

Corporation of the Town of Amherstburg

By-law Number No. 2022-007

By-law Respecting Yard Maintenance and Storage on Property being a by-law to regulate yard maintenance, storage and waste on property

WHEREAS Sections 8, 9 and 10 of the Municipal Act, 2001 authorize the Town of Amherstburg to pass bylaws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6 and 8 of subsection 10(2) authorize by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; and the protection of persons and property;

AND WHEREAS section 127 of the Municipal Act, 2001 authorizes the Town of Amherstburg to require the owner or occupant of land to clean and clear the land, not including buildings, and to clear refuse or debris from the land, not including buildings;

AND WHEREAS section 128 of the Municipal Act, 2001 authorizes the Town of Amherstburg to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of the Council of the Town of Amherstburg, are or could become or cause public nuisances;

AND WHEREAS section 131 of the Municipal Act, 2001 authorizes the Town of Amherstburg 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 disposition;

AND WHEREAS section 425 of the Municipal Act, 2001 authorizes the Town of Amherstburg to pass by-laws providing that a person who contravenes a by-law of the Town of Amherstburg passed under that Act is guilty of an offence;

AND WHEREAS section 426 of the Municipal Act, 2001, S.O.2001 c.25 as amended, states no person shall hinder or obstruct, or attempt to hinder or obstruct, any person how is exercising a power or performing a duty under this act or under a by-law passed under this act 2006, c. 32, Sched A, s. 184

AND WHEREAS subsection 434.1(1) of the Municipal Act, provides for a municipality to require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the Act;

AND WHEREAS section 444 of the Municipal Act, 2001 authorizes the Town of Amherstburg to make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity. 2006, c. 32, Sched. A, s. 184.

AND WHEREAS section 445 of the Municipal Act, 2001 authorizes the Town of Amherstburg to make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention. 2006, c. 32, Sched. A, s. 184; 2009, c. 33, Sched. 21, s. 6 (38).

AND WHEREAS section 446 of the Municipal Act, 2001 authorizes the Town of Amherstburg 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. 2006, c. 32, Sched. A, s. 184.

AND WHEREAS the Council of the Town of Amherstburg 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;

AND WHEREAS the Municipal Act, 2001 further authorizes the Town of Amherstburg, among other things, to delegate its authority, to impose fees or charges on persons for services or activities provided or done by or on behalf of it, to provide for inspections and inspection orders, and to make orders to discontinue activity or to do work;

AND WHEREAS the Police Services Act, R.S.O. 1990, Section 15 authorizes the municipality to appoint persons to enforce the by-laws of a municipality and that Municipal Law Enforcement Officers are Peace Officers for the purpose of enforcing municipal by-laws.

THEREFORE, the Council of the Town of Amherstburg enacts as follows:

Short Title

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

Definitions

In this By-law,

"acceptable" means accepted by the By-law Enforcement Officer with respect to the standards set out in this by-law.

"agent" means a person(s) or company who has been legally empowered to act on behalf of the Town of Amherstburg.

"boat" shall mean any water vessel propelled by oars, sail, an engine or paddles;

"building" means any structure used or occupied or intended for supporting or sheltering any use or occupancy;

"commercial waste" including but not limited to the following; waste generated as a result of carrying out a business and includes garbage and rubbish produced by customers of the business;

"council" means The Council of the Corporation of the Town of Amherstburg

"debris" means the same as "refuse".

"deposit" means to throw, dump, place or set down;

"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, leavings, remains;
- b) ashes;
- c) large appliances or any part thereof;
- 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) furniture;
- h) crockery;
- i) sewage;

“excavation” means an area where soil has been removed thereby leaving a depression or hole within the surrounding land, and includes, without limiting the generality of the foregoing, uncovered wells and cisterns;

“farm” means an agricultural operation as defined in the Farming and Food Production Protection Act, 1998 and includes such an operation that is not carried on with the expectation of gain but otherwise meets the definition in that Act;

“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 access, square, place, bridge, viaduct or trestle designed and intended for or used by the general public for the passage of vehicles and includes the grassed areas, boulevards, ditches, curbs, gutters and sidewalks and all other areas 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;
- e) material resulting from or as part of construction or demolition projects;
- f) bones, feathers, hides;
- g) sewage.

