

**THE CORPORATION
OF THE
TOWNSHIP OF WELLESLEY
BY-LAW NO. 41/2010**

**A BY-LAW FOR MAINTAINING PROPERTY IN A CLEAN AND CLEAR
CONDITION**

WHEREAS Section 127 of the Municipal Act, 2001 S.O. 2001, c.25 as amended authorizes municipalities to pass by-laws for requiring the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse and debris from the land, not including buildings and to regulate when and how such matters shall be done and to prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land and to define “refuse” for the purpose of the by-law:

AND WHEREAS Section 128 (1) of the Municipal Act, 2001 S.O. 2001, c. 25 as amended authorizes municipalities 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 it is deemed desirable to enact this by-law to extend the useful life of individual properties to enhance the quality of communities and neighborhoods, to protect the safety, health and well-being of the public and to ensure the continued enjoyment of property for residents and property owners in the Township of Wellesley.

AND WHEREAS Section 446 of the Municipal Act, 2001 S.O. 2001, c.25 as amended authorizes municipalities to direct that where an owner has defaulted, the municipality may have the default remedied at the owner’s expense and add the cost to the tax roll;

THEREFORE the Township of Wellesley hereby enacts as follows:

Short Title

1.1 This by-law shall be known as the “Clean Yards By-Law”

Application

2.1 This by-law shall apply to all properties within the Township of Wellesley;
and further,

1) This By-law shall apply to properties within the Township of Wellesley which are used for residential, commercial and industrial purposes.

2) This By-law shall not apply to properties within the Township of Wellesley which are used in a normal farming practice.

DEFINITIONS

3.1 “Agricultural Operation” means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward;

3.2 “Farm” means a lot in excess of 4 ha (10 acres), held for the purpose of agricultural use, together with or without its dependent buildings including one single-detached dwelling with private garage as the principal farm dwelling, barns, pens, sheds, and similar accessory buildings except that in areas where buildings and structures are prohibited such uses shall refer only to the land.

3.3 “Normal Farm Practice” means a practice that,
(a) is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances, or
(b) makes use of innovative technology in a manner consistent with proper advanced farm management practices.

- 3.4 "Notice" means a Notice as set out in Appendix 'A' of this by law.
- 3.5 "Occupant" means the registered owner of property, tenant or occupant or person for the time being managing or receiving the rent from the property, whether on his or her own account or on account of an agent or trustee of any person or any one of the aforesaid.
- 3.6 "Officer" means a Municipal Law Enforcement Officer appointed by Council of The Township of Wellesley, an agent and /or his or her designate assigned the responsibility for enforcing and administering this by-law and shall include the Waterloo Regional Police or any other police agency.
- 3.7 "Person" means an individual, firm, corporation, association or partnership and shall include the occupant as defined in Section 3.5 above
- 3.8 "Property" means any parcel of land or registered water lot and, without limiting the generality of the foregoing, shall mean lands and premises appurtenant to a building or structure whether residential, commercial or industrial and includes vacant property, but shall exclude any building or structure.
- 3.9 "Refuse or debris" means any article, thing, or matter that has been cast aside or discarded or abandoned, whether of any value or not, or that has been used up in whole or in part, or expended, or worn out in whole, or in part.

Without restricting the generality of the foregoing, refuse or debris may include:

- a) garbage, rubbish, junk or litter.
- b) excessive accumulations or piles of grass clippings, tree and garden cuttings, brush and leaves which are not part of a horticultural or composting process
- c) unusable containers such as crockery, dishes, glassware, bottles, plastic containers and cans.
- d) discarded paper, paper products, cardboard, clothing.
- e) discarded weighty or bulky materials such as stoves, refrigerators and other such appliances, furniture, furnace parts, pipes, water or fuel tanks.
- f) any unused, abandoned, dismantled or inoperative vehicle, or any vehicle which is not licensed with a currently validated license plate pursuant to the provisions of the Highway Traffic Act as amended.
- g) any wrecked, dismantled, discarded vehicle or automotive parts or accessories, mechanical parts, unmounted or mounted tires, accessories or adjuncts to any vehicle or mechanical equipment.
- h) any all terrain vehicle, motor home, motorized snow vehicle, motorized recreational vehicle or camper, traction engine, farm or lawn tractor, road-building machine or a vehicle drawn, propelled or driven by any kind of power including horse power or manpower, boat, watercraft or trailer or part thereof, which is unlicensed and/ or in a wrecked, discarded, dismantled, inoperative or abandoned condition unless it is necessary for the operation of a business lawfully situated on the property.
- i) broken concrete or asphalt pavement, patio/sidewalk slabs, unusable building materials.
- j) discarded, unused or waste materials resulting from or as part of construction, alteration, repair or demolition of any building or structure or old or decayed lumber.
- k) rubbish, junk, debris, objects or conditions that may create a health, fire or accident hazard.

- l) dilapidated, collapsed or partially constructed structures which are not currently under construction or repair.
 - m) discarded, dead, diseased, decayed or damaged trees or brush.
- 3.10 “Repair“ means the provision of such facilities and the making of additions or alterations or the taking of such action as in restoring, renovating or mending as may be required so that the property shall conform to the standards as established in this By Law.
- 3.11 “Stagnant Water” means non-flowing, motionless or stale water that has remained in a location for a period exceeding four days as observed and recorded by an officer as defined in 2.3
- 3.12 “Vehicle“ means a motor vehicle ,any all terrain vehicle, motor home, motorized snow vehicle, motorized recreational vehicle or camper, traction engine, farm or lawn tractor, road-building machine or a vehicle drawn, propelled or driven by any kind of power including horse power and manpower, including a boat, watercraft or trailer or part thereof,

SCOPE

- 4.1 This by-law does not apply so as to prevent a farm operation or practice meeting the definition of “agricultural operation” and “normal farm practice” under the Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1, as amended from carrying out a normal farm practice as provided for and defined under that Act. and as defined above.

