

THE CORPORATION OF THE CITY OF BURLINGTON

BY-LAW NUMBER 12-2011

A by-law regulating yard waste & exterior property maintenance and to prohibit littering in the City of Burlington.
File: 110-04-1 (PB-6-11)

WHEREAS Section 8 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person, for the purpose of exercising its authority under this or any other Act;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, permits a lower-tier municipality to pass by-laws respecting matters within spheres of jurisdiction including but not limited to waste management, drainage and flood control;

AND WHEREAS, Council may pass by-laws under the following provisions of the *Municipal Act*, as amended:

Section 127 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, permits a municipality may pass by-laws requiring an 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 for regulating when and how such matters shall be done, for prohibiting the deposal of refuse or debris on land without the consent of the owner or occupant of land and for defining “refuse”;

Section 128 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, permits a municipality to pass by-laws prohibiting and regulating with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

Section 130 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, permits a municipality to regulate matters not specifically provided for in the act for purposes related to the health, safety and well-being of the inhabitants of the municipality;

Section 131 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, permits a municipality to 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 disposal;

Section 425 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, permits a municipality to pass by-laws providing that any person who contravenes any by-law of the municipality is guilty of an offence;

Section 427 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, 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 times for the above purpose and further that a municipality may recover the cost of doing a thing or

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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;

AND WHEREAS the Council of the Corporation of the City of Burlington deems standing water, loose rubbish and debris on lands and unkempt yards a nuisance that could create a health and safety hazard for the public;

THEREFORE the Council of the Corporation of the City of Burlington enacts as follows:

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PART 1

1.1 SHORT TITLE

This Bylaw may be referred to as the “Lot Maintenance Bylaw.”

1.2 DEFINITIONS

In this bylaw,

“**accessory building**” means a detached building or structure not used for human habitation, the use of which is naturally or customarily incidental and subordinate to, or exclusively devoted to a principal use, building or structure and located on the same lot therewith.

“**City**” means The Corporation of the City of Burlington.

“**Council**” means The Council of the Corporation of the City of Burlington.

“**debris**” means the same as domestic waste, industrial/commercial waste and litter.

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“**domestic waste**” means any article, thing, matter or any effluent belonging to or associated with a house or household or concerning or relating to the home or family that appears to be waste material, including but not limited to the following classes of material:

- a) accumulations, deposits of leaves;
- b) ashes;
- c) disconnected large appliances or any part thereof, including refrigerators, stoves, fridges etc.;
- d) furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks, plumbing fixtures;
- e) inoperative motor vehicles, trailers and vehicle parts and accessories;
- f) paper, cartons, fabrics or carpets;
- g) broken or discarded furniture;
- h) discarded pots, pans, etc;
- i) sewage;
- j) construction, demolition, repair or renovation debris or leftovers from such work.

“**dumping**” includes drop, throw, deposit or randomly place or store or otherwise dispose of debris, including domestic waste, industrial/commercial waste and litter.

“**grass**” means any plant characterized by rounded and hollow jointed stems, narrow sheathing leaves, flowers borne in spikes and hard grain like seeds.

“**ground cover**” means plants or shrubs characteristically forming an extensive dense growth close to earth.

“**highway**” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

“**industrial and commercial waste**” means any article, thing, matter or effluent belonging to or associated with industry or commerce or concerning or relating to manufacture or concerning or relating to any trade, business, calling or occupation that appears to be waste material, including but not limited to the following classes of material:

- a) articles, things, matter, effluent which in whole or in part or fragments are derived from or are constituted from or consist of agricultural, animal, vegetable, paper, lumber, wood, mineral, metal or chemical products, whether or not the products are manufactured or otherwise produced;
- b) automotive parts, inoperative motor vehicles, trailers, vehicle parts, mechanical equipment, mechanical parts, accessories or adjuncts to the vehicles and mechanical equipment;
- c) piping, tubing, conduits, cable and fittings or other accessories or adjuncts to the piping, tubing, conduits or cable;
- d) containers or pallets or any size, type or composition;

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- e) material resulting from or as part of construction or demolition projects;
- f) rubble, inert fill;
- g) bones, feathers, hides or other animal parts or carcasses.
- h) sewage.

