



Bill No. 008

**BY- LAW NUMBER 2018 -**

**A By-law of the Corporation of the City of Barrie to amend by-law 2011-107 and further prescribe standards for the maintenance of lands and properties in the City of Barrie.**

**WHEREAS** Section 10 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws in the interest of the health, safety and well-being of its residents;

**AND WHEREAS** Section 122 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may require the owners or occupants of buildings to remove snow and ice from the roofs of the buildings and may regulate when and how the removal shall be undertaken;

**AND WHEREAS** Section 127 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may require the owners or occupants of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings;

**AND WHEREAS** Section 128 of the *Municipal Act, 2001*, c.25 provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

**AND WHEREAS** Section 129 of the *Municipal Act, 2001*, c.25 provides that a municipality may prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination;

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

**AND WHEREAS** The Corporation of the City of Barrie deems it necessary to prevent public nuisances and the accumulation of waste material and to control dust within the City;

**AND WHEREAS** by motion 17-G-287, the Council of The Corporation of the City of Barrie deems it expedient to pass such a by-law;

**NOW THEREFORE** the Council of the Corporation of the City of Barrie hereby enacts as follows:

**1. SHORT TITLE**

- 1.1. **THAT** this by-law may be referred to as the **YARD MAINTENANCE BY-LAW**.

**2. DEFINITIONS**

For the purpose of this By-law the following words shall have the meaning given herein:

- 2.1. **"CITY"** shall mean The Corporation of The City of Barrie.
- 2.2. **"COUNCIL"** shall mean the Council of The Corporation of the City of Barrie.
- 2.3. **"EXCAVATION"** shall mean an area where soil has been removed thereby leaving a depression or hole within the surrounding land, and includes, without limiting the generality of the foregoing, uncovered wells and cisterns.
- 2.4. **"GRAFFITI"** means one or more letters, symbols, figures, etching, scratches, inscriptions, stains, or other markings that disfigure or deface a structure or thing, howsoever made or otherwise affixed on the structure or thing but does not include:
- a) a sign or public notice authorized by the City of Barrie or by Provincial or Federal Legislation;
  - b) in the case of private property, real or personal, any one or more letters, symbols, figures etching, scratches, inscriptions, stains or other markings authorized by the owner of the property upon which the letters, symbols, figures, etching, scratches, inscriptions, stains, or other markings appear, that, in the opinion of the Officer, does not contribute to the unsightly nature of the property.
- 2.5. **"GROUND COVER"** shall mean, but is not limited to, grass, weeds, plant materials, gravel, patios and parking areas that minimize soil/material erosion and/or the accumulation of mud.

- 2.6. **“HOUSEHOLD WASTE”** shall mean any article, thing, matter or effluent belonging to or associated with a residence, household or dwelling and, for greater certainty without limiting the generality of the foregoing, may include:
- a) all kitchen and table waste, of animal or vegetable origin, resulting from the preparation or consumption of food;
  - b) yard clippings, tree and garden cuttings, brush or leaves;
  - c) paper, cardboard, or clothing; or
  - d) cans, glass, or plastic containers, or dishes.
- 2.7. **“INOPERABLE VEHICLE”** shall mean a motor vehicle as defined by the Highway Traffic Act, R.S.O. 1990, c. H. 8, as amended, having missing or damaged components which prevents its mechanical function. It also includes a vehicle that does not display a vehicle permit license plate issued under the Highway Traffic Act, R.S.O. 1990, ch. 8, as amended and a vehicle with a vehicle permit license plate with a validation sticker that has been expired for more than one year.
- 2.8. **“LAND”** shall mean grounds, yards and vacant and developed lots.
- 2.9. **“LANDSCAPE FEATURE”** shall mean fences, retaining walls, bird baths, floral planters, fountains, statues, gazeboes, trellises and other decorative features.
- 2.10. **“MATERIAL CONTRAVENTION”** shall mean a material contravention is considered to be a technical contravention of the by-law that does or may have a meaningful, negative impact on the health, welfare or comfort of the building occupants, or on the environment, or on the reasonable service life of the building and its subsystems.
- 2.11. **“NATURAL BODY OF WATER”** shall mean a creek, stream, bog, marsh, river, pond or lake normally created by the forces of nature, but which may be created or caused to be created by man, and which contains water on a regular basis.
- 2.12. **“NATURAL GARDEN”** shall mean a defined area of vegetation that has been deliberately planted or cultivated with species of wildflowers, shrubs, perennials, ornamental grasses or combinations of them, consistent with a managed and natural landscape.
- 2.13. **“OFFICER”** shall mean a Property Standards Officer and/or a Municipal Law Enforcement Officer of the City who has been assigned the responsibility of administering and enforcing this By-law.
- 2.14. **“OWNER”** shall mean the registered owner, owner in trust, a mortgagee in possession, a person who is managing or receiving the rent of the property and includes a person, firm, partnership, corporation, company, association, or organization of any kind and its principal(s).
- 2.15. **“PROPERTY”** shall mean a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property.
- 2.16. **“SUPERVISOR OF ENFORCEMENT SERVICES”** shall mean the person employed to supervise the enforcement of municipal law for the City.
- 2.17. **“WASTE MATERIAL”** shall mean any garbage, refuse, debris, litter, household waste and yard waste as determined by an officer.