PROPERTY MAINTENANCE STANDARDS

- 5.1 Every owner, tenant or occupant of property shall maintain said property clean and free from refuse and/or debris.
- 5.2 Every owner, tenant or occupant of property shall cut grass, weeds or noxious weeds or brush which has reached heights in excess of 20 cm. (8 inches) Noxious weeds shall be as defined by the Weed Control Act R.S.O. 1990, Chapter W.5 as amended;
- 5.3 Every owner, tenant or occupant, shall keep hedges and trees adjacent to a public sidewalk, walkway or roadway cut and trimmed so as to allow safe unhindered passage.
- 5.4 Every owner, tenant or occupant shall keep their property free and clear of stagnant water. This section shall not apply to property designated as Environmentally Sensitive Policy Areas, Environmentally Sensitive Landscapes or Provincially Significant Wetlands as designated in the Regional Official Plan or Environmental Preservation Areas in the Township of Wellesley Official Plan or to marshes, swamps, bogs, fens, natural bodies of water, storm water retention ponds and recreational types of ponds, or swimming pools which are maintained in accordance with all applicable by-laws and legislation.
- 5.5 No person shall throw, place or deposit any refuse or debris as herein defined on any property within the Township of Wellesley, without the written consent of the property owner. Any person throwing, placing or depositing refuse or debris on any property without the written consent of the owner is guilty of an offence.
- 5.6 Every owner, tenant or occupant shall keep their property free and clear of infestations of injurious insects, termites, rodents, vermin or other pests.

LIABILITY

- 6.1 Pursuant to Section 448 of the Municipal Act S.O 2001, c.25, as amended, no proceeding for damages or otherwise, shall be commenced against a member of Council or an officer, employee or agent of the municipality or a person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this By-law for any alleged neglect or default in the performance in good faith of the duty or authority.

RIGHT OF ENTRY

- 7.1 Pursuant to Section 435 and 436 of the Municipal Act S.O 2001, c.25, as amended, an officer may enter upon property, at any reasonable time, for the purpose of carrying out inspections of or on such property to determine whether or not the provisions of this by-law are being complied with.
- 7.2 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 in the lawful exercise or power or duty under this by-law.

ADMINISTRATION AND ENFORCEMENT

- 8.1 When any property is not maintained to the requirements of this by-law, the Officer may notify the owner, tenant or occupant or other person responsible for the maintenance of the property, using the Notice in Appendix "A" hereto, directing that the property be made to comply with the provisions of the by-law within a defined period of time, but not less than seventy two (72) hours from the date of the Notice. Said Notice shall be sent to the last known address as shown on the last revised assessment rolls of the municipality or delivered personally to the owner, tenant or occupant or person responsible for the property.
- 8.2 Notice shall be in the form as set out in Appendix "A" to this by law.
- 8.3 Where a Notice has been sent pursuant to Section 8.1 and the requirements of the notice have not been complied with, the Officer may order that the work be done at the expense of the owner, tenant or occupant. The expense incurred may be recovered by action or by adding the costs to the tax roll and collecting them in the same manner as taxes pursuant to Section 446 (3) of the Municipal Act S.O 2001, c.25, as amended. The municipality has the option to apply a reasonable Administration fee to this process should it be necessary.
- 8.4 An Order shall be in the form as set out in Appendix "B" to this by-law
- 8.5 In the case of a health, safety or fire hazard, an officer may order that the said hazard be removed forthwith without the Notice as described in Section 7.1 being completed

SEVERABILITY

- 9.1 If an article of this by-law is for any reason held to be invalid, the remaining articles shall remain in effect until repealed.

PENALTY SECTION

- 10.1 Any person who contravenes any of the provisions of this by-law or who fails to comply with the written Notice or Order of an Officer is guilty of an offence and on conviction is liable to a fine as set out in Schedule "A" of this by-law or as provided for in the Provincial Offence Act, R.S.O 1990, c P.33 as amended.

10.2 In addition to the foregoing penalties, where a vehicle has been removed, impounded, restrained or immobilized according to Section 170 (15) of the Highway Traffic Act, R.S.O. 1990, as amended, in violation of this by law, all costs associated with the removal, impoundment, restraining or immobilization will be the responsibility of the registered owner of the vehicle.

By-law 17/2010 is hereby rescinded

EFFECTIVE DATE

11.1 This By Law shall come into force and take effect on the **1st** day of **November** 2010

Ross Kelterborn, Mayor

Susan Duke, CAO/Clerk



APPENDIX "A"
NOTICE
TOWNSHIP OF WELLESLEY
MUNICIPAL LAW ENFORCEMENT
4639 Lobsinger Line,
RR 1, St. Clements, Ontario N0B 2M0 (519) 699-4611

DATE ISSUED: _____

ISSUED TO: _____

ADDRESS: _____

REFERENCE: _____

An inspection revealed that a provision(s) of a Municipal by-law is being contravened. You are hereby directed to correct the following violation(s) within _____ days/hours. Charges MAY be forthcoming if the violation is not corrected within the time shown above. This Notice DOES NOT authorize continuance of the violation(s).

Municipal By Law	Violation(s)

If you wish to discuss this matter further with the Officer, please contact the undersigned between 8:30 a.m. and 4:30 p.m., Monday to Friday at (519) 699-4611

Officer Name & Signature: _____

Date & Time: _____