“**inoperative motor vehicle**” means a motor vehicle having missing bodywork, components or parts, including tires or damaged components, parts, bodywork, glass or deteriorated or removed adjuncts, which prevent its mechanical function, and includes a motor vehicle that is not licensed for the current year.

“**land**” means any private property, premises, grounds, yards or vacant lot.

“**lane**” means a public or private access way or right-of-way providing a means of access to lands and buildings abutting thereon, but does not include a pedestrian walkway.

“**large appliance**” means appliances such as, but not limited to, refrigerators, stoves, freezers, washers, dryers and electronics.

“**litter**” includes debris, rubbish, filth, refuse, garbage or waste matter of any kind whatsoever and without limiting the generality of the foregoing shall include animal carcasses and droppings, ashes, bottles, cans, cartons, construction materials, discarded appliances, clothing, furniture and household effects, inoperative mechanical equipment, kitchen wastes, lumber, packing materials, paper, soil, soot, tree trimmings and pruning’s, garden waste, stumps, branches, worn automobile tires, used oil, and automobile parts.

“**manager**” means the Manager of By-Law Enforcement and Licensing or any successor thereof, or his or her designate.

“**medical officer of health**” means the Medical Officer of Health for the Region 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.

“**nuisance**” means anything that is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

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“**by-law enforcement officer**” means a person appointed by by-law as a By-law Enforcement Officer for the City of Burlington.

“**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 mobile structures, outbuildings, fences and erections thereon, and any other building or structure on the property.

“**private property**” means property which is privately owned and is not City property or property of a local board, property of the Halton Regional Municipality or property of any of the Crown in Right of Ontario, the Crown in Right of Canada or any emanations thereof;

“**public property**” means property that is owned by the City or any of its Boards and agencies, Region 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 Region of Halton

“**Standing Water**” means non-flowing, uncirculated, motionless, or stale water that has remained in a location for a period exceeding 7 days.

“**unsafe condition**” means any condition that could cause undue hazard to the health or safety of any person, authorized or unauthorized on or about a property.

“**weed**” means a noxious weed designated by or under the *Weed Control Act*, including any weed designated as a weed or noxious weed under a by-law of the City passed under that *Act*.

“**yard**” means an area extending from the lowest level below grade to the sky, open and uncovered, appurtenant to a building or structure and unoccupied by any building or structure.

PART 2

GENERAL PROVISIONS AND ADMINISTRATIVE MATTERS

2.1 ADMINISTRATION OF BY-LAW

This By-law shall be administered by the Manager.

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2.2 APPLICATION OF BY-LAW

This By-law shall apply to all persons within the geographic boundaries of the City, including occupants and owners of property.

2.3 NO BREACH WHEN COMPLYING WITH WASTE COLLECTION BY-LAW

A person does not breach s.3.1 or 6.1 merely by storing, preparing or placing items out for collection by the Region of Halton in accordance with any by-law pertaining to the collection of waste, recyclable material or yard waste.

PART 3

MAINTENANCE OF LANDS AND YARDS & PRIVATE DRAINS

3.1 CLEAN AND CLEAR LANDS AND YARDS

- (a) Every owner of property shall ensure that the land and yard is kept free of domestic waste, industrial and commercial waste, litter or refuse.
- (b) Every owner of property shall ensure that grass and ground cover is trimmed or cut to a height of 20 centimetres (8 inches) or less and shall ensure that weeds are removed or destroyed between May 1 and October 15 in each calendar year.

3.2 For the purposes of clause 3(a) above, weeds shall be destroyed by the following means:

- (a) pulling or otherwise removing the plants from the soil;
- (b) cutting the roots or stalks of the plants before the seeds have developed sufficiently to ripen after cutting;
- (c) turning the soil in which the plants were growing so as to bury or kill the weeds; or
- (d) in the case of poison ivy, treating it with a herbicide that causes the plants to be destroyed, or which prevents the growth of the plants or the ripening of their seeds, provided that nothing in this clause authorizes the use of any herbicide that is contrary to any other law in force in Ontario

3.3 NATURALIZED AREAS

Provisions relating to the trimming of grass and ground cover as in section 3.1 and 3.2 above do not apply to naturalized areas except that :

- 3.3.1 There must be a buffer strip, minimum of 0.6 metres (2 feet) in width, containing grass or ground cover trimmed or cut to a height of 20 centimetres (8 inches) or

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less between any naturalized area and an abutting property not owned or occupied by the person keeping the naturalized area.

