

**As amended by By-law 65-2011, 93-2013,
48-2020, 119-2021, 43-2022, 96-2022, 127-2022 and 188-2022
By-Law 127-2007
of The Corporation of the City of Oshawa**

being a by-law to govern and regulate the maintenance of land in the City of Oshawa.

Now therefore the Council of The Corporation of the City of Oshawa enacts as follows:

1. Short Title

1.1. The short title of this By-law is the “Lot Maintenance By-law”.

2. Interpretation

2.1. In this By-law:

- (a) “Boulevard” means “Boulevard” as defined in the City’s Boulevard By-law 136-2006 as from time to time amended. (96-2022)
- (b) “Building” means “Building” as defined in the City’s Property Standards By-law 1-2002 as from time to time amended. (96-2022)
- (c) “Building Code Act” means the *Building Code Act, 1992*, S.O. 1992, c. 23, as from time to time amended.
- (d) “City” means The Corporation of the City of Oshawa.
- (e) “Director” means the City’s Director, Municipal Law Enforcement and Licensing Services.
- (f) “Hearings Officer” means a “Hearings Officer” as defined in paragraph 1(e) of Hearings Officer By-law 26-2008, as amended.
- (g) “Highway” means “Highway” as defined in the City’s Boulevard By-law 136-2006 as from time to time amended. (96-2022)
- (h) “Lot” means a parcel of land within the City’s territorial limits which is:
 - i) shown as a lot or block on a registered plan of subdivision; or
 - ii) described in a single Transfer/Deed of Land of legal effect registered in the Land Registry Office or the Land Titles Office for the Land Registry Division of Durham;but does not include the interior of any building or structure.
- (i) “Officer” as defined in paragraph 1(h) of Inspection By-law 64-2008.
- (j) “Owner” includes each owner and occupier of a Lot.
- (k) “Person” includes an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and their heirs, executors, or legal representatives.
- (l) “Property” means “Property” as defined in the City’s Property Standards By-law 1-2002 as from time to time amended. (96-2022)
- (m) “Standing Water” means water but does not include:
 - i) a natural body of water that exists on a permanent basis;
 - ii) water in a municipally owned storm water management facility; or
 - iii) water in a pond or pool constructed for ornamental purposes provided:

- a) the whole of the pond or pool is enclosed by a barrier of at least 150 centimetres (60 inches) in height and sufficiently designed and constructed to prevent a natural Person from falling into the pond or pool; or
 - b) the depth of water is at all times less than 60 centimetres (24 inches).
(65-2011)
- (n) "Street Line" means "Street Line" as defined in the City's Boulevard By-law 136-2006 as from time to time amended.
(96-2022)
- (o) "Vehicle" includes an automobile, truck or other motor vehicle, including a farm implement or equipment, motor home, motorized construction equipment, motorcycle, snowmobile, boat, recreational vehicle, aeroplane, trailer and any other device which is capable of being driven, propelled or drawn by any kind of power, including devices powered solely by means of human or animal effort, such as bicycles, wheelchairs, wagons, carts or skateboards.
- (p) "Waste" means any unwanted, discarded or unusable item, remains, byproduct or garbage and includes, without limitation
- i) dirt, litter, debris and rubbish;
 - ii) grass clippings, tree cuttings, brush, leaves and garden refuse;
 - iii) paper, cardboard and clothing;
 - iv) organic waste other than organic waste placed in a composting container;
 - v) cans, glass, plastic containers and dishes;
 - vi) material resulting from the construction, alteration, repair or demolition of any building or structure including fences;
 - vii) discarded appliances and furniture;
 - viii) discarded mechanical equipment, parts and accessories;
 - ix) discarded furnaces and parts thereof, pipes, pipe fittings and tanks;
 - x) unlicensed Vehicles in a state of disrepair and Vehicle parts;
 - xi) rubble, including rubble comprised of concrete, bricks, asphalt, patio slabs or sidewalk slabs; and
 - xii) human or animal excrement.
- (q) "Work Order" means an order made pursuant to section 6.1 of this By-law.

