

**BY-LAW NUMBER XXX-15**

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**THE CORPORATION OF THE COUNTY OF BRANT**

To regulate yard maintenance

**WHEREAS** the Council of the Corporation of the County of Brant is desirous of enacting a by-law to regulate *Yard* maintenance and ensure a standard of general *Yard* cleanliness;

**AND WHEREAS** Section 127 of *Municipal Act, 2001*, S.O. 2001, c.25 authorizes the *Council* to pass by-laws to require the *Owner* or *Occupant* of land to clean and clear the land, not including buildings, or to clear *Refuse* from the land, not including buildings; and further to regulate when and how matters required under clause shall be done; and to define *Refuse* for the purpose of this section;

**AND WHEREAS** Section 128 of *Municipal Act, 2001*, S.O. 2001, c.25 authorizes *Council* to pass by-laws 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 10(2)(6) of *Municipal Act, 2001*, S.O. 2001, c.25 authorizes *Council* to pass by-laws to regulate matters not specifically provided for in the *Act* or any other Act for purposes related to the health, safety and well-being of the inhabitants of the municipality;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY ENACTS** as follows:

1. **DEFINITIONS**

- (a) *“Council”* shall mean the Council of the Corporation of the County of Brant.
- (b) *“County”* shall mean the Corporation of the County of Brant.
- (c) *“Compost”* means contained or open composting of discarded organic material including plant material such as leaves, grass clippings, and kitchen waste, but does not include animal matter.
- (d) *“Fence”* means a vertical *Structure* including a railing, hedge, line of posts, shrubs, wire, gate boards or pickets or other similar substances used to enclose or divide in whole or in part a *Yard* or other land or to establish a boundary line.
- (e) *“Good Repair”* means maintained in such condition so as to be free from accident or fire hazard, structurally sound, in good working order, and not unsightly by reason of deterioration, damage or defacement.
- (f) *“Municipal Law Enforcement Officer”* shall mean any person appointed as such by the *County*.
- (g) *“Lot”* means a lot of record or any parcel of land described in a deed or other document legally which is capable of being alienated or disposed of separately and apart from adjacent lands.

- (h) “*Naturalized Area*” means a portion of a *Lot* containing *Vegetation* which is allowed to reproduce a population of native species through natural regeneration.
- (i) “*Negative Impact*” shall mean one or more of:
- (i) harm or material discomfort to any person;
  - (ii) an adverse effect on the health of any person;
  - (iii) impairment of the safety of any person;
  - (iv) loss of enjoyment of normal use of *Property*; or
  - (v) interference with the normal conduct of business.
- (j) “*Occupant*” means any *Person* or *Persons* over the age of eighteen years in possession of *Property*.
- (k) “*Owner*” includes the *Person* for the time being managing or receiving the rent of the land or premises, whether on the *Person’s* own account or as agent or trustee of any other *Person* or who would so receive the rent if such land and premises were let, and shall also include a lessee or occupant of the *Property* who, under the terms of a lease, is required to repair and maintain the *Property* in accordance with the standards of maintenance and occupancy for the *Property*.
- (l) “*Person*” means an individual, firm, corporation, association, partnership, trust organization, trustee or agent and the heirs, executors, administrators and other legal representatives of a person to whom the context can apply according to law.
- (m) “*Property*” means 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.
- (n) “*Receptacles*” shall mean a closed container which prevents the escape of odours and the access of animals, except with regard to *Recyclables* where it shall mean a blue box.
- (o) “*Recyclables*” shall mean recyclables as define in the *County Solid Waste Bylaw*.
- (p) “*Refuse*” shall mean matter that is reasonably useless or discarded material, and includes ashes, garbage and domestic, commercial, agricultural, industrial and institutional waste other than sewage, but shall exclude *Compost* kept in accordance with section 6 (k) of this by-law.
- (q) “*Structure*” means anything constructed or erected, the use of which requires location on or in the ground, or attached to something located on or in the ground, but does not include the permanent way of a railway or any paved surface located directly on the ground.

- (r) *"Unsafe Condition"* shall mean a condition that poses or constitutes an undue or unreasonable hazard or risk to life or health of any person on or about the *Property*, and includes a structurally unsound condition.
- (s) *"Vegetation"* means any woody or herbaceous plant material other than mature trees and includes shrubs, undergrowth, brush, weeds and grasses.
- (t) *"Weed"* means a plant that is deemed to be a noxious weed under the *Weed Control Act* R.S.O. 1990, c.W.5.
- (u) *"Yard"* means an area of land which is appurtenant to, and located on the same *Lot* as a building, *Structure* or excavation and is open, uncovered and unoccupied from the ground to the sky.

