

**As amended by By-law 65-2011 and 93-2013
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) “City” means The Corporation of the City of Oshawa.
- (b) “Building Code Act” means the *Building Code Act, 1992*, S.O. 1992, c. 23, as from time to time amended.
- (c) “Director” means the City’s Director, Municipal Law Enforcement and Licensing Services.
- (c.1) “Hearings Officer” means a “Hearings Officer” as defined in paragraph 1(e) of Hearings Officer By-law 26-2008, as amended.
- (d) “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.
- (e) “Officer” as defined in paragraph 1(h) of Inspection By-law 64-2008.
- (f) “Owner” includes each owner and occupier of a Lot.
- (g) “Person” includes an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and their heirs, executors, or legal representatives.
- (h) “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)

- (i) "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.
- (j) "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.
- (k) "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. 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.); or
- (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.

4.2. 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.

4.3. No Person shall place any Waste on a Lot except with each Owner's prior written consent.

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.

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. Service of a Work Order on an Owner may include any of the following:

- (a) personal service of a copy of the Work Order;
- (b) sending a copy of the Work Order by regular lettermail or registered mail addressed to the Owner at the Lot's municipal address in which case service shall be deemed to have been effected on the third (3rd) day after the copy is sent; or
- (c) posting a copy of the Work Order on the door of any building or structure on the Lot or, where no building or structure exists, on a stake erected by the Officer on the Lot in which case service shall be deemed to have been effective at the moment of posting on the door or stake.

6.4. Each Owner who contravenes a Work Order is guilty of an offence.

6.5. An Owner may appeal to the Hearings Officer against a Work Order pursuant to section 6.6.

6.6. The following applies to appeals to a Hearings Officer against a Work Order:

- (a) An appeal to the Hearings Officer does not operate as a stay of the Work Order.
- (b) A Work Order that is not appealed pursuant to this section is final and is not subject to review including review by any Court.
- (c) An Owner's right to appeal expires if it has not been exercised in the manner prescribed in paragraph 6.6(d) before 4:30 p.m. on the tenth (10th) day after the

Work Order is given to the Owner at which time the Order is final and is not subject to review including review by any Court.

- (d) A right to appeal is exercised by:
 - (i) giving to the Director written notice of the appeal that includes particulars of all grounds upon which the appeal is made; and by
 - (ii) paying the fee from time to time prescribed by the City's General Fees and Charges By-law.
- (e) The Owner shall be given no fewer than seven (7) days' notice of the date, time and place of the hearing of the appeal.
- (f) Where the Owner fails to appear at the time and place scheduled for a hearing of the appeal, the Owner's appeal shall be deemed to be dismissed and the Owner shall pay to the City an administrative fee as from time to time prescribed by the General Fees and Charges By-law.
- (g) Subject to paragraph 6.6(f), the Hearings Officer shall not decide the appeal unless the Hearings Officer has given each of the Owner, the Director and the Officer an opportunity to be heard at the time and place scheduled for the hearing of the appeal.
- (h) The Hearings Officer may make any decision that the Director or an Officer could have made pursuant to this By-law.
- (i) The decision of the Hearings Officer is final and not subject to review including review by any Court.

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. Administrative Penalty Process By-law 63-2013 applies to each administrative penalty issued pursuant to this By-law.
- 8.4. 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 in the amount of \$125 for each day on which the contravention occurs or continues.

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.