### 3. ENFORCEMENT:

- 3.1. An *officer* is hereby authorized and empowered to enforce the provisions of this By-law. Where there is deemed to be no material contravention of this by-law, by the Supervisor of Enforcement Services, no enforcement action shall be taken.

### 4. GENERAL PROVISIONS

#### GROUND COVER

- 4.1 Except as provided in Subsections 4.2 and 4.3, every *owner* shall cut and maintain the *ground cover* on their *lands* to a height not greater than 15 centimeters (6 inches).
- 4.2 Every *owner* shall cut and maintain the *ground cover* on their *lands* to a height not greater than 30 centimeters (12 inches) on *land* that is vacant.

- 4.3 Height of *ground cover* need not be maintained in:
- a) areas zoned open space, environmental protection or agricultural under the *City's Zoning By-law*,
  - b) *natural gardens*,
  - c) *land* more than 100 meters in any direction from any *land* that is developed, and
  - d) *City* owned parks and open spaces identified in the *City's Naturalization Policy*.

#### DEFACEMENT OF PROPERTY

- 4.4 Every *owner* shall remove all objectionable markings, graffiti, stains or other defacement on their *property* to restore the surface and adjacent areas to, as near as possible, their appearance before the markings, graffiti, stains or other defacement occurred.

#### UNSAFE CONDITIONS

- 4.5 Every *owner* shall keep their *property* clear of objects or conditions that create or might create a health, fire or accident hazard.
- 4.6 Every *owner* shall remove snow and ice from the roofs of their building(s) that pose a health or safety hazard to persons or *property* in the normal use of adjacent walkways, driveways, parking areas and entrances to the building(s).

#### EXCAVATIONS

- 4.7 Except as provided in subsection 4.8., every *owner* shall fill in any *excavation* on their *land* unless it is enclosed completely by a barrier at least 1.2 metres (3'-11") in height and sufficient to prevent a person from falling into the *excavation*.
- 4.8 A temporary barrier is permitted to be used for a maximum of 3 months after which the *excavation* must be filled in or a more permanent fence structure must be installed.
- 4.9 The barrier described in subsections 4.7 and 4.8 is not required by this by-law where the *excavation* is related to active demolition or construction for which a building permit is in effect.
- 4.10 No fill shall be left in an unleveled or uncovered state (not covered by sod, seed or agricultural crop) on any Property for longer than seven (7) days unless the Property is:
- a) A construction site for which a building permit is in effect;
  - b) Property upon which material is being stored with the approval of the City of Barrie in connection with a public works contract;
  - c) Actively being farmed.
- 4.11 Every *owner* shall grade their *land* to minimize ponding of water unless such area constitutes;
- a) A storm water management pond approved by the *City*;
  - b) A *natural body of water*;
  - c) Swimming pools enclosed in compliance with the *City's Pool Enclosure By-law*; or
  - d) Excavations identified in subsections 4.8 or 4.9.

#### WASTE MATERIAL & INOPERABLE VEHICLES

- 4.12 Every *owner* shall maintain their *property* clear of all *waste material*.
- 4.13 Every *owner* shall maintain their *lands* clear of all *inoperable vehicles* except where the zoning by-law permits a related *land* use.
- 4.14 Every *owner* shall store *household waste* in rigid containers with secure lids when stored outdoors and *household waste* shall not be stored in the front yard of a residential *property* where the *property* has a garage, side yard or designated storage facility.
- 4.15 Every *owner* shall remove domestic animal waste from their *lands* so as to minimize significant accumulation.

### RAISING OF DUST

- 4.16 Except as provided in subsection 4.17, every *owner* shall ensure that their *land* is treated so as to prevent the raising of dust or loose particles and the accumulation of mud.
- 4.17 Land described in subsection 4.16 need not be treated so as to prevent the raising of dust or loose particles and the accumulation of mud in :
- a) *lands* subject to an active site plan or sub divider's agreement,
  - b) areas zoned open space, environmental protection or agricultural under the *City's* Zoning By-law,
  - c) *City* owned parks and open spaces identified in the *City's* Naturalization Policy.