2.2. Where metric and imperial units of measure are referenced, the metric unit of measure shall prevail.

2.3. This By-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations.

2.4. If there is a conflict between a provision of this By-law and a provision of any other City By-law, the provision that establishes the higher standard shall apply.

3. Power of Entry

3.1. The Director, Officers and each Person supervised by and assisting the Director or an Officer may enter upon a Lot at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- (a) this By-law;
- (b) a Work Order.

4. Maintenance Standards

4.1. Lot Standards:

No Owner shall permit on a Lot:

- (a) Standing Water;
 - (b) Waste;
 - (c) grass or weeds to grow to a height exceeding 20 centimetres (8 inches);
 - (d) ragweed (*Ambrosia* spp.);
 - (e) poison ivy (*Rhus radicans* L.);
 - (f) an excavation, trench or ditch deeper than 61 centimetres (24 inches) unless enclosed by a barrier no less than 122 centimetres (48 inches) in height and sufficiently designed and constructed to prevent a natural Person from falling into the excavation, trench or ditch; or
 - (g) painted slogans, tagging, graffiti or similar defacements on Buildings and all other structures on the Property including fences (and their components).
- (96-2022)

4.2. No Person shall place any Waste on a Lot except with each Owner's prior written consent. (96-2022)

4.3. No Owner shall permit a bird feeder on a Lot unless the bird feeder is suspended off the ground. (48-2020, 96-2022)

4.4. Every Owner shall maintain the ground underneath a bird feeder by regularly removing and disposing of the food and bird droppings. (48-2020, 96-2022)

4.5. Parking Areas, Walkways and Safe Passage:

Owners shall maintain driveways, ramps, parking areas, exterior walkways, exterior passages, exterior stairs, exterior landings and similar areas on the Property – with the exception of a Sidewalk as defined in Sections 2.1 and 3.0 of the City's Winter Access By-law 92-2009, as amended – so as to provide for safe passage under normal use and weather conditions (e.g. snow and ice), day or night.

(96-2022, 188-2022)

4.6. Abutting Boulevards:

Every Owner shall maintain the Boulevard that abuts the Owner's Property, and shall not permit on the abutting Boulevard:

- (a) Waste;
 - (b) grass or weeds to grow to a height exceeding 20 centimetres (8 inches);
 - (c) ragweed (*Ambrosia* spp.); or
 - (d) poison ivy (*Rhus radicans* L.).
- (96-2022)

4.7. No Owner shall permit a bird feeder on a Boulevard unless the bird feeder is suspended off the ground. (96-2022)

4.8. Every Owner shall maintain the ground underneath a bird feeder by regularly removing and disposing of the food and bird droppings. (96-2022)

4.9. Public Land:

No Person shall place Waste on any public land except in accordance with all applicable law including, without limitation, the City's Waste Collection By-law 60-79, as amended. (96-2022)

5. Exceptions / Exemptions

- 5.1. Paragraph 4.1(f) does not apply to any excavation, trench or ditch:
- (a) required in relation to construction in accordance with a permit issued pursuant to the Building Code Act; or
 - (b) authorized pursuant to the City's Site Alteration By-law 85-2006.
- 5.2. Nothing in this By-law prevents a "normal farm practice" as that term is defined in the *Farming and Food Production Protection Act*, 1998, S.O. 1999, c. 1, as amended.
- 5.3. Nothing in this By-law prevents outdoor storage of materials in accordance with all applicable law including, without limitation, the City's Zoning By-law 60-94, as amended, and the City's Licensing By-law 120-2005, as amended.
- 5.4. Nothing in this By-law shall prevent an Owner from establishing a Boulevard garden on the abutting Boulevard of their Property if they have been granted permission by the City in accordance with the City's Boulevard Gardens program, and which is being maintained and in compliance with the City's terms and conditions. (96-2022)

