

# THE CORPORATION OF THE TOWNSHIP OF WELLINGTON NORTH

## BY-LAW NUMBER 052-2019 (including amendments in By-law 067-2024)

### BEING A BYLAW TO REGULATE THE MAINTENANCE OF LAND IN THE TOWNSHIP OF WELLINGTON NORTH

**WHEREAS** Section 11(1) 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;

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

**AND WHEREAS** Section 131 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, 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.

**NOW THEREFORE BE IT ENACTED** as a By-law of the Township of Wellington North as follows:

#### 1. SHORT TITLE

1.1 This By-law shall be known as the "Clean and Clear Yard By-law".

#### 2. DEFINITIONS

2.1 For the purpose of this By-law, the following terms shall have the meanings indicated:

**Chief Building Official** – Means the Chief Building Official (CBO), of the Building Department, or his or her designate;

**Compost** - Means the natural decomposition, in a composter, heap or digester, of organic material to produce humus, and is comprised of the following materials only; leaves, grass, shrub and hedge clippings, house and garden plants, branches, all fruits and vegetable matter, coffee grounds and filters, tea bags, egg shells, pasta and bread;

**Debris** - Means any material or item(s) other than recyclable materials, organic materials, and prohibited waste, and includes but is not limited to:

a) Cigarette butts, cigar tips, e-cigarettes and their components and chewing gum;

- b) Standing or stagnant water, which may include a container or any holding device(s) where the water has collected;
- c) Any identified item or unusable collection of materials determined to be of no value, including but not limited to: refuse, garbage, junk, or waste, including items of wood, metal, tires, containers of any kind and yard fixtures.

**Derelict Motor Vehicle** - Means any scrap or inoperative motor vehicle having missing, damaged, or deteriorated parts or any condition that may prevent its intended mechanical function. This shall include but is not limited to any car, motorcycle, truck, sport utility vehicle (SUV), boat, sea-doo, snow machine, lawn tractor, all terrain vehicle (ATV), recreational vehicle (RV) and or camper trailer with damaged or missing bodywork components or any parts, including mechanical components, tires, bodywork, glass, or other defective part(s), and any/all deteriorated or removed adjuncts which prevent intended operative function;

**Excessive Growth** - Means any grass or weed exceeding the maximum permitted height on any property or land;

**Good Repair** - Means maintained and capable of normal and intended operation, not unsightly by reason of deterioration, neglect, damage or defacement and is free from any defect which may cause accidental hazard or health issue;

**Ground Cover** - Means a material capable of directing or absorbing the natural flow or drainage of water, while preventing soil erosion, such as sod (grass), wood chips, loose stone or gravel, or any approved landscaping material;

**Industrial Waste** - Means any debris, refuse, sewage, effluent, discard or garbage of a type arising from industrial waste or commercial operation, or belonging to or associated with industry or commerce or industrial or commercial property including, but not limited to, garbage, discarded material or things, broken or dismantled things, materials or things exposed to the elements, and deteriorating or decaying on a property due to exposure to the weather;

**Inoperative Motor Vehicle** – Means a motor vehicle having missing, damaged, or deteriorated parts or any condition that prevents its intended mechanical function and includes any motor vehicle that is required to be registered or licensed for the current year with an identifiable license plate displayed as required by the *Highway Traffic Act R.S.O. 1990*, or any other legislation and or by a Provincial or National Government;

**Land** - Means any part of a yard or lot within the Township of Wellington North;

**Maximum Height** - Means the maximum permitted height 20cm (8 inches) of grass and weeds;

**Motor Vehicle** - Means an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power, but does not include the cars of electric steam railways, or other motor vehicles running only upon rails, 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*;

**Occupant** – Means any person or occupant over the age of eighteen (18) years, occupying or overseeing the care of the Land/Lot;

**Officer** – Means the Chief Building Official or his or her designate, Municipal Law Enforcement or By-Law Officer (MLEO), Police Officer, Inspector, or any other person appointed or empowered by the Township of Wellington North to enforce its by-laws, statues and/or regulations;

**Owner** includes:

- a) The registered land 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 the by-law.

**Person** – Means any individual, corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to the law;

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

**Standing or Stagnant Water** – Includes but is not limited to a collection of water that is void of movement by either natural or artificial mean and includes moisture or water that may cause or contribute to health hazards such as West Nile Virus or other ailment;

**Township** –Means the Township of Wellington North;

**Waste** – Means household or general garbage, special collection materials, recyclable materials, organic materials, and yard waste;

**Weeds** – Means all noxious weeds designated as such under the *Weed Control Act* R.S.O. 1990, C.W.5;

**Yard** – Means a space appurtenant/adjacent to a building, structure or excavation, located on the same lot as the building, structure or excavation, and which space is open, uncovered and unoccupied from the ground to the sky and includes vacant land.

