

The Corporation of the City of Guelph By-law Number (2008)-18552

A By-law regarding the maintenance of land in a clean, clear and safe condition, and adopting Municipal Code Amendment # 462 which amends Chapter #220 of the Corporation of the City of Guelph's Municipal Code (Yard Maintenance By-law).

Whereas pursuant to Sections 10, 127 and 128 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, a municipality may pass by-laws respecting the health, safety and well-being of persons, requiring the cleaning and clearing of land or clearing of refuse and debris from land, and prohibiting and regulating with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

And whereas the Council of the Corporation of the City of Guelph deems it desirable to regulate the maintenance of land in order to enhance the quality of communities and/or neighbourhoods, to protect the health, safety and well-being of the public and to ensure the continued enjoyment of property for residents and property owners of the municipality;

And whereas the Council of the Corporation of the City of Guelph deems a public nuisance to include weeds or grass more than 20 centimetres in height, a motor vehicle or trailer that is not licensed with a current validated license plate, animal excrement and naturalized areas which are encroaching onto adjacent properties;

And whereas pursuant to Section 446 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, if a municipality has authority to direct or require a person to do a matter or thing, the municipality may also provide that in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and that the municipality may enter upon land at any reasonable time for such purposes, and further that the municipality may recover the costs of doing such 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 property taxes;

The Council of the Corporation of the City of Guelph enacts as follows:

Short Title

1.1. This by-law may be cited as the "Yard Maintenance By-law". Definitions

Definitions

2.1. "City" means the Corporation of the City of Guelph;

- 2.2. "Naturalized Area" means a landscape area that has been deliberately implemented to produce ground cover which consists of one or more species of wildflowers, annuals, perennials, shrubs and grasses or a combination thereof;
- 2.3. "Officer" means a police officer or person appointed by by-law to enforce the provisions of this By-law;
- 2.4. "Owner" means a registered owner of land, or any person in control of land, including a lessee or an occupant thereof;
- 2.5. "Refuse" means any article, thing, matter, substance or effluent that:
- a) has been cast aside, discharged or abandoned;
 - b) is discarded from its usual and intended use; or
 - c) is used up, in whole or in part, or expended or worn out in whole or in part, and shall include domestic, construction or industrial waste, and provided further that waste does not cease to be refuse by reason that it may be commercially saleable or recyclable; and
- 2.6. "Zoning By-law" means City of Guelph By-law number (1995)-14864, as amended from time to time, or any successor thereof.

General Standards

- 3.1. Every Owner shall ensure that his or her land is kept free and clear of any:
- 3. 1.1. weeds or grass that are more than 20 centimetres (8 inches) in height;
 - 3. 1.2. Refuse, garbage, rubbish, salvage or other debris;
 - 3. 1.3. ice-box, refrigerator or freezer that is not located within a building;
 - 3. 1.4. wrecked, dismantled, abandoned or inoperable appliance, machine, shopping cart, vehicle or trailer, or any portion thereof;
 - 3. 1.5. motor vehicle or trailer that does not display a valid licence plate and corresponding current validation sticker issued for such motor vehicle or trailer by the Ministry of Transportation Ontario or an extra-provincial government agency;
 - 3. 1.6. hedge, tree or branch located on private property that is likely to hinder pedestrian traffic on a public sidewalk; and
 - 3.1.7. animal excrement.
- 3.2. Every Owner of land shall ensure that:

3.2.1 all steps, pedestrian walkways, driveways, parking spaces and other similar areas on their land are maintained so as to afford clear, unobstructed and safe passage by pedestrians and vehicles;

3.2.2. any Naturalized Area on their land does not encroach above or onto any adjacent property; and

3.2.3. where any Naturalized Area on their land is located within a sight line triangle, as defined by the Zoning By-law, such Naturalized Area complies with the maximum height regulations in the Zoning By-law respecting sight line triangles.

Exemptions

4.1. Section 3.1.1 of this By-law does not apply to a Naturalized Area.

4.2. Sections 3.1.1 and 3.1.7 of this By-law do not apply to land permitted an agricultural use, pursuant to the Zoning By-law.

