

The Corporation of the City of Port Colborne

By-law No. 6574/29/18

Being a By-law to provide for the maintenance
of property and land (Lot Maintenance By-law)
and to repeal By-law 6329/09/16

Whereas Section 127 of the *Municipal Act, 2001, S.O. 2001, C.25*, 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;

Whereas Section 127 of the *Municipal Act, 2001, S.O. 2001, C.25*, provides that a municipality may prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land;

Whereas Section 127 of the *Municipal Act, 2001, S.O. 2001, C.25*, provides that a municipality may define "refuse" for the purpose of the by-law;

Whereas Section 128 of the *Municipal Act, 2001, S.O. 2001, C.25*, 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 it is the opinion of Council that the failure to clear refuse and debris from land is a public nuisance, including the spread of vermin;

Whereas Section 11 of the *Municipal Act, S.O. 2001, C.25*, as amended, provides that a lower-tier municipality may pass by-laws respecting matters within the spheres of jurisdiction set out therein;

Whereas Section 446(1) of the *Municipal Act, 2001, S.O. 2001, C.25*, provides that a municipality may direct or require a person to clear the land of refuse, the municipality may also provide that, in default of it being done by the person directed or required to do it, the cleaning and clearing of land shall be done at the person's expense; and

Whereas Section 391 of the *Municipal Act, 2001, S.O. 2001, C.25*, provides that a municipality may impose fees or charges on any class of persons for services or activities provided or done by or on behalf of it, and which by-law may provide for interest charges and other penalties, including the payment of collection costs, for fees and charges that are due and unpaid;

Now therefore the Council of The Corporation of the City Of Port Colborne enacts as follows:

Part 1
Definitions

1.1 For the purpose of this by-law, the definitions of this section apply:

"Agricultural Purposes" shall mean the land used for cultivating soil, producing crops and for the raising of livestock as an "agricultural operation" as defined in the *Farming and Food Production Protection Act, 1998, S.O. 1999, c.1*, but does not include the portion of land used as a woodlot.

"Approved Structure" shall mean a Fully Enclosed Structure or a Partially Enclosed Structure as defined in this By-law.

"Border" shall mean the cleared land between the side and/or rear property line and a naturalized area or wild flower meadow.

"Boulevard" means that portion of the highway between the City property line and roadway, which is not used or intended for use for vehicular travel by the general public, and includes any landscaped areas and boulevards that are separated from

private property by sidewalks.

"Buffer Strip" shall mean a border of a minimum of 0.9 m w that delineates a wild flower meadow or naturalized area.

"Building Material" shall mean material stacked in good condition, which is used, or intended to be used, for construction purposes.

"City" means The Corporation of the City of Port Colborne.

"Cleared" includes the removal of weeds or grass more than 15 centimetres (6 inches) in height 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 and includes where on any property there is a swimming pool which is a health or safety hazard, or is malodorous or is a breeding place for mosquitoes, the draining, the treatment and/or the disposing of the water.

"Composting" shall mean the biological degradation or breakdown of organic material into a dark soil-like material called humus.

"Composting Container" shall mean the holding unit used to store yard, garden and household waste for the purpose of composting.

"Domestic Waste" shall mean any article, thing, matter or effluent belonging to or associated with a residence, household or dwelling unit and includes but is not limited to the following classes of waste material:

- (a) grass clippings, tree cuttings, brush, leaves and garden refuse;
- (b) paper, cardboard, clothing;
- (c) all kitchen and table waste, of animal or vegetable origin resulting from the preparation or consumption of food except any material of vegetable origin placed in a composting container;
- (d) can, glass, plastic container, dishes;
- (e) new or used material resulting from or for the purpose of construction, alteration, repair or demolition of any building or structure;
- (f) refrigerators, freezers, stoves or other appliances and furniture;
- (g) furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks;
- (h) unlicensed motor vehicle, inoperative motor vehicle, parts and accessories, vehicle tires mounted or unmounted on rims, mechanical equipment;
- (i) rubble, insert fill, fencing materials.
- (j) indoor furniture;
- (k) Inoperative - machinery, trailers, or boats;

"Enforcement Officer" shall mean a Municipal Law Enforcement Officer of the City of Port Colborne, Building Inspector, Fire Prevention Officer, Health Inspector, or Weed Inspector appointed under the Weed Act R.S.O. c.W.5. or other person appointed or employed by the City of Port Colborne for the enforcement of by-laws.

