

THE CORPORATION OF THE CITY OF WATERLOO

BY-LAW 2011- /23

BEING A BY-LAW TO REGULATE THE MAINTENANCE OF LAND
IN THE CITY OF WATERLOO

WHEREAS Section 11(2)(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 Section 127 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may require the owner or occupant of property to clean and clear the property, not including buildings, or to clear refuse or debris from the property, not including buildings;

AND WHEREAS Section 131 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a local municipality may prohibit and regulate the use of any property 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;

NOW THEREFORE the Council of The Corporation of the City of Waterloo enacts as follows:

1. Definitions

1.1 In this By-law:

"Act" means the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended;

"City" means The Corporation of the City of Waterloo;

"Council" means the Council of the City;

"composting" means the biological degradation or breakdown of organic material into a dark soil-like material called humus;

"Director of By-Law Enforcement" means the Director of By-Law Enforcement for the City or his or her designate;

"ground cover" means organic or non-organic material applied to prevent soil erosion such as concrete, flagstone, gravel, asphalt, grass or other landscaping;

"Lot" means a parcel of land within the City;

"motor vehicle" includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electric steam railways, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self propelled implement of husbandry or road building machine within the meaning of the Highway Traffic Act;

"Municipal Law Enforcement Officer" means a person appointed by the City under s. 15 of the *Police Services Act*, R.S.O. 1990, c. P.15;

"occupant" means any person or persons over the age of eighteen (18) years occupying a Lot;

"owner" includes:

- (a) the registered owner of the Lot;
- (b) the person, for the time being, managing or receiving the rent from a building on the Lot, whether on the person's own account or as agent or trustee of any other person, or who would receive the rent if the building on the Lot were let; and,
- (c) a lessee or occupant of a building on the Lot who, under the terms of a lease, is required to repair and maintain the Lot in accordance with the standards set out in this by-law;

"person" means an individual, corporation, unincorporated association or partnership;

"pests" means rodents, vermin or insects;

"refuse" means any article or thing that:

- (a) has been cast aside, discarded or abandoned, whether of any value or not;
- (b) has been used up, in whole or in part, whether of any value or not; or,
- (c) has been expended or worn out, in whole or in part, whether of any value or not.

"Region" means the Regional Municipality of Waterloo;

"undesirable material" includes:

- (a) refuse, rubbish, garbage, brush, waste, litter and debris;
- (b) injurious insects, termites, rodents, vermin and other pests;
- (c) growth of grass or weeds in excess of 15.24 cm (6");

- (d) giant hogweed (*Heracleum mantegazzianum*);
- (e) ragweed (*Ambrosia spp.*);
- (f) poison ivy (*Rhus radicans L.*);
- (g) ground cover, hedges and bushes which overhang the sidewalk, impede pedestrian or vehicular traffic or cause a site obstruction;
- (h) dead, decayed or damaged trees or other natural growth and the branches and limbs thereof;
- (i) wrecked, dismantled, inoperative, discarded, unused or unlicensed motor vehicles or trailers, except in an establishment licensed or authorized to conduct or operate a wrecking business;
- (j) stagnant water which provides a breeding place for mosquitoes or other health hazards;
- (k) machinery or parts thereof, or other objects or parts thereof, or accumulation of material;
- (l) all furniture used for exterior use that becomes dilapidated; or,
- (m) all furniture designed for interior use.

“Zoning By-Law” means a by-law passed by Council under the provisions of s. 34 of the *Planning Act*, R.S.O., 1990, c. P.13, as amended.

- 1.2 Where metric and imperial units of measure are referenced, the metric unit of measure shall prevail.
- 1.3 In the event of a conflict between a provision of this by-law and a provision of any other by-law of the City, the provision that establishes the higher standard shall apply.

2. Lot Maintenance Standards

- 2.1 No owner or occupant shall have, or permit to have, undesirable material on their Lot.
- 2.2 This by-law shall not apply to any Lot owned by the City or the Region.