“inoperative machinery” includes but is not limited to machinery that is unable to be operated as a result of being dismantled, broken or incomplete, decayed or dilapidated;

“inoperative vehicle” includes but is not limited to a motor vehicle that is unable to be operated as a result of being dismantled, broken or incomplete, decayed or dilapidated, in particular with missing wheels, tires, body components or windows;

“land” includes land covered by water;

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

“maintained” means to carry out any repairs, reconstruction, refinishing, or replacement of any part or parts of a structure or building or appurtenances including mechanical equipment required so they may properly perform the intended function.

“materials” means the elements, substances, or parts thereof of which something is made or can be made

“motor vehicle” means an automobile, truck, boat, motorcycle, snowmobile, trailer, recreational vehicle and any other vehicle propelled or driven by other than muscular

power, but does not include the cars of electric or steam railways, or other motor vehicles running solely 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, c.H8, as amended.

“**motorcycle**” means a self-propelled vehicle having a seat or saddle for the use of the driver and designed to travel on not more than three wheels in contact with the ground, and includes a motor scooter;

“**naturalized area**” means a portion of a lot where a lawn or perennial garden previously maintained by the owner which has been allowed to re-establish a reproducing population of native species, through a combination of natural regeneration and deliberate plantings of species or other species to emulate a natural area;

“**notice**” means an order to comply pursuant to this By-Law

“**noxious weed**” means a noxious weed designated under the Weed Control Act including any weed designated as a local or noxious weed under a by-law of the Town passed under that Act;

“**officer**” means a person appointed by the Town of Amherstburg as a By-Law Enforcement Officer or Provincial Offences Officer;

“**owner**” means the registered owner, owner in trust, a mortgagee in possession, a person who is managing or receiving the rent of the property, a lessee or a person who is in control of the property and includes a person, firm, partnership, corporation, company, association, or organization of any kind and its principal(s);

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

“**private drain**” means a drain or sewer or part of a drain or sewer that is situated on private property

“**property**” means any grounds, yard, vacant lot or watercourse, meaning any natural route or alterations to such route, including rivers, lakes, streams, creeks and channels in which the flow of storm water, groundwater, runoff or precipitation flow is either intermittent or continuous

“**private property**” means property that is privately owned by a person and is not Town property, School Board property, property of the Crown in Right of Ontario or of any of its agencies or property of the Crown in Right of Canada or any of its agencies

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

“**recreational vehicle**” means a portable vehicular unit designed for travel, camping or recreational use which may be towed behind a motor vehicle, or self-propelled, and includes such vehicles commonly known as travel trailers, camper trailers, tent trailer, boat, boat trailer, pick-up campers, motorized campers, motorized homes, ATVs, snowmobiles, personal watercraft or other similar vehicles;

“**refuse**” means any article, thing, matter, substance or effluent that is or appears to be;

- a) cast aside, discharged or abandoned;
- b) discarded from its usual and intended use;
- c) used up in whole or in part or is expended or worn out in whole or in part;
- d) domestic or industrial and commercial waste, whether it is commercially saleable or recyclable or not;

“residential property” means property that is occupied by at least one person as his or her residence;

“residential Zone” shall mean any residential zone as set out in the Zoning By-law;

“small commercial vehicle” shall mean a motor vehicle not exceeding 6,000 kilograms in Gross Vehicle Weight Rating (GVWR) not including pickup trucks;

“snow vehicle” shall mean snowmobile, motor sled, motor sledge, skimobile, snow scooter, or snow machine, is a motorized vehicle designed for winter travel and recreation on snow

“standing water” means any water, other than a natural body of water that exists on a permanent basis or contained within a municipally owned storm water management facility, that is found either on the ground or in debris as defined in this by-law, but shall not include any of the following maintained in good repair and working condition: swimming pool, hot tub, wading pool or artificial pond.

“street” means any public road, avenue, parkway, lane, alley or highway as defined in the Municipal Act, 2001, S.O. 2001, c.25, as amended.

“town” means The Corporation of the Town of Amherstburg or the geographic area of the Town of Amherstburg;

“unsafe container” means any container having a volume of greater than 0.5 m³ which has a closing or locking mechanism such that something or someone inside could be trapped and unable to be released without external assistance;

“untraveled portion of highway” means the portion of highway adjacent to the roadway/ shoulder including the ditch, grassy boulevard, and the sidewalk.

“unlicensed” shall mean the lack of a currently validated permit for the motor vehicle within the meaning of the Highway Traffic Act, displayed on the motor vehicle.

“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.