## 2. APPLICATION OF BYLAW

The provisions of this by-law shall apply to all *Property* located in the County of Brant, unless otherwise indicated.

## 3. SHORT TITLE

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

## 4. SCOPE OF BYLAW

- (a) Except as provided in subsection 4.(b), where a provision of this By-law conflicts with a provision of another by-law in force in the County of Brant, the provision that establishes the higher standard shall prevail in order to protect the health, safety and welfare of the general public.
- (b) Nothing in this by-law applies to prevent storage otherwise permitted by the *County*, provided such storage is in the manner described in the terms of the permission.
- (c) Nothing in this by-law serves to prohibit a normal farm practice under the *Farming and Food Production Protection Act, 1998*, S.O. 1998, c.1.

## 5. GENERAL

- (a) Every *Owner* or *Occupant* shall ensure that all repairs and maintenance of *Property* required by the standards prescribed by this by-law and schedules thereto shall be carried out in a manner accepted as good workmanship in the trades concerned and with materials suitable and sufficient for the purposes.
- (b) Every *Owner* or *Occupant* shall maintain their *Property* in conformance with the minimum standards as set out in this by-law.

## 6. YARD MAINTENANCE STANDARDS

Every *Owner* or *Occupant* shall ensure that all *properties* are free from:

- (a) Objects or conditions such as holes, pits, excavations and trenches, that might create a fire, health or accident hazard unless otherwise legally permitted;
- (b) the storage or accumulation of commercial, industrial, agricultural, institutional or domestic materials, lumber and other building materials except if neatly piled and arranged and provided said storage is:
  - i. authorized and consistent with the terms of a development agreement if applicable; and
  - ii. permitted and in compliance with the County of Brant Zoning By-law; or
  - iii. is being stored to be used for construction or renovation purposes on that *Property* and is stored for a period of time not to exceed 6 months;
- (c) abandoned, unattended or discarded appliances;
- (d) abandoned wells, cisterns, cesspools, privy vaults, pits or excavations that are not permanently sealed or secured by *Fence* or cover, or netting unless the above or any of them are in active use, in which event they shall be secured by fencing with warning signs until they have ceased use;

- (e) privately owned pool or pond where the water is not maintained a sanitary condition, free from obnoxious odours and conditions that create a breeding pond for insects and that have a *Negative Impact* on neighbouring properties;
- (f) *Compost* that exceeds a volume of 2 cubic metres or has a *negative impact* on neighbouring properties;

## 7. GRASS AND VEGETATION

Every *Owner* and *Occupant* shall ensure that *Vegetation* on all *Property* is maintained as follows:

- (a) is free of *Weeds*;
- (b) Is free from unsightly and unreasonable overgrowth;
- (c) Is free from trees, shrubs and the branches, limbs and parts thereof which create an *Unsafe Condition* due to decay, disease, or being damaged;
- (d) in areas where the ground cover is grass, the grass is cut to a height of 20 centimetres or less;
- (e) *Vegetation* other than trees or shrubs in *Naturalized Areas*, on a *Property* with a residential use abutting another residential use, shall be maintained at a height of 20 centimetres or less along a minimum one metre wide strip along and immediately adjacent to all *Lot* lines;
- (f) *Vegetation* other than trees or shrubs in *Naturalized Areas*, on a *Property* without a residential use, shall be maintained at a height of 20 centimetres or less along a minimum ten metre wide strip immediately adjacent to any *Lot* line that adjoins a highway or occupied *Property*;

## 8. REFUSE AND RECYCLABLE STORAGE AND DISPOSAL

Every *Owner* and *Occupant* shall ensure that the storage, handling and disposal of *Refuse* and *Recyclables* on all *Property* complies with the following:

- (a) is promptly stored in *Receptacles*;
  
- (b) is maintained in a manner that will not attract pests or create a health or safety hazard or cause a *Negative Impact* on neighbouring properties;

## 9. ENFORCEMENT

*Municipal Law Enforcement Officers*, as appointed by *County* by-law, are authorized to enforce the provisions of this by-law.

## 10. POWERS OF ENTRY RE INSPECTION

Pursuant to sections 435 and 436 of the *Municipal Act, 2001* any employee, officer or agent of the *County* may without notice, and upon producing the proper identification upon request, enter on 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 Section 431 of the *Municipal Act, 2001*.

## 11. INSPECTION POWERS

Pursuant to section 436 of the *Municipal Act, 2001*, any employee, officer or agent of the *County* carrying out an inspection pursuant to this By-law may:

- (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; and
- (d) 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.