6. Work Order

- 6.1. Where an Officer is satisfied that an Owner has failed to comply with any provision of this By-law, the Officer may make a Work Order requiring the Owner to do work to correct the contravention.
- 6.2. A Work Order shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention; and
 - (b) the work to be done and the date by which the work must be done.
- 6.3. A Work Order pursuant to this By-law may be given in writing in any of the following ways and is effective:
- (a) on the date a copy is personally delivered to the Owner to whom it is addressed;
 - (b) on the third (3rd) day after a copy is sent by regular mail or by registered mail to the Owner's last known address;
 - (c) upon confirmation of the successful transmission of a copy by facsimile transmission to the Owner's last known facsimile transmission number;
 - (d) upon sending a copy by e-mail transmission to the Owner's last known e-mail address; or
 - (e) upon a copy being posted on the door of any building or structure on the Owner's Lot or, where no building or structure exists, on a stake erected by the Officer on the Owner's Lot.
- (43-2022)
- 6.4. Each Owner who contravenes a Work Order is guilty of an offence.
- 6.5. Despite any other provision of this By-law, the Director may rescind a Work Order at any time. (96-2022)

7. Remedial Action

- 7.1. Where an Owner contravenes a Work Order, the Director may, without notice to any Owner, cause the work to be done at each Owner's expense. Without limitation, the Director may retain such Persons to assist in completing the work as the Director determines appropriate.
- 7.2. For the purpose of section 7.1, the Director, any Officer and each Person supervised by and assisting the Director or an Officer may enter upon the Lot at any reasonable time.

- 7.3. Each Owner is jointly and severally liable to the City for all costs incurred in any way related to work done for the purpose of section 7.1 including, without limitation, interest calculated at the rate of fifteen percent (15%) for the period commencing on the day that a cost was incurred and ending on the day that all costs, including the interest, are paid in full.
- 7.4. The costs and interest may be added to the tax roll and collected in the same manner as property taxes.
- 7.5. The amount of the costs and interest constitute a lien on the Lot upon the registration in the proper land registry office of a notice of lien.

8. Penalty

- 8.1. Each person who contravenes any provision of this By-law is guilty of an offence.
- 8.2. 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 fines for the continuing offence shall not exceed One Hundred Thousand Dollars (\$100,000).
- 8.3. No Person shall fail to comply with any provision or standard of this By-law. (127-2022)
- 8.4. No Person shall fail to comply with a Work Order issued pursuant to this By-law. (127-2022)
- 8.5. Administrative Penalty Process By-law 63-2013 applies to each administrative penalty issued pursuant to this By-law. (127-2022)
- 8.6. Each Person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 63-2013, be liable to pay to the City an administrative penalty. If a Person receives a penalty notice in accordance with the City's Administrative Penalty Process By-law for a contravention of this By-law, and the Person has not received a penalty notice for the same contravention within one (1) calendar year or less, the Person shall be liable to pay to the City a tier one (1) administrative penalty amount for that contravention in the amount of \$125. If a Person receives an additional penalty notice for the same contravention of the By-law within one (1) calendar year or less from the date of the penalty notice containing a tier one (1) administrative penalty amount, the Person shall be liable to pay to the City a tier two (2) administrative penalty amount for that contravention in the amount of \$225. If the Person receives a subsequent penalty notice for the same contravention of the By-law within one (1) calendar year or less from the date of the penalty notice containing a tier two (2) administrative penalty amount, the Person shall be liable to pay to the City a tier three (3) administrative penalty amount for that contravention in the amount of \$325. If the Person receives any subsequent penalty notices for the same contravention of the By-law within one (1) calendar year or less from the date of the penalty notice containing a tier three (3) administrative penalty amount, the Person shall be liable to pay to the City a tier three (3) administrative penalty amount for that offence in the amount of \$325. (127-2022)

9. Severability

- 9.1. If any provision or part of a provision of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

10. Effective Date

- 10.1. This By-law is in effect on the date of its passing.
- 10.2. By-law 15-83, as amended, is repealed.

By-law approved this twenty-sixth day of November, 2007.