“utility trailer” shall mean a trailer that is intended to be drawn by another vehicle and is used for the purpose of transporting goods or materials of any kind;

“waste” including but not limited to; garbage, refuse, debris, litter, yard waste or any materials or substances that appear to be discarded or abandoned and for greater certainty, includes, whether of value or not:

- accumulations of litter, remains, rubbish, trash, domestic waste;
- weighty or bulky items such as: appliances, furnaces, furnace parts, pipes, pipe-fittings, water or fuel tanks, placed in a condition or location where they cannot be used for their intended purposes;
- paper, cartons;
- dilapidated furniture or any indoor furniture;
- crockery, dishes, pots, pans, glass, cans, containers;
- garden refuse and trimmings;
- material from or for construction and demolition projects;
- commercial waste;
- industrial waste;
- dead or dying trees, branches or shrubs, tree cuttings or twigs, branches and brush cut or otherwise severed from any shrub or tree;
- waste lumber, excepting cut and stacked firewood for use on the property;
- inoperative motor vehicles or machinery including motor vehicle or machinery parts;
- mechanical equipment or equipment parts placed in a condition or location where they cannot be used for their intended purposes;

- earth or rock fill, rubble, inert fill;
- clothing or other household linens lying in an unprotected condition;
- objects or conditions that may create a health, fire or accident hazard; and
- animal waste products, animal feces, hides, parts or carcasses other than those arising from industrial or agricultural businesses legally operated on the land;

"**watercourse**" means an identifiable depression in the ground in which a natural flow of water occasionally, regularly or continuously occurs, but does not include a swale shaped or graded in earth materials and stabilized with site suitable vegetation for the conveyance of storm water runoff;

"**weed**" means any weed designated under the Weed Control Act.

"**yard**" shall mean land that is not a highway, including vacant lots or any part of a lot, which is not beneath a building and for the purpose of this by-law includes unenclosed decks, unenclosed porches, balconies, patios, unenclosed carports and unenclosed garages accessory to a residential use, and¹ shall also include front, side and rear yard.

- (i) "FRONT YARD" means a yard extending across the full width of a lot between the front lot line of such lot and the nearest part of any building, structure or excavation on such lot.
- (ii) "SIDE YARD" means a yard extending from the front yard to the rear yard of a lot and from the side lot line of such lot to the nearest part of any building, structure or excavation on such lot.
- (iii) "REAR YARD" means a yard extending across the full width of a lot between the rear lot line of such lot, or, where there is no rear lot line, the junction point of the side lot lines, and the nearest part of any building, structure or excavation on such lot.

Authority

The Manager of Licensing and Enforcement shall administer this by-law.

The Manager of Licensing and Enforcement and appointed Officers are responsible for enforcing this By-law.

Part 1 - Grass and Weeds

- 1.1 Every owner of property shall ensure the grass, weeds and ground cover on their property is trimmed or cut to a height of 20 centimeters (8 inches) or less.
- 1.2 Every owner property shall destroy and remove noxious weeds.

Naturalized Areas

- 1.3 Provisions relating to the trimming of grass and ground cover as in section 1.1 above do not apply to naturalized areas
- 1.4 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 less between any naturalized area and an abutting property not owned or occupied by the person keeping the naturalized area.

Part 2 - Hedges / Shrubs / Trees

- 2.1 Every owner of property shall ensure hedges, shrubs, trees and other landscaping planted or growing shall not:
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- a) interfere with or adversely affect the safety of the public;
 - b) interfere with or adversely affect the safety of vehicular or pedestrian traffic on adjoining streets, sidewalks or walkways;
 - c) constitute an obstruction of view for vehicular traffic;
 - d) wholly or partially conceal any fire hydrant or water valve;
 - e) interfere in whole or in part with the use of any fire hydrant or water valve; or
 - f) overhang or encroach upon any pavement, sidewalk or travelled portion of any street or highway.
- 2.2 Every owner of property shall ensure all dead, diseased, decayed, or damaged hedges, shrubs or trees be trimmed or removed or returned to a healthy condition.
- 2.3 Every owner of property shall ensure that the yard is kept free of dead, decayed or damaged trees or other natural growth, and the branches or limbs thereof which create an unsafe or unsightly condition.

