

The Corporation of the City of Burlington

City of Burlington By-law 59-2018

A by-law to regulate exterior property maintenance including vegetation, refuse and graffiti and to repeal By-law 12-2011
File: 110-04-1 (PB-59-18)

Whereas sections 8, 9, and 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, (the "*Municipal Act, 2001*") authorize the Corporation of the City of Burlington (the "City") to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6, and 8 of subsection 11 (2) authorize by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of person; and the protection of persons and property; and

Whereas section 127 of the *Municipal Act, 2001* authorizes the City to require the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings and to regulate when and how such matters shall be done, for prohibiting the disposal of refuse or debris on land without the consent of the owner or occupant of land and for defining "refuse"; and

Whereas section 128 of the *Municipal Act, 2001* authorizes the City to 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 425 of the *Municipal Act, 2001* permits a municipality to pass by-laws providing that any person who contravenes any by-law of the municipality is guilty of an offence; and

Whereas section 427 of the *Municipal Act, 2001* permits a municipality to pass by-laws directing or requiring that a matter or thing be done and that in default of it being done by the person directed or required to do it, such matter or thing shall be done at the person's expense and that a municipality may enter upon land and into structures at any reasonable time for the above purpose and further that a municipality may recover the cost of doing a thing or matter required above and may recover the costs by action or by adding the costs to the tax roll and collecting them in the same manner as taxes.

Now therefore the Council of the Corporation of the City of Burlington enacts as follows:

1. Definitions

1.1 In this by-law:

"boulevard" means that part of the highway situated between the curb line and the property line of the lot abutting the highway, but does not include a sidewalk,

shoulder, centre median strip or island separating two (2) roadways;

“buffer strip” means cutting all grass and ground cover within three (3) meters of any adjoining property line in accordance with this By-law;

“By-law Enforcement Officer” means a person appointed by by-law as a By-law Enforcement Officer for the City of Burlington;

“City” means the Corporation of the City of Burlington;

“Council” means the Council of the Corporation of the City of Burlington;

“derelict vehicle” means a motor vehicle as defined in this by-law that is,

- a) inoperative by reason of removed wheels, battery, motor transmission or other parts or equipment necessary for its operation;
- b) not in a roadworthy condition;
- c) in a state of disrepair or unsightly by reason of missing doors, glass or other body parts;
- d) inoperable and appears incapable of use as a means of lawful transportation.

A derelict vehicle may include a motor vehicle that does not have a valid provincial license plate.

“feed or feeding” means leaving food on a property or permitting food to be left on a property and does not include compost kept in accordance with this By-law or birdseed kept in a well-maintained bird feeder;

“graffiti” means one or more letters, symbols, drawings, paintings or marks, howsoever made, applied to any property surface or object that disfigures or defaces a property, but does not include any of the following:

- a) a sign authorized pursuant to the City’s Sign by-law;
- b) a sign, public notice or traffic control mark authorized by the City or the Region;
- c) a sign, public notice or traffic control mark authorized by federal or provincial law;

“ground cover” means plants that form a dense growth close to the earth and plants that are characterized as common weeds, including, but not limited to: crab grass, dandelions, clovers, pigweed (amaranth), ribwort plantain, and buckhorn plantain;

“littering” means throwing, placing or disposing refuse on property or public property;

“Medical Officer of Health” means the Medical Officer of Health for the Regional Municipality of Halton;

“motor vehicle” means an automobile, truck, motorcycle, snowmobile, trailer, boat, recreational vehicle and any other vehicle propelled or driven by other than muscular power, or a traction engine, farm tractor, self-propelled implement of husbandry or road building machine within the meaning of the *Highway Traffic Act*, R.S.O. 1990, c.H8, as amended;

“naturalized area” means a yard or a portion of a yard containing vegetative growth that does not form part of a natural garden that has been deliberately implemented to produce ground cover, including one or more species of wildflowers, shrubs, perennials, grasses or combinations of them, whether native or non-native, consistent with a managed and natural landscape other than regularly mown grass.