### LANDSCAPE & TREES

- 4.18 Every *owner* shall maintain all hedges, bushes and shrubs on their *lands* from becoming overgrown and unkempt.
- 4.19 Every owner shall remove all dead, decayed or damaged trees and branches so as to make the tree safe and sound.
- 4.20 All hedges, shrubs, trees or other plants shall be planted and maintained in a manner that does not:
- a) Obstruct the safety of the public;
  - b) Constitute an obstruction of view for vehicular traffic;
  - c) Affect the safety of vehicular or pedestrian traffic;
  - d) Overhang or encroach upon any pavement, sidewalk or travelled portion of any street or highway.
- 4.21 Every *owner* shall maintain all *landscape features* on their *lands* in good repair.
- 4.22 Every *owner* shall remove snow and ice from exterior walkways, steps, *landings* and ramps, and from exterior driveways and parking areas that pose a health or safety hazard to persons on their *lands*.

### 5.0 NOTICE TO COMPLY – PREMISES NOT MAINTAINED

- 5.1 Except as provided in subsection 5.2., an *officer* may enter upon any *land* or *property* at any reasonable time to determine if the *owner* is complying with the provisions of this by-law and may take photographs of the *property's* condition.
- 5.2 An *officer* shall not enter an occupied dwelling unit without first obtaining the informed consent of the occupants who must be of legal age to provide that consent.
- 5.3 Where a *property* is not maintained in accordance with the requirements of this By-law:
- a) the *City* may serve the *owner* a written notice directing the *owner* of the *property* to bring the *property* into conformance with the requirements of this By-law; and
  - b) the *owner* shall repair, remove or clean up all contraventions identified on the notice within the time indicated on the notice served.

### 6.0 NOTICE TO COMPLY – DELIVERY- WHEN DEEMED SERVED

- 6.1 The notice from the *City* may be:
- a) served personally upon the *owner*; or
  - b) mailed by registered mail to the last known address of the *owner* according to the current assessment rolls.
- 6.2 If served by registered mail, the notice under subsection 6.1 shall be deemed to have been served on the fifth day after mailing.

### 7.0 FAILURE TO COMPLY – WORK DONE BY CORPORATION

Where an *owner*, having been served with a notice, fails to comply with the notice within the time specified, an *officer* or the *City's* employees or agents authorized for this purpose may, upon producing appropriate identification when requested, enter onto the *property* at a reasonable time and carry out any or all of the work described in the notice.

## 8.0 SERVICE FEES

- 8.1 The municipal service fees for the administration and enforcement of this By-law shall be in accordance with the *City's Fees By-law* and any revisions thereto.
- 8.2 Service fees for the administration and enforcement of this By-law may be applied when a contravention has been confirmed by an *officer*.

## 9.0 RECOVERY OF COSTS

- 9.1 Where the *City*, its employees or authorized agents have performed the work required to bring the *property* into compliance with the By-law, all expenses incurred by the *City* in doing the work as well as any related fees, shall be deemed to be taxes and may be collected by action or the costs may be added to the tax roll for the *property* and collected in the same manner as taxes.

## 10.0 OFFENCES

- 10.1 Every person who contravenes any of the provisions of this By-law, or who obstructs or attempts to obstruct an *officer* or an employee or agent of the *City* in carrying out his or her duties under this By-law is guilty of an offence and is liable, upon conviction to a maximum fine as established pursuant to the Provincial Offences Act, R.S.O., 1990, c.P.33.
- 10.2 Every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended
- 10.3 Every person who contravenes the provisions of any section of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 10.4 For the purpose of continuous offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per day or part thereof, exclusive of costs, under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 10.5 For the purpose of multiple offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per offence, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 10.6 Notwithstanding Section 10.5, and in accordance with the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, the total of all fines for the continuous offences or multiple offences is not limited to \$100,000

## 11.0 SEVERABILITY

- 11.1 Where a Court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of this By-law shall continue in force unless the Court makes an Order to the contrary.

## 12.0 FORCE AND EFFECT

- 12.1 **THAT** this By-law shall come into force and effect on May 1, 2018.

**READ** a first and second time this 12th day of February, 2018

**READ** a third time and finally passed this 12th day of February, 2018

**THE CORPORATION OF THE CITY OF BARRIE**

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**MAYOR – J.R. LEHMAN**

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**ACTING CITY CLERK – WENDY COOKE**