



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2017-008

A by-law to regulate the accumulation of refuse and debris on land, the use of land for wrecking, salvaging motoring vehicles, and prohibit the placement of graffiti on property in the Town of Oakville

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;

WHEREAS Section 127 of the *Municipal Act*, 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;

WHEREAS Section 128 of the *Municipal Act*, provides that a municipality may prohibit and regulate with respect to public nuisances;

WHEREAS, in the opinion of the Council for the Town of Oakville, graffiti is a public nuisance;

WHEREAS Section 131 of the *Municipal Act*, 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;

WHEREAS Section 436 of the *Municipal Act* authorizes a municipality to pass by-laws that the municipality may enter on land at any reasonable time for the purposes of carrying out an inspection to determine whether or not there is compliance with a by-law, a direction or order, or a condition of licence;

COUNCIL ENACTS AS FOLLOWS:

1. Definitions

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

“**Council**” means the Council of the Town;

“Composting” means the biological degradation or breakdown of organic material into a dark soil-like material called humus;

“Floodplain” means the area, usually low lands adjoining a watercourse, which has been or may be subject to flood hazards.

“Graffiti” means one or more letters, symbols, marks, pictorial representations, messages or slogans howsoever made on any property, but does not include the following:

- a) A sign, public notice, or traffic control mark authorized by the Town, the Regional Municipality of Halton or the federal or provincial governments; or,
- b) A sign authorized pursuant to a permit issued under the Town’s Sign By-law.

“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 in the Town;

“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 team railways, or the 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*;

“Occupant” means any person or persons over the age of eighteen (18) years occupying a Lot;

“Officer” means any person authorized by the Town to enforce by-laws and includes Municipal Law Enforcement Officers and provincial offences officers;

“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;

“Property” means land that may have a building (occupied or unoccupied) on it or vacant land.

“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;
- c) Has been expended or worn out, in whole or in part, whether of any value or not;

“Region” means the Regional Municipality of Halton;

“Town” means The Corporation of the Town of Oakville;

“Undesirable material” includes;

- a) Refuse, rubbish, garbage, brush, waste, litter, debris;
- b) Dog or cat excrement
- c) Liquid (including motor oil) and gaseous waste
- d) Manufacturer’s or industrial waste
- e) Injurious insects, termites, rodents, vermin and other pests;
- f) Growth of grass in excess of 20.33 cm (8”)
- g) Giant hogweed (*Heracleum mantegazzianum*);
- h) Ragweed (*Ambrosia spp.*);
- i) Poison ivy (*Rhus radicans L.*);
- j) Ground cover, hedges and bushes which overhang the sidewalk, impede pedestrian or vehicular traffic or cause a site obstruction;
- k) Dead, decayed or damaged trees or other natural growth and the branches and limbs thereof;
- l) Wrecked, dismantled, inoperative, discarded, unused or unlicensed motor vehicles or trailers, except in an establishment licensed and zoned to conduct or operate a wrecking business;
- m) Stagnant water which provides a breeding place for mosquitoes or other health hazards;
- n) Machinery or parts thereof, or other objects or parts thereof, or accumulation of material;
- o) All appliances and fixtures designed for interior use;
- p) All furniture used for exterior use that becomes dilapidated; or
- q) 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.

2. Application

- (1) This by-law shall not apply to any Lot owned by the Town or Region
- (2) Section 3 (2) and 3 (3) do not apply to the interior space of any property

3. Lot Maintenance Standards

- (1) No Owner or Occupant shall have, or permit to have, Undesirable Material on their Lot.
- (2) No Owner shall fail to keep their property free of graffiti.
- (3) No person shall place graffiti, or cause or permit graffiti to be placed on any property.

4. Ground Cover

- (1) Any 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.

5. Outside Storage of Refuse, Compost or Recyclable Material

- (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, with a lid, suitable for such 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.
- (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 Town;
 - 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 in a Lot.

6. Storage of Motor Vehicles

- (1) No Motor Vehicle, other than a Motor Vehicle bearing a valid licence 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 the Zoning By-law for the zone;
- (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 the Zoning By-law.