- 3.3.2 For the purpose of this by-law, an area is deemed to be a naturalized area if the property or portion covered by vegetation is landscaped and maintained with a variety of flowers or plants, with or without grasses, or left to grow a variety of indigenous plants.

3.4 REMOVAL OF STANDING WATER

- 3.4.1 No person or Owner of a Property shall cause or permit the collection of Standing Water on any property.

- 3.4.2 Where on any Property, there is any collection of Standing Water or surface water or any depression, excavation, pool, pond, declivity, or object containing Standing Water, the Owner of the property shall remove such Standing Water by, draining it or implementing a strategy for reducing mosquito breeding approved by a by-law officer for prevention of West Nile virus.

- 3.4.3. Every owner of property shall ensure that any depression in or on the yard is kept free of Standing Water and that all depressions do not hold standing water for a period of more than seven (7) days.

3.5 AUTHORITY OF MEDICAL OFFICER OF HEALTH

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.

3.6 NON APPLICABILITY TO AGRICULTURAL OPERATIONS

Despite the provisions of Sections 3.1 to 3.3, inclusive, nothing in this section 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 lands where agricultural uses are permitted under land use by-laws.

PART 4

LARGE APPLIANCE SAFETY

4. LARGE APPLIANCES – REMOVE OR SECURE DOOR

If a large appliance is not being used for its manufactured purpose or is being set out for collection by the Region of Halton, or is being set out in a yard pending collection by the

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City, or by other means, the door shall be removed or secured in such a way as to prevent the door from being shut so as to prevent any person from being trapped in such an appliance.

PART 5

MAINTENANCE OF ABUTTING UNTRAVELLED PORTIONS OF HIGHWAYS

5. REQUIREMENT TO MAINTAIN

Every owner of property shall ensure that the untraveled portion of any highway abutting their property be kept free of debris and shall ensure that grass and ground cover is trimmed or cut to a height of 20 centimetres (8 inches) or less and shall ensure that weeds are removed or destroyed between May 1 and October 15 in each calendar year.

PART 6

PROHIBITION OF LITTERING WITHIN THE CITY OF BURLINGTON

6.1 NO LITTERING

No person shall deposit any litter on Public Property or on Private Property without the consent of the owner.

6.2 REFUSE DEPOSITED AT APPROVED LOCATION

Refuse may be deposited at a waste disposal site that has been approved by the Ministry of the Environment pursuant to the *Environmental Protection Act*, R.S.O. 1990, and c.E19, as amended, if the owner of such a waste disposal site has granted permission for the deposit.

6.3 MAINTAINING A LANE OR ALLEY

Every owner or occupant of land in the City of Burlington shall keep and maintain that portion of the lane or alley which abuts upon such land, free and clear of weeds, ashes, paper, building material, rubbish and other debris.

PART 7

INOPERATIVE MOTOR VEHICLES

7.1 STORING OF INOPERATIVE MOTOR VEHICLES

No person shall keep inoperative motor vehicles or parts thereof upon a yard. Inoperative motor vehicles shall be parked or stored only within a private garage or other accessory building.

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7.2 MOTOR VEHICLE SALVAGE PROHIBITED

No person shall use any land in the City for storing inoperative motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal including for purposes of repairing other vehicles.

7.3 EXCEPTIONS

Sections 7.1 and 7.2 do not apply if zoning by-laws permit the land to be so used and the person holds a current and valid license issued by the City for the land, permitting motor vehicle salvage or storage. Sections 7.1 and 7.2 do not apply to agricultural farm equipment upon a property that is a farm property falling within the definition of “agricultural operation” under the *Farming and Food Protection Act*, S.O. 1998, and c.1, as amended.

