

The Corporation of the City of North Bay

By-law 2022-28

Being a By-law to Establish Standards Respecting Exterior Property Maintenance and Grass Control on Lands within the City of North Bay and to repeal By-law 2011-185

WHEREAS subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25 provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS section 127 of the *Municipal Act, 2001* provides that a municipality may require the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings and for regulating when and how such matters shall be done and for defining "refuse";

AND WHEREAS section 128 of the *Municipal Act, 2001* provides that a municipality may 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 131 of the *Municipal Act, 2001* provides that a municipality may 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* provides that a municipality may pass by-laws providing that any person who contravenes a by-law of the municipality passed under the *Municipal Act, 2001* is guilty of an offence and section 429 thereof provides that a municipality may establish a system of fines for offences under a by-law;

AND WHEREAS section 435 of the *Municipal Act, 2001* provides conditions governing the exercise of a power of entry for municipalities to enter onto lands to inspect for the purposes of this By-law;

AND WHEREAS section 436 of the *Municipal Act, 2001* provides that a municipality may pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out inspections to determine compliance with a by-law, or an order made under a by-law, or court order made under section 431 of the *Municipal Act, 2001*;

AND WHEREAS sections 444 and 445 of the *Municipal Act, 2001* provide that, if a municipality is satisfied that a contravention of a by-law passed under the *Municipal Act, 2001* has occurred, the municipality may 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 and to do work to correct the contravention;

AND WHEREAS section 446 (1) of the *Municipal Act, 2001* provides that if a municipality has the authority under that Act or any other Act, or under a by-law under the *Municipal Act, 2001* or any other Act, 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, such matter or thing shall be done at the person's expense;

AND WHEREAS section 446(2) of the *Municipal Act, 2001* provides that a municipality may enter upon land at any reasonable times for the above purpose;

AND WHEREAS section 446(3) of the *Municipal Act, 2001* provides that a municipality may recover the cost of doing a thing or matter required above 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;

AND WHEREAS section 391 of the *Municipal Act, 2001* provides that a municipality may impose fees or charges on persons for services or activities provided by or on behalf of it, and for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board;

AND WHEREAS the Council of The Corporation of the City of North Bay passed Resolution No. _____ at its Regular Meeting on the ____ day of _____, 2022, authorizing the establishment of standards for exterior property maintenance and grass control on lands within the City of North Bay;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF NORTH BAY ENACTS AS FOLLOWS:

Part 1 – Interpretation and Application

1.1 Short Title

1.1.1 This By-law may be referred to as “The Clean Yards By-law”.

1.2 Reference Aids

1.2.1 The headings and subheadings used in this By-law are inserted for convenience of reference only and do not form part of the By-law and shall not affect in any way the meaning or interpretation of the provisions of this By-law.

1.3 Severability

1.3.1 If any provision or part of a provision of this By-law is declared by a court of competent jurisdiction to be illegal or inoperative in whole or in part, or inoperative in particular circumstances, such provision or part of the provision shall be deemed to be severable, and the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

1.4 Compliance with Legislation

1.4.1 Nothing in this By-law relieves any person from complying with any provision of any federal or provincial legislation, or any other by-law of the City of North Bay and, without limiting the generality of the foregoing, this includes the *Municipal Act, 2001*.

1.5 Conflict

1.5.1 If a provision of this By-law is in conflict with a provision of any applicable act, regulation or other by-law, the provision that establishes the higher or more restrictive standard shall apply.

1.6 Definitions

1.6.1 In this By-law, the following definitions shall apply:

"City" means The Corporation of the City of North Bay or the area within the geographical limits of the City of North Bay, as the context requires;

"Compost" means discarded organic material commonly referred to as compost and includes leaves, grass clippings and kitchen waste;

"Council" means the Municipal Council of The Corporation of the City of North Bay;

"Clean or cleared" includes the removal of debris and refuse, or grass as defined, and the removal of stock piles of soil or other aggregate material not required to complete the grading of the lot on which the stock pile is located;

"Debris" means the same as domestic waste and refuse;

