

THE CORPORATION OF THE
T O W N O F P E L H A M

BY-LAW NO. 1498 (1992)

**Being a by-law to provide for maintaining
land in a clear and clean condition**

WHEREAS, Section 210, Subsection 80 of the Municipal Act, R.S.O. 1990, Chap. M.45 provides that by-laws may be passed by the councils of local municipalities for requiring and regulating the filling up, draining, cleaning, clearing of any grounds, yard and vacant lots;

AND WHEREAS, Section 210, Subsection 82 of the Municipal Act, R.S.O. 1990, Chap. M.45 provides that by-laws may be passed by the councils of local municipalities for prohibiting the throwing, placing or depositing of refuse or debris on private property or on property of the municipality of any local board thereof without authority from the owner or occupant of such property;

AND WHEREAS, Section 210, Subsection 135 of the Municipal Act, R.S.O. 1990, Chap. M.45 provides that by-laws may be passed by the councils of local municipalities for prohibiting, or regulating and inspecting the use of any land or structures within the municipality or any defined area or areas thereof for dumping or disposing of garbage, refuse, or domestic waste or industrial waste of any kind;

AND WHEREAS, Section 210, Subsection 136 of the Municipal Act, R.S.O. 1990, Chap. M.45 provides that by-laws may be passed by the councils of local municipalities for prohibiting or regulating and inspecting the use of any land or structures for storing used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal;

AND WHEREAS, the Council of the Corporation of the Town of Pelham deems it desirable to enact such a by-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

1. This by-law shall be known as the "Clean Yard By-law"

2. In this by-law,

(a) "Corporation" means the Corporation of the Town of Pelham;

(b) **"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:

- 1) Accumulations, deposits, leavings, litter, remains, rubbish, trash;
- 2) Refrigerators, freezers or other appliances, any attached hinges or latching, locking or other closing mechanism or device;
- 3) Furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks;
- 4) Inoperative motor vehicles, vehicle parts and accessories;
- 5) Paper, cartons;
- 6) Furniture;
- 7) Crockery;
- 8) Sewage

(c) **"Holiday"** means Sunday, Saturday, New Year's Day, Good Friday, Easter Monday, Victoria Day, Canada Day, the day proclaimed as a Civic Holiday, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, Boxing Day, the day proclaimed as the birthday or day fixed by proclamation of the Governor General or Lieutenant-Governor-in-Council as a public holiday or for a general fast or thanksgiving and the next following day when any such holiday falls on a Sunday;

(d) **"Industrial Waste"** means any article, thing, matter or any effluent belonging to or associated with industry or commerce or concerning or relating to manufacturing or concerning or relating to any trade, business, calling or occupation 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 industrial waste extends to the following classes of waste material:

- 1) 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, and
 - ii) mineral, metal, or chemical products, whether or not the products are manufactured or otherwise processed;
- 2) Automotive parts, inoperative vehicles, vehicle parts, mechanical equipment, mechanical parts, accessories or adjuncts to the vehicles and mechanical equipment;
- 3) Piping, tubing, conduits, cable and fittings or other accessories, or adjuncts to the piping, tubing, conduits or cable;
- 4) Material resulting from, or as part of, construction or demolition projects;
- 5) Rubble, inert fill;
- 6) Bones, feathers, hides;
- 7) Sewage;
- 8) Dust emanating from the operation of the enterprise.

(e) **"Inoperative motor vehicle"** means a vehicle having missing parts, including tires or damaged or missing glass or deteriorated or removed metal adjunctions, which prevent its mechanical function or is unlicensed for the current year and not properly enclosed and protected;

(f) **"Law Enforcement Officer"** means the By-law Enforcement Officer of the Corporation or any Officer authorized to enforce this or any other by-law of the Corporation;

(g) **"Region"** means the Regional Municipality of Niagara;

(h) **"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;

(i) **"Structure"** means anything constructed or erected, the use of which requires location on or in the ground, or attached to something on or in the ground and includes a building of any kind;

(j) **"Waste material"** means material or effluent that, in the opinion of the Law Enforcement Officer,

- 1) appears to have been cast aside or discarded or abandoned; or
- 2) appears to be worthless or useless or of no practical value; or
- 3) appears to be used up, in whole or in part, or expended or worn out in whole or in part.

3. (a) Every owner, lessee or occupant shall keep his grounds, yard, or vacant land filled up, drained, clean or cleared up;

(b) For the purpose of subsection 3 (a), "clean or cleared up" includes the trimming or cutting of weeds or grass more than 200 mm in height except on land used for agricultural purposes.

4. (a) No person shall throw, place or deposit refuse or debris on private property without the written authority of the owner of the property and of the occupant where the owner is not the occupant.

(b) No person shall throw, place or deposit refuse or debris on **corporation** property or **regional** property without the written authority of the **corporation** or **region**.

5. Every owner, lessee or occupant shall provide for the sanitary disposal of **sewage** from his land or **structures**.