7. Temporary Storage

- (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 an Officer.
- (2) An Owner or Occupant shall not allow a Lot to remain in an unleveled state on 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 Town; or,
 - c. A Lot upon which material is being stored with the approval of the Town or the Region in connection with a public works contract.
- (3) An Owner or Occupant shall not allow a Lot to be left in an uncovered state, meaning not covered by sod, seed or agricultural crop, for longer than thirty (30) 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 Town; or,
 - c. Being actively farmed.

8. Firewood Storage

- (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 shall not be stored in a floodplain

9. Conditions Maintained

- (1) All approved site plan conditions including, but not limited to drainage, ground cover, hedges, trees and landscaping shall be maintained.
- (2) An Officer may accept alternatives in relation to the maintenance of approved site plan conditions, provided that the intent of the original conditions are maintained.

10. Inspections

- (1) An Officer 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:
 - a. this by-law; or,
 - b. an order made under section 11 and 12 of this by-law.
- (2) For the purposes of conducting an inspection pursuant to section 9(1) of this by-law, an Officer may:
 - a. Require the production for inspection of documents or things relevant to the inspection;
 - b. Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - c. Require information from any Person concerning a matter related to the inspection; and,
 - d. 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.
- (3) 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.
- (4) Where an Officer has reasonable grounds to believe that an offence has been committed by a person, the Officer may require the name, address and proof of identity of that person, and the person shall supply the required information.

11. Order to Discontinue Activity

- (1) Where an Officer has reasonable grounds to believe that a contravention of this by-law has occurred, the Officer 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.

- (2) An order under section 11(1) of this by-law shall set out:
 - a. Reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
 - b. The date by which there must be compliance with the order.
- (3) Any Person who contravenes an order under section 11(1) of this by-law is guilty of an offence.

12. Work Order

- (1) Where an Officer has reasonable grounds to believe that a contravention of this by-law has occurred, the Officer 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.
- (2) An order under section 12(1) of this by-law shall set out:
 - a. Reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
 - b. The work to be done and the date by which the work must be done.
- (3) An order under section 12(1) 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.
- (4) Any Person who contravenes an order under section 12(1) of this by-law is guilty of an offence.

13. Remedial Action

- (1) 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 Town 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 Town 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.

- (2) The costs outlined in section 13(1) 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 Town incurs the costs and ending the day the costs , including interest, are paid in full.
- (3) 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 Town shall registered a discharge of the lien in the proper land registry office.

14. Fees and Charges

- (1) Council may, from time to time, impose fees and charges to recover costs in relation to the administration and enforcement of this by-law.

15. Administrative Penalties

- (1) Each person who contravenes any provision of this By-law, including any provision of the Schedules, shall, upon issuance of a penalty notice be liable to pay to the Town an administrative penalty in the amount of \$300 or as revised in the rates and fee schedule approved by Council as part of the annual budget approval process.
- (2) An Officer who finds or has any reasonable cause to believe that a person has contravened any provision of this By-law, including any provision of its Schedules, may issue a penalty notice addressed to the person.
- (3) The Penalty Notice shall be given to the person to whom or to which it is addressed as soon as is reasonably practicable and shall include the following information:
 - a. date of the penalty notice;
 - b. the penalty notice number;
 - c. particulars of the contravention;
 - d. the amount of the administrative penalty;
 - e. information respecting the process by which the person may exercise

- the person's right to request a review of the administrative penalty; and
- f. a statement advising that an administrative penalty will, unless cancelled or reduced pursuant to the review process, constitute a debt of the person to the Town.
- (4) No Officer may accept payment of an administrative penalty.
 - (5) Any person who is served a penalty notice may request a review by a Screening Officer within 15 days after the penalty notice date.
 - (6) Any person may request that the Screening Officer extend the time to request a review within 45 days after the penalty notice date, failing which, the administrative penalty shall be deemed to be affirmed.
 - (7) The Screening Officer may extend the time to request a review of the administrative penalty when the person requesting the extension demonstrates extenuating circumstances that warrant the extension of time.
 - (8) On a review of the administrative penalty, the Screening Officer may affirm the administrative penalty, or may cancel, reduce or extend the time for payment of the administrative penalty, including any additional administrative fees, on the following grounds:
 - (a) where the person establishes, on a balance of probabilities that the person did not commit the act as described in the penalty notice; or
 - (b) the cancellation, reduction or extension of the time for payment of the administrative penalty, including any administrative fees, is necessary to reduce hardship.
 - (9) Every person who has a review by the Screening Officer shall receive a Screening Decision and may request a review of the Screening Decision by a Hearing Officer within 15 days after the Screening Decision was issued.
 - (10) Where the person fails to appear at the time and place scheduled for a review of the Screening Officer:
 - a. the person shall be deemed to have abandoned the review;
 - b. the administrative penalty shall be deemed to be affirmed;
 - c. the administrative penalty shall not be subject to review; and
 - d. the person shall pay the applicable fee.