### **3. CLEAN AND CLEAR YARDS**

3.1 Every owner, lessee, or occupant shall keep their ground, yard or vacant land free from holes or excavations, adequately drained, graded, clean, clear and free from conditions that may be considered a health hazard, or a nuisance by the surrounding lands and neighborhood.

3.2 For the purpose of 3.1, “keeping clear” includes:

- a) The removal of dead, decayed or damaged trees or other natural growth and the branches or limbs thereof which create an unsafe condition in relation to their environment;
- b) The removal, trimming, or cutting of excessive weeds or grass exceeding 20cm (8 inches) in height;
- c) The removal of standing and stagnant water;
- d) The removal of objects or any conditions that create or may constitute a health or safety hazard;
- e) The removal of all garbage, refuse, debris and domestic waste of any kind.

3.3 Every owner, lessee or occupant shall ensure that his or her land is free and clear of any insect and or rodent infestation.

### **4. UNSAFE OR HAZARDOUS CONDITIONS**

4.1 No owner shall cause or permit an unfenced pit, excavation or other downward slope which causes a safety hazard on their property.

4.2 No owner shall permit any well which is unprotected or which the presence of which creates a risk, accident or injury.

4.3 No owner shall fail to comply with an order issued by the Officer to take remedial act and carry out remedial work to remove any standing or stagnant water. Not limiting the foregoing, such order may include a direction to fill or drain off the water or the treatment of the same with larvicide.

4.4 No owner shall keep a swimming pool, hot tub, wading pool or artificial pond unless it is maintained in good repair, free of stagnant water and in good working condition.

## **5. OUTSIDE STORAGE OF REFUSE, COMPOST OR RECYCLABLE MATERIAL**

5.1 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 only in a side or rear yard, by an owner or occupant, in a container suitable for such as 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.

5.2 Every owner or occupant shall carry out all composting in accordance with the following requirements:

- a) Only in the rear yard of a dwelling unit;
- b) Kept in a container that is clean and sanitary to prevent odours or attracting pests;
- c) No feces shall be placed in a compost container or digester used for composting;
- d) Compost shall be set back at least 0.6 metres (2 feet) from any lot line;
- e) No bones, meat, dairy or other fat products are permitted to be composted.

## **6. VEHICLES AND MACHINERY**

6.1 Except as provided in the Township of Wellington North Zoning By-law and amendments thereto, no person shall use any land in the Township of Wellington North for storing inoperative motor vehicles or used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal.

6.2 No machinery, vehicle, boat, trailer or part thereof which is in an unusable, wrecked, discarded, dismantled, partially dismantled or abandoned condition, shall not be stored or allowed to remain on any land by an owner or occupant unless otherwise permitted by the Township of Wellington North Zoning By-law and amendments thereto.

## **7. EXCEPTIONS**

7.1 Nothing in this by-law applies to prevent:

A lawfully licensed premises operating within the scope of a license that specifically permits that which is prohibited by this by-law;

- a) Construction or works proceeding under a valid building permit;
- b) The lawful outside storage of materials or things if this use is permitted under and in compliance with, the Township of Wellington North Zoning By-law 66-01.

## **8. INSPECTIONS AND AUTHORITY**

8.1 The Township may enter upon 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 s. 431 of the *Municipal Act, 2001*.

8.2 For the purpose of conducting an inspection pursuant to s. 8 (a) of this by-law, the Township may, in accordance with the provisions of s. 436 of the *Municipal Act, 2001*:

- 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;
- d) Alone or in conjunction with a person possessing special or expert knowledge, make examination or take tests, samples, or photographs necessary for the purpose of the inspection; and
- e) 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.

## **9. ORDER TO COMPLY**

9.1 An Officer may, by personal service or by notice sent by registered mail to the owner of the land or structure, require the Owner within the time specified in the notice:

- a) To clean, clear or remove from the land or structure: garbage, refuse or domestic waste of any kind;
- b) To cease using the land or structure for the dumping or disposing of garbage, refuse, or domestic waste of any kind;

- c) To temporarily cover over, screen, shield or enclose the garbage, refuse of the domestic waste until such time as the garbage is removed in the manner prescribed by the Officer;
- d) To pull down, repair or renew any structure (including but not limited to fences and retaining walls) (not including buildings) that by reason of its ruinous or dilapidated state is an unsafe condition;
- e) To remove the inoperative motor vehicle(s);
- f) To eliminate or remove any object or conditions that creates or might create a health, fire or accident hazard;
- g) To eliminate or remove the excrement of any domestic animal.