Part 3 - Maintenance of Abutting Untraveled Portions of Highways

- 3.1 Every owner of property shall ensure that the untraveled portion of highway abutting their residential home on their property be kept free of refuse and shall ensure that grass and ground cover is trimmed or cut to a height of 20 centimeters (8 inches) or less and shall ensure that noxious weeds are removed or destroyed.
- 3.2 A person does not breach s. 3.1 merely by placing items out for collection by the Town in accordance with any Town's by-law pertaining to the collection of waste, recyclable material or yard waste.

Part 4 – Waste/Littering

- 4.1 No person shall deposit any waste on Public Property.
- 4.2 No person shall deposit any waste on Private Property.
- 4.3 Every owner of property shall keep their yard free and clear of refuse.
- 4.4 No waste receptacles or containers shall be permitted to be stored in any front yard.
- 4.5 Every owner or occupant of property shall maintain the property free from rodents, vermin or other pests and free from conditions that may attract such.

Part 5 - Standing Water

- 5.1 No person shall keep a swimming pool, hot tub, wading pool or artificial pond unless it is maintained in good repair and working condition.
- 5.2 No person shall permit any yard to contain standing water for a period in excess of three (3) days.
- 5.3 Every property owner shall take all necessary steps to remove standing water located on the property when required to do so by an Officer. Water should be disposed of in an approved outlet. Such steps may include, but are not limited to:
- a) draining or filling of excavations and depressions,
 - b) repairing or replacing circulation pumps, or

- c) the treatment of the property or any part thereof with a larvicide to prevent the breeding of mosquitoes

5.4 No surface water shall be discharged onto adjoining properties at any time.

Part 6 - Storing of Inoperative Vehicles and Machinery

- 6.1 No person shall keep inoperative motor vehicles or parts thereof in a yard. Vehicles lacking license plates with current valid stickers shall be parked or stored only within an enclosed private garage or other buildings on the property that is properly zoned or licensed by the municipality to permit that use.
- 6.2 All properties including vacant lots and every yard shall be kept clean and free from unusable, wrecked, dismantled, discarded or partially dismantled or abandoned appliances, machinery, boats, vehicles, trailers or parts thereof.
- 6.3 Section 6.2 does not prohibit the keeping of inoperative agricultural machinery and inoperative agricultural vehicles on a farm provided that the inoperative agricultural machinery or inoperative agricultural vehicles are neatly placed or arranged so as not to create a safety or health hazard to persons on the property and is acceptable to the Officer.

Part 7 - Residential Storage

- 7.1 Every owner shall ensure that there is no storage of any materials in the front yard of their residential property.

Part 8 - Markings, Stains Graffiti and Defacements

- 8.1 Every owner or occupant of land in the Town of Amherstburg shall ensure that markings, stains, graffiti, painted slogans, or other defacements on the exterior walls and surfaces of fences, buildings or structures be removed or covered. These surfaces shall be refinished, restored or covered in a manner acceptable to the Officer.

Part 9 - Private Drains

- 9.1 Every owner shall keep any private drain located on his or her private property operational and in a good state or repair.

Part 10 - Administration and Enforcement

- 10.1 The Manager of Licensing and Enforcement and appointed Officers are responsible for enforcing this By-law.
- 10.1.1 The Manager or an Officer may, by a notice delivered by personal service to the owner or property, or by a notice sent by prepaid mail to the owner of property, or by a notice posted on the property, or by a notice published once in a local newspaper of general circulation, or by any combination of the above as the Manager or Officer deems necessary, require the owner or occupant, as the case may be, within seven (7) days of the notice being served
- a) to keep a private drain in repair;
 - b) to alter or relay a private drain;
 - c) to provide for the sanitary disposal of sewage and drainage from the property;
 - d) to clean, clear or remove from the property or yard any refuse;
 - e) to cease using the property for the dumping or disposing of refuse;

- f) to cover, screen, shield or enclose any refuse, in the manner specified in the Notice;
- g) to remove any standing water from the property;
- h) to remove any inoperative motor vehicles from the property;
- i) to remove, trim or cut grass or ground cover to a height of less than 20 centimetres (8 inches);
- j) to remove weeds;
- k) to take any action the Manager or Officer deems necessary to bring the property into compliance with this By-law;
- l) to remove weeds, ashes, paper, building material, rubbish or other refuse from an alley or lane;
- m) to remove graffiti, stains, painted slogans and other defacements.

Where No Notice is Required

10.1.2 Where the condition of the Yard is such that it constitutes a hazard to members of the public, the Manager or Designated is authorized to follow the provisions of Section 10.3 of the By-law, without having first issued the Notice.