- (11) Any person who has received a Screening Decision may request a review of the Screening Decision by a Hearing Officer within 15 days after the Screening Decision was issued.
- (12) Any person may request that the Hearing Officer extend the time to request a review within 45 days after the Screening Decision was issued, at which time the Screening Decision shall be deemed to be affirmed.
- (13) The Hearing Officer may extend the time to request a review of the Screening Decision when the person requesting the extension demonstrates extenuating circumstances that warrant the extension of time.
- (14) The person shall be issued or served notice of the date, time and place of the review by the Hearing Officer.
- (15) On a review of the Screening Decision, the Hearing Officer may affirm the Screening Decision, or may cancel, reduce or extend the time for payment of the administrative penalty, including any administrative fees, on the following grounds:
 - a. where the person establishes, on a balance of probabilities that the person did not commit the act as described in the penalty notice; or
 - b. the cancellation, reduction or extension of the time for payment of the administrative penalty, including additional administrative fees, is necessary to reduce hardship.
- (16) Where a person fails to request a review of the Screening Decision or extension of time before the Hearing Officer in accordance with this By-law:
 - a. the Person shall be deemed to have waived the right to a hearing;
 - b. the Screening Decision and the administrative penalty shall be deemed to be affirmed; and
 - c. the Screening Decision and the administrative penalty shall not be subject to any further review.
- (17) Where a person fails to appear at the time and place scheduled for a review by the Hearing Officer:
 - a. the person shall be deemed to have abandoned the hearing;
 - b. the Screening Decision and administrative penalty shall be deemed to be affirmed;
 - c. the Screening Decision and administrative penalty and associated fees shall not be the subject of any further review; and

- d. the person shall pay to the Town a fee in the amount of \$100 or as revised in the rates and fee schedule approved by Council as part of the annual budget approval process.
- (18) Where an administrative penalty and any applicable administrative fees are not paid within 15 days after the date that it becomes due and payable, each person to whom the penalty notice was issued or served shall pay to the Town a fee in the amount of \$50 or as revised in the rates and fee schedule approved by Council as part of the annual budget approval process.
- (19) A Hearing Officer shall not make any decision respecting a review of the Screening Decision unless the Hearing Officer has given the person and the Town an opportunity to be heard.
- (20) The decision of a Hearing Officer is final.
- (21) The Screening Officer and the Hearing Officer have no jurisdiction to consider questions relating to the validity of a statute, regulation or by-law or the constitutional applicability or operability of any statute, regulation or by-law.

16. Notices

- (1) Any penalty notice or any other notice pursuant to this By-law may be given in writing in any of the following ways and is effective:
 - a. on the date on which a copy is delivered to the Owner or Occupant of the Lot;
 - b. on the fifth day after a copy is sent by mail to the Owner or Occupant of the Lot;
 - c. on the date on which a copy is posted on the Lot;
 - d. upon the conclusion of the transmission of a copy by facsimile transmission to the person's last known facsimile transmission number; or
 - e. upon the sending of a copy by e-mail transmission to the person's last known e-mail address.

17. Penalties

- (1) 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* all contraventions of this by-law are designated as continuing offences.

- (2) 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.
- (3) 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.
- (4) In addition to the fine amounts set out in sections 17(2) and 17(3) of this by-law, for each day or part of a day that an offence continues, the minimum fine shall be Four Hundred and Fifty 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).

18. Title

- (1) This by-law may be known as the “Lot Maintenance By-law”.

19. Severability

- (1) In the event any provisions of this By-law are deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

20. Effective Date

- (1) This By-law comes into force and effect on the day it is passed by Council.

PASSED this 12th day of June, 2017

Rob Burton

Mayor

Kathy Patrick

Acting Town Clerk