“noxious weed” means a noxious weed designated by or under the *Weed Control Act*, R.S.O. 1990, c. W.5, as amended;

“ornamental plants” means plants or flowers that are either purposefully planted or left to grow naturally, but that are maintained on the property and shall include wildflowers, pussy willows, typha (cattails), wild or ornamental grasses and does not include noxious weeds or ground cover;

“owner” means the registered owner of property and includes a lessee, a mortgagee in possession, and any person having care and control over any portion of the Property under consideration;

“person” means an individual, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau or agency;

“property” means a building or structure or part of a building or structure and includes the lands and premises appurtenant thereto and all structures and erections thereon, whether heretofore or hereafter erected and includes vacant land and properties listed under Part IV or Part V of the *Ontario Heritage Act* R.S.O. 1990, c. O. 18, as amended, but excludes public property;

“public property” means property that is owned by the City or any of its boards and agencies, the Regional Municipality of Halton, Halton District and Halton Catholic School Boards, the Crown in Right of Ontario or any of its agencies or property of the Crown in Right of Canada or any of its agencies;

“Region” means the Regional Municipality of Halton;

“refuse” means waste of any kind whatsoever and without limiting the generality of the foregoing shall include, rubbish, filth, garbage, animal carcasses and

droppings, ashes, bottles, cans, cartons, construction materials, discarded appliances, clothing, furniture and household effects, inoperative mechanical equipment, lumber, packing materials, paper, worn automobile tires, used oil, automobile parts, yard waste, grass clippings, leaves, soil, soot, tree or shrub trimmings, garden waste, stumps, branches and other similar natural or vegetative waste;

“sidewalk” means that portion of a highway between the curb line and the property line of the lot abutting the highway and which is intended for the use of pedestrians;

“standing water” means non-flowing, uncirculated, motionless, or stale water that has remained in a location for a period exceeding 7 days, but does not include water that is in a covered rain barrel or a swimming pool, hot tub, wading pool or artificial pond maintained in good repair and working condition;

“tree” includes all woody vegetation, which at maturity, will reach of height of at least 3.5 m;

“wildlife” means an animal that belongs to a species that is wild by nature, but does not include an animal that is kept in accordance with;

- a) the City’s Animal Control by-law;
- b) research undertaken by a university, college or similar provincially or federally recognized research institution.

2. MAINTENANCE OF PROPERTY

2.1 Every owner of property shall maintain the property in a clean condition.

Dilapidated, collapsed or unfinished structures and all accumulation of material, wood, debris or other objects that create an unsafe or unsightly condition, deleterious to the neighbouring environment shall be removed from the property.

2.2 Storage of building or construction material, garden equipment or other tools or materials may be stored on a temporary basis on a property if the materials are neatly stored and are being used, or will be used within a short timeframe.

2.3 Every owner of property shall ensure that the grass and ground cover on the property is maintained in accordance with this by-law.

2.4 For property that is equal to or less than 0.4 ha in area, all grass and ground cover shall be equal to or less than 20 centimeters in height between May 1 and October 15 in each calendar year, except:

- a) ornamental plants;
- b) shrubs or trees;
- c) cultivated fruits or vegetables; or

- d) plants buffering or otherwise protecting a natural feature such as a watercourse;

2.5 For property that is greater than 0.4 ha in area, a buffer strip shall be cut to a height of equal to or less than 20 centimeters between May 1 and October 15 in each calendar year, except:

- a) ornamental plants;
- b) shrubs or trees;
- c) cultivated fruits or vegetables; or
- d) plants buffering or otherwise protecting a natural feature such as a watercourse;

2.6 Every owner of property shall ensure that grass and ground cover on the boulevard abutting the property is trimmed or cut to a height of 20 centimeters or less and that noxious weeds are removed or destroyed between May 1 and October 15 in each calendar year.

2.7 Every owner of property shall remove and destroy all noxious weeds, whether dead or alive, from the property between May 1 and October 15 of each calendar year.

2.8 Every owner shall ensure that all trees, shrubs, vines, hedges, bushes or vegetation, other than noxious weeds, grass or ground cover are trimmed, pruned and maintained in a manner to avoid becoming overgrown such that it affects safety, visibility or passage of the general public, conceals or interferes with the use of any fire hydrant or water valves, or constitutes an obstruction to vehicular traffic.