Receipt of Notice

10.1.3 Where the Notice to Comply is sent by prepaid mail in accordance with Section 10.2 of the By-law, it is deemed to have been served on the fifth day after mailing.

Administrative Fees

10.2 Administrative Fees in accordance with Town of Amherstburg's User Fee By-law, as amended will apply for the enforcement of a notice.

Property Identification

10.2.1 Every notice delivered, sent, posted or published shall identify the property by street number and name, and/or legal description.

Source of Mailing Address

10.2.2 Every notice to an owner that is sent shall be sent to the address shown on the last revised assessment roll and may also be sent to the last address known to the Town of the owner if it differs from that on the roll.

Inclusion

10.2.3 Every notice delivered, sent, posted or published shall specify that if the owner defaults in doing the thing(s) required to be done under this by-law by the timeline specified in the notice, the Manager/Officer may take action to cause the Town to do the thing(s) required to be done as specified in the and that the Town may recover the costs of doing the thing(s) required to be done from the owner and that the Town may recover the costs by action or by adding the costs to the tax roll and collect them in the same manner as taxes.

Non-Compliance with Notice

10.3 If an owner or occupant, as the case may be, fails to comply with a notice issued under section 10.1.1, the Manager/Officer may take action to do the thing(s) required to be done as specified in the notice.

Recovery of Expense

10.4 If the Town takes action to do the thing(s) required to be done as specified in the notice, the costs of such action may be added to the tax roll and collected in the same manner as taxes.

Entry onto Property

10.5.1 For purposes of entering onto property to determine if a violation exist with the terms of this by-law, the Manager or an Officer may enter onto any public or private property for the purpose of an administrative inspection.

Entry to Inspect

10.5.1 For the purposes of inspecting a property to determine compliance with the terms of this by-law, the Manager or an Officer may enter onto any public or private property.

Entry to Remedy

10.5.2 Where the Town proceeds with action under s.10.3 of this by-law, the Manager or an Officer or an agent appointed by the Town may enter onto the property accompanied by any person(s) under his or her direction and with the appropriate equipment as required to bring the property into compliance with this by-law.

Non-Obstruction of Town Employee or Agent

10.5.3 Non-Obstruction of Town Employee or Agent No person shall hinder or obstruct an Officer/Manager employed to enforce this by-law from carrying out an inspection of lands nor shall any person obstruct any employee or agent authorized by the Town to carry out any work under authority of this by-law.

Part 11 - Penalties

11.1 Each person who contravenes any provision of this By-law is guilty of an offence.

11.2 A person convicted of an offence contrary to a provision of this By-law in a proceeding commenced under Part III of the Provincial Offences Act, R.S.O. 1990, c. P.33, is liable to a fine of no less than Five Hundred Dollars (\$500) and no more than Ten Thousand Dollars (\$10,000) for each day or part of a day on which the offence occurs or continues provided that the total of all daily fines for the continuing offence shall not exceed One Hundred Thousand Dollars (\$100,000).

11.3 A person convicted of an offence contrary to a provision of this By-law in a proceeding commenced under Part I of the Provincial Offences Act, R.S.O. 1990, c. P.33, is guilty of an offence and on conviction is liable to a fine as provided in the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.

Part 12 - Severability

12.1 Where a Court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of this By-law shall continue in force unless the Court makes an Order to the contrary.

Part 13 – Repeal & Enactment

13.1 Repeal of Previous By-Laws

Except as provided by Section 13.2 hereof, the following by-laws are hereby repealed;

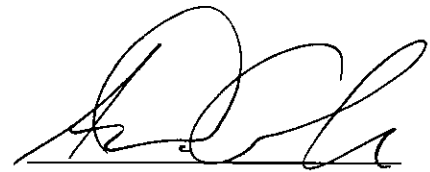
a) 2005-60 & 2005-26

13.2 Transition

Notwithstanding Section 11.1 hereof, the provisions of the by-laws contained in Section 11.1 shall continue to apply to any properties or persons in respect of which enforcement action has commenced under those by-laws until such action has been concluded.

13.3 Effective Date

This by-law shall come into force and take effect on the day of the final passing thereof.



ALDO DICARLO, MAYOR



VALERIE CRITCHLEY, CLERK

First Reading – February 14, 2022
Second Reading – February 14, 2022
Third Reading – February 14, 2022