"Domestic Waste" means any debris, refuse or rubbish, garbage, article, thing, matter or any effluent belonging to or associated with a residence, household or dwelling unit and includes but is not limited to the following:

- a) grass clippings, weeds, tree and garden cuttings, brush, leaves and garden refuse except as may be placed in a composting container or piled on site in conformance with the Waste Management By-law;

- b) all organic waste, of animal or vegetable origin resulting from the preparation or consumption of food except as may be placed in a composting container or piled on site in conformance with the Waste Management By-law;
- c) paper, cardboard, clothing, fabrics or carpets, except as may be placed in a recycling container for regular pickup;
- d) cans, glass and plastic containers, except as may be placed in a recycling container for regular pickup;
- e) used material resulting from or once used for the purpose of the construction, alteration, repair or demolition of any building or structure;
- f) discarded or abandoned refrigerators, freezers, stoves or any other appliance or furniture or parts thereof;
- g) discarded or abandoned furnaces, furnace parts, pipes, fittings to pipes, or water or fuel tanks;
- h) inoperative motor vehicles, vehicle parts and accessories, vehicle tires mounted or unmounted on rims, mechanical equipment, discarded bicycles, tricycles and their parts and accessories;
- i) fill, sand, soil, rock or rubble, including concrete, bricks, asphalt, patio or sidewalk slabs;
- j) grasses and ground cover which exceeds 20 centimeters (8 inches) in height; and
- k) any article, thing, matter, substance or effluent that is or appears to be cast aside, discharged or abandoned, discarded from its usual and intended use, used up in whole or in part or is expended or worn out in whole or in part.

"Grass" means cultivated vegetation consisting of typically short various plants with long narrow leaves growing on lawns;

"Ground Cover" means organic or non-organic material applied to prevent soil erosion such as concrete, flagstone, gravel, asphalt, grass or other landscaping;

"Landscaped Buffer" means a predominantly vegetated landscaped area between a lot line and any building, structure, parking area, driveway or impervious area;

"Lot" means a parcel of land within the City;

"Ministry of Transportation" means the Ministry of Transportation of Ontario;

"Motor Vehicle" means an automobile, truck, 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. H.8*;

"Occupant" means any person or persons over the age of 18 years occupying a lot;

"Officer" means a Property Standards Officer, municipal law enforcement officer, or other person appointed or employed by the City for the enforcement of by-laws;

"Owner" includes:

- a) the registered owner of a property;
- b) the person for the time being managing or receiving the rent of a property, whether on the person's own account or as agent or trustee of any other person, or who would receive the rent if the property were let; and,

- c) a lessee or occupant of a property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property as set out in this By-law.

"Perennial Gardens" means a yard or a portion of a yard containing an area deliberately implemented to produce ground cover, including wild flowers, shrubs, perennials, ornamental grasses or combinations of them;

"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, as well as vacant property;

"Refuse" means the same as domestic waste and debris;

"Undesirable Material" includes:

- a) rubbish, garbage, brush, waste, litter and debris;
- b) injurious insects, termites, rodents, vermin and other pests;
- c) growth of grass or weeds in excess of 8" (20cm);
- d) ground cover, hedges, and bushes which overhang the sidewalk, impede pedestrian or vehicular traffic or cause a site obstruction;
- e) dead, decayed or damaged trees or other natural growth and the branches and limbs thereof which create an unsafe condition;
- f) wrecked, dismantled, inoperative, discarded, unused, or unlicensed vehicles or trailers, except in an establishment licensed or authorized to conduct or operate a wrecking business;
- g) stagnant water which provides a breeding place for mosquitos or other health hazards;
- h) machinery or parts thereof, or other objects or parts thereof, or accumulation of material that creates an adverse condition;
- i) dilapidated or collapsed structures or erections;
- j) furniture used for exterior use that becomes dilapidated;
- k) furniture designed for indoor use; and
- l) animal or human excrement.