2.9 Provisions in this by-law relating to the trimming of grass and ground cover do not apply to naturalized areas except that there must be a buffer strip with a minimum of 0.6 metres in width, containing grass or ground cover trimmed or cut to a height of 20 centimetres or less between any naturalized area and an abutting property not owned or occupied by the person keeping the naturalized area.

2.10 Despite the provisions of this section, nothing in these clauses shall be deemed to prevent a farm, meeting the definition of "Agricultural Operation" under the *Farming and Food Protection Act*, S.O. 1998, c.1, as amended, from carrying out a "Normal Farm Practice" as defined by that Act on property where agricultural uses are permitted under land use by-laws.

3. FIREWOOD STORAGE

3.1 Firewood for domestic use shall not be stored in a front yard. Firewood for domestic use shall be stored in a rear or side yard if the area used for this

storage is not more than 15% of the area of the rear or side yard.

3.2 The stored firewood shall be:

- a) neatly piled not less than 30cm from any property line;
- b) stored at a height of not less than 15cm above grade; and
- c) stored with a total height of not more than 1.5 meters.

4. DUST

4.1 Every property shall be maintained to prevent accumulations of dust or dirt from spreading to neighbouring properties.

5. STORAGE OF REFUSE

5.1 No owner of property shall cause or permit any refuse on the property, unless in accordance with this by-law.

5.2 Every owner shall store refuse in a clean and well-maintained manner.

5.3 For the purpose of section 5.2, “clean” and “well-maintained” shall mean:

- a) within a proper recycling bin, garbage receptacle or other acceptable container(s) in accordance with any regional by-law pertaining to the collection of waste;
- b) stored in such a manner that prevents refuse from escaping or being blown out of its container; and
- c) maintained in a clean, sanitary and odour-controlled condition as to not attract rodents, vermin, insects, pests or wildlife.

5.4 A person does not contravene this by-law by storing, preparing or placing items out for collection within an approved container by the Region in accordance with any by-law pertaining to the collection of waste, recyclable material or yard waste.

6. COMPOST, PET AND ANIMAL FOOD AND FEEDING OF WILDLIFE

6.1 An owner of property shall have no more than two compost heaps on the property, provided that:

- a) the piles are located in the rear yard;
- b) each pile is no larger than one metre square;
- c) the height of the pile is not greater than 1.8 metres;

d) the piles are enclosed on all sides by concrete blocks, a lumber structure, a metal frame or a commercial plastic compost container.

6.2 All compost, pet food and animal food stored on a property shall be stored in such a manner so as not to allow offensive odours to affect the surrounding neighbourhood or attract rodents, vermin, insects or other pests to the property.

6.3 No person shall feed any wildlife on private property or public property except:

- a) the licensed members of the Trumpeter Swan Coalition for the purpose of banding and tagging trumpeter swans for research;
- b) in accordance with this by-law.

7. PEST PREVENTION

7.1 Every property shall be kept free of rodents, vermin, insects and other pests and methods used for exterminating shall be in accordance with the *Pesticides Act*, R.S.O. 1990, Chap P.11, as amended and all regulations enacted pursuant thereto.

8. STANDING WATER

8.1 No person shall cause or permit the collection of standing water on any property.

8.2 An owner of property shall take all necessary steps to remove or dispose of standing water located on the property when required to do so by a by-law enforcement officer. Such steps may include, but are not limited to: draining or filling of excavations and depressions, installing screening or netting equipment so as to prevent the breeding of mosquitoes or the treatment of property or any part thereof with a larvicide.

8.3 Any action taken under this by-law in relation to standing water in no way precludes the Medical Officer of Health from taking action with regard to standing water, as provided for in the *Health Protection and Promotion Act*, R.S.O. 1990, c.H7, or any regional by-laws, as amended.

9. LITTERING

9.1 No person shall cause or permit littering on any property or public property.

10. DERELICT VEHICLES

10.1 No owner of property shall store derelict vehicles or parts thereof upon the property. Derelict vehicles shall be parked or stored only within an attached or detached private garage or carport.