6. (a) Except as provided in subsection (c) and subsection (d), every owner, lessee or occupant shall keep his land free and clear of all garbage, refuse, **domestic waste** and **industrial waste** of any kind;

(b) No person shall use any land or **structure** within the town for dumping or disposing of garbage, refuse, **domestic waste** or **industrial waste** of any kind;

(c) Subsections (a) and (b) do not apply to,

- 1) land or **structures** used by the **corporation** or the **region** for the purpose of dumping or disposing of garbage, refuse, **domestic waste** or **industrial waste**;
- 2) land designated by by-law of the **corporation** or **region** for the purpose of dumping or disposing of garbage, refuse, **domestic waste** or **industrial waste**.

(d) Every owner, lessee or occupant shall cover over any garbage, refuse, **domestic waste** or **industrial waste** of any kind in such a manner as may be prescribed by the Ministry of the Environment or Law Enforcement Officer.

7. Except as provided in the Regional Municipality of Niagara Licencing By-law, no person shall use any land or **structure** in the Town for storing **inoperative motor vehicles** for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal or for the purpose of repairing other vehicles.

8. (a) The **Law Enforcement Officer** may, by notice sent by registered mail served on the owner, lessee or occupant of the land or **structure**, require the owner, lessee or occupant within the time specified within the notice,

- 1) to provide for the sanitary disposal of **sewage** and drainage from his land or **structure**;
- 2) to clean, clear or remove from the land or **structure**: garbage, refuse, **domestic waste** or **industrial waste** of any kind;
- 3) to cease using the land or **structure** for the dumping or disposing of garbage, refuse, **domestic waste** or **industrial waste** of any kind;

- 4) to cover over, provide opaque screening and berming by means of fill or vegetation or both, shield or enclose the garbage, refuse, **domestic waste** or **industrial waste** in the manner prescribed by the Ministry of the Environment or **Law Enforcement Officer**;

(b) Every notice sent by the **Law Enforcement Officer** shall identify the land or **structure**;

(c) Every notice to an owner or lessee shall be sent to the address shown on the last revised assessment roll or to the last known address;

(d) Every notice sent to an occupant shall be to the address of the land or **structure** or to the last known address of the occupant.

9. (a) The **Law Enforcement Officer** may inspect the use of any land or **structure** for the purpose of determining whether,

- 1) the land or **structure** is used for dumping or disposing of garbage, refuse, **domestic waste** or **industrial waste** of any kind;
- 2) the land or **structure** is used for the storing of **inoperative motor vehicles** for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or disposal;
- 3) the owner, lessee or occupant has complied with any notice sent by the **Law Enforcement Officer**;

(b) Every owner, lessee or occupant shall permit the **Law Enforcement Officer** to inspect the land or **structure** for the purpose of subsection (a).

10. (a) Where the owner, lessee or occupant is in default of doing the matter or thing required to be done under this by-law, the **Law Enforcement Officer** may,

- 1) fill up, drain, clean or clear up the grounds, yard or vacant land;

- 2) remove any refuse or debris;
- 3) provide for the sanitary disposal of **sewage** and drainage;
- 4) remove garbage, refuse, **domestic waste** or **industrial waste**;
- 5) cover over, provide opaque screening and berming by means of fill or vegetation or both, shield or enclose **domestic waste** or **industrial waste**;
- 6) remove **inoperative motor vehicles** stored for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal;

(b) Where any of the matters or things are removed in accordance with subsection (a) the matters or things may be immediately disposed of by the **Law Enforcement Officer**;

(c) The **Corporation** shall recover the expense in doing a matter or thing referred to in subsection (a) and (b) by action, or in like manner as municipal taxes.

11. Every owner, lessee or occupant who contravenes any provision of this by-law, is guilty of an offence and liable to a penalty as prescribed by this by-law and the Provincial Offences Act.

12. Notwithstanding all other provisions of this by-law in respect to penalties, for violations, any person may, upon presentation of a by-law infraction notice at the office of the **Corporation's** treasurer, pay out of court, within seven (7) days exclusive of **holidays** from the date of issue of the said by-law infraction notice, the sum of two hundred (\$200.00) dollars.

13. If the voluntary payment of the penalty provided for in Section 12 of this by-law remains unpaid after fifteen (15) days exclusive of **Holidays** from the date of issue of the said by-law infraction notice, the provisions of section 11 shall apply.

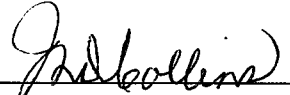
14. Should any provision of this by-law be declared by a court of competent jurisdiction to be void or ultra vires for any reason, the remaining provisions shall, nevertheless, remain valid and binding and shall be read as if the offending section had been struck out.

Repealed
BL #1498
(1992)

15. The provisions of this by-law are to have retrospective operation and shall take effect on the day of its final passing.

16. By-law No. 28 (1970) is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
20th. DAY OF JULY, 1992 A.D.


MAYOR


CLERK