"Waste Management By-law" means The Corporation of the City of North Bay Waste Management By-law No. 2010-108, being a By-law to regulate the disposal of garbage by way of landfill bans, recycling and home composting systems;

"Weed" means any uncultivated, undesirable plant growing and competing with grass on lawns; and

"Zoning By-law" means The Corporation of the City of North Bay Zoning By-Law No. 2015-30 being a By-law to regulate the use of land, and the character, location and use of the buildings and structures in the City of North Bay.

Part 2 – Regulations

2.1 Applicability – All Property

2.1.1 This By-law applies to all property in the City.

2.2 Undesirable Material

2.2.1 No owner or occupant shall have or permit undesirable material on their property.

- 2.2.2 Subject to section 2.2.3, no owner or occupant shall have or permit grass or weeds on their property in excess of 20 centimeters (8 inches).
- 2.2.3 The provisions relating to the trimming of grass and weeds in section 2.2.2 do not apply to perennial gardens.
- 2.2.4 A property which allows for natural uncut grasses and alternative gardening or landscaping methods may be permitted at the discretion of an Officer.
- 2.2.5 A landscaped buffer of 0.61 metres shall be permitted on a vacant lot.
- 2.2.6 This By-law shall not apply to any property owned by the City.

2.3 Outside Storage of Refuse, Compost or Recyclable Material

- 2.3.1 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, by an owner or occupant in a container suitable for such a purpose and in a manner that does not attract pests or create a health and safety hazard due to the nature of the storage or through deterioration or misuse of the storage facility.
- 2.3.2 No owner or occupant of a property shall permit:
 - a) compost or a composter to emit odours on the property, which would reasonably disturb the inhabitants of the City;
 - b) food waste to be placed in a composter on the property without covering it with yard waste, soil or compost; or
 - c) bones, meat, dairy or other fat products to be added to a composter on the property.

2.4 Storage of Motor Vehicles

- 2.4.1 No motor vehicle, other than a motor vehicle bearing a valid license plate sticker issued by the Ministry of Transportation and capable of being driven, shall be parked on a property other than in an enclosed building, unless the parking of the unlicensed or inoperative motor vehicle on the property is a permitted use under the Zoning By-law for that zone.
- 2.4.2 No machinery, vehicle, boat, trailer or part thereof which is an unusable, wrecked, discarded, dismantled, partially dismantled or in an abandoned condition, shall be stored or allowed to remain on a property by an owner or occupant unless otherwise permitted by the Zoning By-Law.
- 2.4.3 Nothing contained herein shall be deemed to prevent an antique car, being a motor vehicle more than 30 years old, from being stored on any property for restoration purposes, provided it is housed in an enclosed building.
- 2.4.4 Section 2.4 does not apply to agricultural farm equipment upon land that is a farm property falling within the definition of "agricultural operation" under the *Farming and Food Production Protection Act, 1998*, S.O. 1998, c. 1.

2.5 Large Appliances – Remove or Secure Door

- 2.5.1 If a refrigerator, freezer, stove, washer, dryer or any other large appliance is domestic waste and has been set out on a property, which in any event may only be done for the purpose of immediate removal and disposal, the door of such appliance shall be removed or secured in such a way as to prevent the door from being open and shut so as to prevent any person from being trapped in such appliance.

2.6 Temporary Storage

- 2.6.1 An owner or occupant may store equipment or construction materials, resulting solely from the construction, demolition or alteration of a building, or part thereof, on a property provided it is used or removed in its entirety within a reasonable period of time, as determined by an Officer.

- 2.6.2 An owner or occupant shall not allow fill to remain in an unlevelled state on any property for longer than seven days unless the lot is:
- a) a construction site for which a site alteration and/or building permit is in effect; or
 - b) a property being developed under a subdivision or registered site plan with the City.
- 2.6.3 An owner or occupant shall not allow fill to be left in an uncovered state, meaning not covered by sod, seed or agriculture crop, on any property for longer than 30 days unless the property is:
- a) a construction site for which a building permit is in effect;
 - b) being developed under a subdivision or registered site plan agreement with the City; or,
 - c) being actively farmed.