4.3. Sections 3.1.1, 3.1.2, 3.1.3, 3.1.4 and 3.1.5 of this By-law do not apply to the extent that the matter prohibited therein is necessary for the operation of a business enterprise lawfully situated on the property pursuant to the Zoning By-law.

4.4. This By-law does not apply to land owned by the City. Administration and Enforcement

5.1. a) An Officer may enter upon land, at any reasonable time, for the purpose of carrying out inspections of or on such land to determine whether or not the following are being complied with:

- i. the provisions of this By-law;
- ii. a notice sent pursuant to this By-law; or
- iii. an order made under section 431 of the Municipal Act, S.O. 2001, c.25, as amended from time to time, or any successor thereof.

b) Without limiting clause (a), for purposes of an inspection pursuant to clause (a), an Officer may:

- i. require the production for inspection of documents or things relevant to the inspection;
- ii. inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- iii. require information from any person concerning a matter related to the inspection; and

- iv. 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.

5.2. No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer or other person exercising a power or performing a duty under this By-law.

5.3. An Officer may by written notice sent to one or more Owners of the land, direct the said Owner or Owners, within the time specified in the notice, which shall be not less than two (2) calendar days from the date of deemed service of the notice as set out herein, to bring the land into compliance with the provisions of this By-law.

5.4. a) Every notice to an Owner of land, as set out in section 5.3, shall be hand-delivered to the said Owner, or sent by mail, courier, facsimile transmission or email transmission to the Owner, or left for the Owner at his or her address, provided that:

- i. Notice sent by mail or courier or left for the Owner shall be sent to or left at the address of the Owner shown on the last revised assessment roll or to the address of the Owner last known to the City; and
- ii. Notice sent by facsimile transmission or email transmission to the Owner shall be sent to the facsimile number or email address of the Owner last known to the City.

b) Service of the notice on an Owner in accordance with section 5.4 shall be deemed to be good and sufficient service of the notice on the said Owner:

- i. in the case of hand-delivery or leaving the notice for the Owner, on the date of such delivery;
- ii. in the case of mail, on the seventh (7th) calendar day after posting the mail;
- iii. in the case of courier, on the second (2nd) business day after depositing the notice with the courier; and
- iv. in the case of facsimile transmission or email transmission, on the day of sending the facsimile transmission or email transmission, if sent prior to 4:30pm on a business day, or on the next business day if sent after 4:30pm or sent on a day other than a business day;

5.5. In addition to section 5.4, a copy of the notice may be posted on the land.

5.6. a) Where a notice identified in section 5.3 of this By-law has been served on an Owner in accordance with this By-law, and the said Owner is in default of doing any thing that is required to bring the land into compliance with this By-law, as set out in and within the timeframe specified in the notice, the Chief Building Official or his or her designate may, on behalf of the City, direct City staff, officers or agents

to carry out any or all of such work at the expense of such Owner. All costs incurred by the City in relation to such work may be recovered by the City by action against the Owner or, where the notice has been sent to the registered Owner, such costs may, at the discretion of the City Treasurer or his or her designate, be added to the tax roll and collected in the same manner as property taxes.

b) The City, its employees, officers and agents may enter onto the land, at any reasonable time, for the purpose of carrying out the work described in clause (a).

Offence and Penalties

6.1. Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is subject to a maximum fine of \$100,000.

Miscellaneous

7.1. This By-law shall not relieve any person from compliance with any other City By-law in effect from time to time. In the event of conflict between a provision of this By-law and a provision of any other City By-law, the stricter provision shall apply.

7.2 If any provision of this By-law or any part thereof, is found in any Court of law to be illegal or beyond the power of the City to enact, such provision or part thereof shall be deemed to be severable and all other sections or parts of the By-law shall be deemed to be separate and independent thereof and to be enacted as such.

Municipal Code Amendment

8.1 This By-law is hereby adopted as Municipal Code Amendment #462 amending Chapter #220 of the Corporation of the City of Guelph's Municipal Code.

Passed this Twenty-Seventh day of May, 2008

Original signed by:

Karen Farbridge – Mayor

Tina Agnello – Deputy Clerk