## **10. RIGHT OF ENTRY**

- 10.1 The Township, for the purpose of inspection and/or remedial action, may enter upon the land and into structures other than a place actually used as a residential dwelling unit, at any reasonable time, without warrant or notice.
- 10.2 A Person exercising a power of entry on behalf of the Township of Wellington North under this By-law must, on request display or produce proper identification.

## **11. REMEDIATION; REMOVAL BY TOWNSHIP**

- 11.1 Where the owner is in default of doing any matter or thing directed or required to be done under this by-law, an Officer may direct the completion and enforcement of such at the owner's expense.
- 11.2 Where any matters or things are removed in accordance with subsection 11.1, such matters or things may be immediately disposed of by the Officer.
- 11.3 The Township may recover the remedial action and enforcement costs incurred under subsection 10.1 by action, or by adding them on the tax roll and collecting them in the same manner as taxes in accordance with Section 446 of the Municipal Act.
- 11.4 The Township may, prior to recovering costs incurred in subsection 11.1 pursuant to Section 446 of the Municipal Act by adding costs to the Municipal Taxes, invoice owners requesting voluntary payment of said remedial action costs.
- 11.5 The Township may place a lien on the property as per Section 446 of the Municipal Act on any remedial action.

## **12. OFFENCES**

- 12.1 Every person convicted of a breach of the provisions of this by-law shall be guilty of an offence.
- 12.2 Every person who is convicted of an offence under this by-law shall be subject to a fine not to exceed one thousand dollars (\$1000.00) for each offence. Such fines shall be recoverable under the Provincial Offences Act, R.S.O. 1990, Chapter P. 22, as amended.

## **13. PENALTIES**

- 13.1 The provisions of this by-law may be enforced pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990 c.P 33 as amended, and where any provision of this by-law is contravened and a conviction entered, in addition to any other remedy and to any other penalty, a person so convicted may also be prohibited from continuing or repeating the offence in accordance with the provisions of s. 444 of the Municipal Act, S.O. 2001, as amended.

## **14. SERVICE**

- 14.1 A notice or order required by this Act to be served may be served personally, by email to the last known email address of the person to whom service is required to be made or by registered mail sent to the last known address of the person to whom notice is to be given or to that person's agent for service. 1992, c. 23, s. 27 (1); 2019, c. 14, Sched. 14, s. 1 (1).
- 14.2 If a notice or order is served by registered mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom the notice or order is given or that person's agent for service establishes that, acting in good faith, through absence, accident, illness or other unintentional cause the notice was not received until a later date. 1992, c. 23, s. 27 (2); 1997, c. 24, s. 224 (15).
- 14.3 If a notice or order is served by email, the service shall be deemed to have been made on the day of sending unless,
- 14.3.1 the document was sent after 5 p.m., in which case service shall be deemed to have been made on the following day; or
- 14.3.2 the person to whom the notice or order is given or that person's agent for service establishes that, acting in good faith, through absence, accident, illness or other unintentional cause, the notice was not received until a later date. 2019, c. 14, Sched. 14, s. 1 (2).



**15. OBSTRUCTION**

- 14.1 In accordance with the provisions of the Municipal Act, S.O. 2001, c. 25, as amended, Section 426 (1), no person shall hinder, interfere with or otherwise obstruct, either directly or indirectly, an Officer, employee of the Township of Wellington North and/or agent in the lawful exercise or power or duty under this by-law.

**16. LIABILITY**

- 15.1 The Township assumes no liability for property damage or personal injury resulting from remedial action, remedial work and enforcement undertaken with respect to any person or property that is subject of this by-law.

**17. VALIDITY AND SEVERABILITY**

- 16.1 Should any section, subsection, clause, paragraph or provision of this by-law be declared by a Court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity of the enforceability of any other provision of this by-law, or of the by-law as a whole.

**18. SEPARATE OFFENCE**

- 17.1 For the purpose of this by-law, each day of a continued offence may be deemed to be a separate offence.

**19. ENACTMENT**

- 18.1 This by-law shall come into force and take effect immediately upon the final passing thereof.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED  
THIS 27th DAY OF MAY, 2019.**

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**ANDREW LENNOX, MAYOR**

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**KARREN WALLACE, CLERK**