## 12. POWER OF ENTRY DWELLING UNIT

Pursuant to section 437 of the *Municipal Act, 2001*, a *Person* exercising a power of entry on behalf of the *County* under this By-law shall not enter or remain in any room or place actually being used as a *dwelling unit* unless:

- (a) the consent of the *Occupant* is obtained, the *Occupant* first having been informed that the right of entry may be refused, and if refused, may only be made under the authority of an order issued under section 438, a warrant issued under section 439 or a warrant issued under section 386.3;

- (b) an order issued under section 438 of the *Municipal Act, 2001* is obtained;
- (c) a warrant issued under section 439 of the *Municipal Act, 2001* is obtained;
- (d) a warrant issued under section 386.3 of the *Municipal Act, 2001* is obtained;
- (e) the delay necessary to obtain an order under section 438, to obtain a warrant under section 439, or to obtain the consent of the *Occupant* would result in an immediate danger to the health or safety of any *Person*.

### **13. POWER OF ENTRY PURSUANT TO AN ORDER**

Pursuant to section 438 of the *Municipal Act, 2001*, where an employee, officer or agent of the *County* has made a reasonable attempt to obtain the *Occupant's* consent to conduct an inspection and has been unable to exercise the powers of inspection, the *County* may, pursuant to section 438 of the *Municipal Act, 2001* obtain an order authorizing the *County* to enter on land for the purpose of carrying out an inspection.

### **14. ORDER TO DISCONTINUE**

Pursuant to section 444 of the *Municipal Act, 2001*, where the *County* is satisfied that a contravention of this By-law has occurred, the *County* may make an order requiring the *Person* who contravened the by-law or who caused or permitted the contravention or the *Owner* or *Occupant* of the land on which the contravention occurred to discontinue the contravening activity. The order shall set out:

- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred;
- (b) the date by which there must be compliance with the order.

### **15. OFFENCE-CONTRAVENE ORDER TO DISCONTINUE**

No *Person* shall contravene an order to discontinue issued pursuant to this bylaw.

### **16. WORK ORDER**

Pursuant to section 445 of the *Municipal Act, 2001*, where the *County* is satisfied that a contravention of a by-law of the *municipality* passed under this or any other Act has occurred, the *County* may make an order requiring the *Person* who contravened the by-law or who caused or permitted the contravention or the *Owner* or *Occupant* of the land on which the contravention occurred to do work to correct the contravention.

An order may require work to be done even though the facts which constitute the contravention of the by-law were present before the by-law making them a contravention came into force. The order shall set out:

- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
- (b) the work to be done and the date by which the work must be done.

## **17. OFFENCE-CONTRAVENE WORK ORDER**

No *Person* shall contravene a work order issued pursuant to this bylaw.

## **18. REMEDIAL ACTION**

Pursuant to section 446 of the *Municipal Act, 2001*, where the *County* has the authority under this By-law or under any Act to direct or require a *Person* to do a matter or thing, in default of it being done by the *Person* directed or required to do it, the *County* may enter upon land at any reasonable time, to perform the work at the *Person's* expense and may recover the costs 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.

## **19. OFFENCE-OBSTRUCTING OFFICER**

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.

## **20. SEVERABILITY**

Where any section or sections of this by-law or parts thereof that are found in any court of law to be of no force and effect or beyond the power of *Council* to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent therefrom and to be enacted as such.

## **21. PENALTY**

### **(a) Fine – for contravention – other than corporation**

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 a by-law by the corporation is guilty of an offence and upon conviction is subject to a fine of not more than \$ 5,000 for a first conviction, and not more than \$ 10,000 for any *subsequent conviction* of this By-law.



**(b) Fine – for contravention - corporation**

Despite section 21. (a), where a corporation is convicted of an offence under the provisions of this By-law, the maximum fines that may be imposed on the corporation are \$ 25,000 for a first conviction and \$ 50,000 for any *subsequent conviction*.

**(c) Continuation – repetition contravention**

Notwithstanding section 21. (b), every *Person* that 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 for every day or part thereof upon which such offence occurs or continues, and upon conviction is liable, to a fine of not more than \$ 5,000 for each day that the offence continues.

**(d) Continuation – repetition contravention – corporation**

Notwithstanding section 21.(b), every corporation that contravenes any provision of this By-law is guilty of an offence for every day or part thereof upon which such offence occurs or continues and upon conviction is liable, to a fine of not more than \$ 10,000 for each day that the offence continues.

**22. REPEAL**

County of Brant Bylaw 204-02 is hereby repealed.

**23. FORCE AND EFFECT**

This Bylaw shall come into force and take effect on the day of passing.

**READ** a first and second time, this xx<sup>th</sup> day of xxxxx, 2017.

**READ** a third time and finally passed in Council, this xx<sup>th</sup> day of xxxxxxx, 2017.

**THE CORPORATION OF THE COUNTY OF BRANT**

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R.E.F. Eddy, Mayor

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Heather Boyd, Clerk