention occurred;
 - (b) The work to be completed; and
 - (c) The date or dates by which the work must be complete.
- 6.9 Where an Owner contravenes an Order issued under section 6.7, the Municipal By-law Enforcement Officer may, without notice to any Owner, cause the work to correct the contravention to be done at each Owner's expense. Without limitation, the Municipal By-law Enforcement Officer may retain such persons to assist in completing the work as the Municipal By-law Enforcement Officer determines appropriate.
- 6.10 Upon completion of the work to correct the contravention by or on behalf of the Town, the municipality shall have a lien on the land for the amount spent on the work to correct the contravention and the amount shall be deemed to be municipal property taxes and may be added to the tax roll and collected in the same manner and with the same priority as municipal property taxes as provided for by statute.
- 6.11 Each Owner is jointly and severally liable to the Village for all costs incurred in any related to work done to correct the contravention for the purpose of Section 6.10 including, without limitation, interest as per Village policy.
- 6.12 This By-law shall be enforced by Municipal By-law Enforcement Officer(s).

7. PENALTY

- 7.1 Each person who contravenes any provision of this By-law is guilty of an offence.
- 7.2 A person convicted of an offence contrary to a provision of this By-law in a proceeding commenced under Part III of the Provincial Offences Act, R. S. O. 1990, c. P.33, is liable to a fine of no less than Five Hundred Dollars (\$500) and no more than Ten Thousand Dollars (\$10,000) for each day or part of a day on which the offence occurs or continues provided that the total of all daily fine for the continuing offence shall not exceed One Hundred Thousand Dollars (\$100,000).
- 7.3 A person convicted of an offence contrary to a provision of the By-law in a proceeding commenced under Part 1 of the Provincial Offences Act, R.S.O. 1990, c. P.22 is guilty of an offence and on conviction is liable to a fine as provided in the Provincial Offences Act, R.S.O. 1990, c. P.22, as amended.

8. SEVERABILITY

- 8.1 Where a Court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of this By-law shall continue in force unless the Court makes an Order to the contrary.

9. REPEAL

- 9.1 Any By-law inconsistent with this by-law shall hereby be repealed.

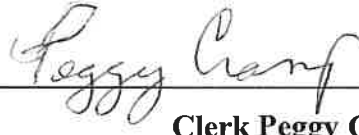
10. ENACTMENT

10.1 This By-law shall come into full force and effect on the day it is passed.

READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED this 9th day of October, 2019.



Mayor Robert Hope



Clerk Peggy Cramp