3. Ground Cover

- 3.1 An owner shall ensure that their Lot is graded or provided with ground cover, as appropriate, so as to prevent:

- (a) unstable soil conditions;
- (b) soil erosion; or,
- (c) accumulations of dust or dirt from spreading to neighbouring properties.

4. Outside Storage of Refuse, Compost or Recyclable Material

4.1 Where refuse, compost or recyclable material is stored outside of the enclosed walls of a building, the refuse, compost or recyclable material shall be stored, by an owner or occupant, in a container suitable for such a purpose and in a manner that does not attract pests or create a health or safety hazard due to the nature of the storage or through deterioration or misuse of the storage facility.

4.2 No owner or occupant of a Lot shall permit:

- (a) compost or a composter to emit odours on a Lot, which would reasonably disturb the inhabitants of the City;
- (b) food waste to be placed in a composter on a Lot without covering it with yard waste, soil or compost; and,
- (c) bones, meat, dairy or other fat products to be added to a composter on a Lot.

5. Storage of Motor Vehicles

5.1 No motor vehicle, other than a motor vehicle bearing a valid license plate sticker issued by the Ministry of Transportation and capable of being driven, shall be parked on a Lot other than in a building, unless the parking of the unlicensed or inoperative motor vehicle on the Lot is a permitted use under a Zoning By-Law for that zone.

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 a Lot by an owner or occupant unless otherwise permitted by a Zoning By-Law.

6. Temporary Storage

6.1 An owner or occupant may store equipment or construction materials, resulting solely from the construction, demolition or alteration of a building, or part thereof, on a Lot provided it is used or removed in its entirety within a reasonable period of time, as determined by a Municipal Law Enforcement Officer.

6.2 An owner or occupant shall not allow fill to remain in an unlevelled state on any Lot for longer than seven (7) days unless the Lot is:

- (a) a construction site for which a site alteration permit and/or a building permit is in effect;
- (b) a Lot being developed under a subdivision or registered site plan agreement with the City; or,
- (c) a Lot upon which material is being stored with the approval of the City or the Region in connection with a public works contract.

6.3 An owner or occupant shall not allow fill to be left in an uncovered state, meaning not covered by sod, seed or agricultural crop, on any Lot for longer than thirty (30) days unless the Lot is:

- (a) a construction site for which a site alteration permit and/or building permit is in effect;
- (b) being developed under a subdivision or registered site plan agreement with the City; or,
- (c) being actively farmed.

7. Firewood Storage

7.1 An owner or occupant may only store firewood on a Lot in a location that is not adjacent to a public highway, subject to the following conditions:

- (a) firewood stored in a side yard or rear yard of a Lot shall be at least 0.6 metres (24 inches) from every property line;
- (b) no piece of firewood shall exceed 0.6 metres (24 inches) in length and all firewood shall be stacked in an orderly pile;
- (c) on a Lot that is less than 0.4 hectares (1 acre) in area, no firewood piles shall exceed 1.5 metres (59 inches) in height or cover an area larger than 6.0 metres square (64 square feet); and,
- (d) on a Lot that is 0.4 hectares (1 acre) in area or greater, no firewood piles shall cover an area greater than 15 metres square (160 square feet).

8. Inspections

- (a) The City may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - (i) this by-law; or,
 - (ii) an order made under s. 431 of the *Municipal Act, 2001*.
- (b) For the purposes of conducting an inspection pursuant to s. 8(a) of this by-law, the City may, in accordance with the provisions of s. 436 of the *Municipal Act, 2001*:
 - (i) require the production for inspection of documents or things relevant to the inspection;
 - (ii) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (iii) require information from any person concerning a matter related to the inspection; and,
 - (iv) 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.
- (c) No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this by-law.