10.2 No owner of property shall cause or permit the storage of derelict vehicles

on the property for the purpose of wrecking, dismantling or salvaging parts thereof for sale or other disposal including for the purpose of repairing other motor vehicles.

- 10.3 Clauses 10.1 and 10.2 do not apply if zoning by-laws permit the property to be so used and the owner of the property holds a current and valid licence issued by the City, permitting motor vehicle salvage and/or storage on the property.

11. GRAFFITI

- 11.1 No person shall place or cause or permit graffiti to be placed on their property or public property.
- 11.2 The owner of property shall keep the property free of graffiti.

12. MAINTENANCE OF BOULEVARDS, SIDEWALKS, WALKWAYS AND DRIVEWAYS

- 12.1 Every owner shall ensure that the boulevard abutting their property is kept free of refuse.
- 12.2 No owner shall cause or permit the storage of any refuse or other household or commercial item that encroaches, obstructs or impedes the entry or use of any sidewalk which abuts upon such property.
- 12.3 Every owner shall ensure that the hard-surfaced walkway, driveway, parking area of their property is evenly graded and maintained free of potholes or uneven sections.

13. ENFORCEMENT

- 13.1 A By-law Enforcement Officer who finds property which does not comply with the requirements of this by-law, may order the owner, by way of issuing a Notice of Contravention, to bring the property into compliance with the provisions of this by-law and the Notice of Contravention shall specify the time allowed for bringing the property into conformity.
- 13.2 The Notice of Contravention shall be served:
- a) upon the owner by personal service, or
 - b) by mailing a copy of the notice by registered mail to the last known address noted on the tax assessment roll and shall be deemed to have been served 5 days after it is mailed.
- 13.3 Where an owner, who has been served with a Notice of Contravention

under section 13.2 herein, fails to comply with the Notice, then a By-law Enforcement Officer or the City's employees or any authorized agent on behalf of the City may enter on the property at any reasonable time and complete the work required to bring the property into compliance with the provisions of this by-law as set out in the Notice.

13.4 Where the work required to bring the property into compliance with the by-law has been performed by or for the City, the expenses incurred in doing the work 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.

13.5 A By-law Enforcement Officer, or any person acting under his or her direction; may enter upon any property at any reasonable time without a warrant for the purpose of inspecting the property to determine whether:

- a) the property conforms with the standards prescribed in this by-law; or
- b) a Notice of Contravention made under this by-law has been complied with.

14. OFFENCES

14.1 Every person who contravenes any of the provisions of this by-law or who obstructs or attempts to obstruct a By-law Enforcement Officer in carrying out his or her duties under this by-law is guilty of an offence and is liable, upon conviction, to maximum fines as established pursuant to the *Provincial Offences Act*. R.S.O. 1990, c.P.33, as amended.

15. SEVERABILITY

15.1 Where a court of competent jurisdiction declares any section or part of a section of this by-law valid, the remainder of this by-law shall continue in force unless the court makes an order to the contrary.

16. APPLICABILITY

16.1 This by-law does not apply to public property.

17. SHORT TITLE

17.1 This by-law may be referred to as the "Lot Maintenance By-law."

18. AMENDMENTS AND REPEAL

18.1 By-law 12-2011, as amended, is hereby repealed.

18.2 That by-law 60-2005 be amended by deleting the following definitions in

their entirety: (cc) “feed”; (dd) “food”; (ee) “Wildlife”.

18.3 That by-law 60-2005 be amended by deleting section 19(1) in its entirety.

18.4 That in all other respects, by-law 60-2005 be and is hereby confirmed.

18.5 That by-law 28-2009 be amended by deleting the definition of “graffiti” and by deleting section 2.9 in its entirety.

18.6 That by-law 28-2009 be amended by deleting section 4.8 “Compost, Pet Food and Animal Feed Storage” in its entirety.

18.7 That in all other respects by-law 28-2009 be and is hereby confirmed.

19. ENACTMENT

19.1 This by-law comes into full force and effect on the day it is passed.

Enacted and passed this 24th day of September 2018

Mayor Rick Goldring _____

City Clerk Angela Morgan _____