PART 8

GRAFFITI

- 8.1** All property including but not limited to buildings, structures, fences, or other objects shall be kept clean of graffiti at all times and where a property is subject to graffiti it shall be restored, resurfaced, and coordinated to an appropriate exterior finish.
- 8.2** No person shall create and/or apply graffiti to any surface on private or public property or to anything located on public property.

PART 9

ENFORCEMENT, & OFFENCES

ENFORCEMENT

- 9.1** A By-law Enforcement Officer who finds lands which do not comply with the requirements of this by-law, may order the owner of the land, by way of issuing a Notice of Contravention, to bring the land into compliance with the provisions of this by-law and the notice shall specify the time allowed for bringing the land into conformity.
- 9.2** The Notice of Contravention shall be served; (i) upon the owner by personal service, or (ii) by mailing a copy of the Notice by prepaid first class mail or 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.
- 9.3** Where an owner, who has been served with a Notice of Contravention under Section 9.2 herein, fails to comply with the Notice, then a By-law Enforcement Officer or the Corporation’s employees or any authorized agent on behalf of the Corporation may enter

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on the land at any reasonable time and complete the work required to bring the lands into compliance with the provisions of this by-law as set out in the Notice.

- 9.4 Where the work required to bring the lands into compliance with the by-law has been performed by or for the Corporation, the expenses incurred in doing the work may be collected by action or the costs may be added to the tax roll for the lands and collected in the same manner as taxes.

OFFENCES

- 9.5 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.

PART 10

SEVERABILITY

SEVERABILITY

If a Court of competent jurisdiction should declare any section or a part of a section of this by-law to be invalid, the remainder of this by-law shall continue in force unless the court makes an order to the contrary.

PART 11

REPEAL

By-law number 117-1976, 42-2004 and 54-2007 and all of its amendments are hereby repealed.

PART 12

EFFECTIVE DATE

This by-law comes into effect on February 28, 2011.

ENACTED and PASSED this 28th day of February, 2011.

MAYOR

Rick Goldring

CITY CLERK

Angela Morgan

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SCHEDULE "A"

I. The following plants are defined as weeds:

ITEM	COMMON NAME	SCIENTIFIC NAME
1.	Barberry, common	<i>Berberis vulgaris</i> L.
2.	Buckthorn, European	<i>Rhamnus cathartica</i> L.
3.	Carrot, wild	<i>Daucus carota</i> L.
4.	Colt's-foot	<i>Tussilago farfara</i> L.
5.	Dodder spp.	<i>Cuscuta</i> spp.
6.	Goat's-beard spp.	<i>Tragopogon</i> spp.
7.	Hemlock, poison	<i>Conium maculatum</i> L.
8.	Johnson grass	<i>Sorghum halepense</i> (L.) Persoon
9.	Knapweed spp.	<i>Centaurea</i> spp.
10.	Milkweed spp.	<i>Asclepias</i> spp.
11.	Poison-ivy	<i>Rhus radicans</i> L.
12.	Proso millet, black-seeded	<i>Panicum miliaceum</i> L. (black-seeded biotype)
13.	Ragweed spp.	<i>Ambrosia</i> spp.
14.	Rocket, yellow	<i>Barbarea</i> spp.
15.	Sow-thistle, annual, perennial	<i>Sonchus</i> spp.
16.	Spurge, Cypress	<i>Euphorbia cyparissias</i> L.
17.	Spurge, leafy	<i>Euphorbia esula</i> L. (complex)
18.	Thistle, bull	<i>Cirsium vulgare</i> (Savi) Tenore

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19.	Thistle, Canada	<i>Cirsium arvense</i> (L.) Scopoli
20.	Thistle, nodding, spp.	<i>Carduus</i> spp.
21.	Thistle, Russian	<i>Salsola pestifer</i> Aven Nelson
22.	Thistle, Scotch	<i>Onopordum acanthium</i> L.
23.	Vetchling, tuberous	<i>Lathyrus tuberosus</i> L.
24.	Giant Hogweed	<i>Heracleum mantegazzianum</i>