9. Order to Discontinue Activity

- (a) Where the Director of By-Law Enforcement has reasonable grounds to believe that a contravention of this by-law has occurred, the Director of By-Law Enforcement may make an order requiring the person who contravened this by-law, or who caused or permitted the contravention, or the owner of the land on which the contravention occurred, to discontinue the contravening activity.
- (b) An order under s. 9(a) of this by-law shall set out:
 - (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
 - (ii) the date by which there must be compliance with the order.
- (d) Any person who contravenes an order under s. 9(a) of this by-law is guilty of an offence.

10. Work Order

- (a) Where the Director of By-Law Enforcement has reasonable grounds to believe that a contravention of this by-law has occurred, the Director of By-Law Enforcement may make an order requiring the person who contravened this by-law, or who caused or permitted the contravention, or the owner of the land on which the contravention occurred, to do work to correct the contravention.
- (b) An order under s. 10(a) of this by-law shall set out:
 - (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
 - (ii) the work to be done and the date by which the work must be done.
- (c) An order under s. 10(a) of this by-law may require work to be done even though the facts which constitute the contravention of this by-law were present before this by-law came into force.
- (e) Any person who contravenes an order under s. 10(a) of this by-law is guilty of an offence.

11. Remedial Action

- (a) If a person fails to do a matter or thing, including comply with an order under this by-law, as directed or required by this by-law, the City may, in default of it being done by the person directed or required to do it, do the matter or thing at the person's expense. The City 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 municipal taxes.
- (b) The costs outlined in s. 11(a) of this by-law shall include interest calculated at a rate of 15 per cent per annum, calculated for the period commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full.
- (c) The amount of the costs, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date the payment is made. Upon receiving payment of all costs payable plus interest accrued to the date of payment, the City shall register a discharge of the lien in the proper land registry office.

12. Enforcement

- (a) This by-law may be enforced by Municipal Law Enforcement Officers and Police Officers.

13. Penalties

- (a) Every person who contravenes any of the provisions of this by-law is guilty of an offence and pursuant to section 429 of the *Municipal Act, 2001* all contraventions of this by-law are designated as continuing offences.
- (b) Every person, excluding a corporation, who is convicted of an offence, is liable to a minimum fine of Four Hundred and Fifty Dollars (\$450.00) and a maximum fine of Twenty-Five Thousand Dollars (\$25,000.00) for the first offence and a maximum fine of Fifty Thousand Dollars (\$50,000.00) for a subsequent offence.
- (c) Every corporation who is convicted of an offence is liable to a maximum fine of Fifty Thousand Dollars (\$50,000.00) for the first offence and One Hundred Thousand Dollars (\$100,000.00) for a subsequent offence.
- (d) In addition to the fine amounts set out in sections 13(b) and 13(c) of this by-law, for each day or part of a day that an offence continues, the minimum fine shall be Four Hundred Dollars (\$450.00) and the maximum fine shall be Ten Thousand Dollars (\$10,000.00). The total of all daily fines for the offence is not limited to One Hundred Thousand Dollars (\$100,000.00).

14. Fees & Charges

- (a) Council may impose fees and charges to recover its costs in relation to the administration and enforcement of this by-law.

15. Short Title

- (a) This by-law shall be known as the "Lot Maintenance By-Law."

16. Severability

- (a) 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 this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in full force and effect.

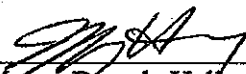
17. Repeal

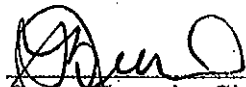
- (a) By-Law 03-073 of the City is hereby repealed as well as all by-laws amending the same and any portions of the Municipal Code relating to lot maintenance.

18. Coming Into Force

- (a) This by-law shall come into force and effect on January 1, 2012.

PASSED by Council this 07 day of November 2011.


~~Mayor Brenda Halloran~~
Acting Mayor Jeff Henry


~~Susan Greatrix, City Clerk~~

Approval	Date	Authorized By	Initials
PS/PL	Oct 28/11	Jim Baum	J
Legal	Nov 1/11	E. Davis	ED
Finance	Oct 28/11	N/A	S

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