Part 3 – Fees

3.1 Fees

- 3.1.1 Every owner shall pay the fees imposed pursuant to the City's User Fees By-law 2019-07 which become due and payable upon written notification by an Officer, or upon issuance of an invoice by the City.
- 3.1.2 Where an owner is in default of payment of fees for more than 30 calendar days after due, the City may add the cost to the tax roll of the subject property and collect the amount in the same manner as property taxes.

Part 4 – Cost Recovery

4.1 Work done by City – Owner's Expense

- 4.1.1 Where the City does work or causes work to be done such work shall be done at the expense of the owner.
- 4.1.2 If the City undertakes the work to correct the contraventions, the owner will be charged 100% of the cost of any third party invoices plus any costs as defined in the User Fee By-law.
- 4.1.3 If the owner fails to pay the cost of work completed under this By-law within 30 days of the work being completed, the amount shall be added to the tax roll of the subject property and collected in the same manner as municipal taxes.

Part 5 – Enforcement

5.1 Authority to Enforce

- 5.1.1 This By-law may be enforced by an Officer.

5.2 Obstruction

- 5.2.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer in the lawful exercise of a power or the performance of a duty under this By-law.
- 5.2.2 Any person who is alleged to have contravened any provision of this By-law shall identify themselves to the Officer upon request. Any failure to do so shall be deemed to be an obstruction or hindrance to the officer in the execution the Officer's duties.

5.3 Powers of Entry

5.3.1 An Officer or any person acting under his/her instruction may, upon producing proper identification, enter upon a property at any reasonable time without a warrant for the purpose of inspecting the property to determine:

- a) whether the property conforms with the standards prescribed in this By-law; or,
- b) whether an Order made under this By-law has been complied with.

5.3.2 For the purposes of an inspection under this By-law, an Officer 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 purpose of the inspection.

5.4 Orders

5.4.1 If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an Order requiring the person who contravened the By-law or who permitted the contravention, or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity and to do any work necessary to correct the contravention.

5.4.2 An Order under section 5.4.1 shall set out:

- a) the municipal address or the legal description of the property;
- b) reasonable particulars of the contravention adequate to identify the contravention;
- c) the work to be done;
- d) the date by which the work must be done; and
- e) notice that, if the work is not done by the date indicated in the Order, the City may do the work or cause the work to be done at the expense of the person to whom the Order is directed.

5.5 Failure to Comply with an Order

5.5.1 If an Order is not complied with within the time indicated in the Order, the City may do the work or cause the work to be done at the expense of the person to whom the Order is directed.

5.5.2 For the purposes of section 5.5.1, employees or agents of the City may enter upon the land at any reasonable time, without a warrant.

5.5.3 Pursuant to section 446(3) of the *Municipal Act, 2001*, if the City takes action under section 5.5.1 of this By-law to correct a contravention of this By-law, the City may recover the costs of doing the work by action or by adding the costs to the tax roll and collecting them in the same manner as municipal property taxes.

5.6 Offences

5.6.1 A person who contravenes a provision of this By-law is guilty of an offence.

5.6.2 A person who fails to comply with an order made by an Officer or by the court under this By-Law is guilty of an offence.

- 5.6.3 A person who is convicted of an offence under this By-law is liable to a fine of not more than \$25,000 for a first offence and to a fine of not more than \$50,000 for a subsequent offence.
- 5.6.4 Notwithstanding section 5.6.2, if a corporation is convicted of an offence under this By-law, the maximum penalty that may be imposed upon the corporation is \$50,000 for a first offence and \$100,000 for a subsequent offence.
- 5.6.5 If any provision of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this By-Law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

Part 6 – Coming Into Force

6.1 Coming Into Force and Repeal of Previous By-laws

- 6.1.1 This By-law shall come into force and effect upon passing.
- 6.1.2 When this By-Law comes into force, By-Law No. 2011-185 and all amending by-laws thereto are hereby repealed.

Read a First Time in Open Council this 22nd day of March, 2022.

Read a Second Time in Open Council this 22nd day of March, 2022.

Read a Third Time in Open Council and Enacted and Passed this 22nd day of March, 2022.

Mayor Allan McDonald

City Clerk Karen McIsaac