"Fully Enclosed Structure" means a structure with a roof and four (4) walls and is capable of enclosing and securing items within.

"Hobby Vehicle" means a vehicle that is actively being repaired or restored as a hobby of the owner/occupant of the property, a stock/race car, or vehicle that by its special nature is not routinely used or licensed but is intended to show or display on occasion.

"Indoor Furniture" means and includes any furniture intended for and made of such material that would require the furniture be sheltered from the natural elements such as rain and snow and shall include, but not limited to items such as couches, sofas, love seats, fabric covered chairs and mattresses.

"Industrial Waste" shall mean 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 and includes but is not limited to the following classes of waste material:

- (a) piping, tubing, conduits, cable, fittings or other accessories, or adjuncts to the piping, tubing, conduits or cable;
- (b) container of any size, type or composition;
- (c) rubble, insert fill;
- (d) mechanical equipment, mechanical parts, accessories or adjuncts to mechanical equipment;
- (e) articles, things, matter, effluent which is whole or in part or fragments thereof are derived from or are constituted from or consist of:
- (f) agricultural, animal, vegetable, paper, lumber or wood products; or
- (i) mineral, metal or chemical products; whether or not the products are manufactured or otherwise processed;
- (ii) bones, feathers, hides;
- (g) paper or cardboard packaging or wrapping;
- (h) material resulting from, or as part of, construction or demolition projects.
- (i) unlicensed motor vehicle, inoperative motor vehicle, vehicle parts and accessories, vehicle tires mounted or unmounted on rims, mechanical equipment;
- (j) Inoperative - machinery, trailers, or boats.

“Inoperative Motor Vehicle” shall mean a licensed or unlicensed vehicle, having missing, damaged, deteriorated or removed parts including, but not limited to: wheels, motor transmission, doors, glass or other parts or mechanical equipment necessary for its safe operation.

“Inoperative - machinery, trailers or boats” means such items that are unable to operate as a result of being dismantled, broken or incomplete, decayed or dilapidated and in particular includes vehicles with missing part(s) wheel(s), tire(s), engine(s), drive train or body components or window(s), unless such item is operable, not dismantled, broken or incomplete, decayed or dilapidated and its use is permitted under the Zoning By-law or is necessary for the operation of a business enterprise lawfully situated on the property.

“Land” includes yards, vacant lots or any part of a lot, which is not beneath a building and for the purpose of this By-law, includes an area within an unapproved Structure

“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 native species or other species to emulate a natural area.

“Owner” means a registered owner, but also includes lessee, occupant or tenant of the land, or any other person in charge of or in control of the premises.

“Partially Enclosed Structure” means a structure with a roof and a minimum of two (2) walls and is capable of sheltering items under the structure.

“Perennial Gardens” means an area deliberately implemented to produce ground cover, including wild flowers, shrubs, perennials, ornamental grasses or combinations of them, but does not include a wildflower meadow or a naturalized area.

“Person” means an Owner who may be a natural person, firm, corporation, partnership or association.

“Repeat Offender” means an individual who has been the subject matter of administrative or enforcement action taken by the City under this By-law.

“Refuse” means any article, thing, matter, substance or effluent that: has been cast aside, discharged or abandoned or; is discarded from its usual and intended use or; is used up, in whole or in part, or expended or worn out in whole or in part; and shall include domestic waste and industrial waste; and that domestic waste and/or industrial

waste does not cease to be refuse by reason that it may be commercially saleable or recyclable.

"Rubble" includes broken concrete, bricks, broken asphalt, patio or sidewalk slabs.

"Sidewalk" shall mean any municipal walkway or road works for the accommodation of pedestrians on that portion of a street between the curb line and the street line which is located outside a roadway.

"Trees" shall mean a plant or any species of woody perennial including its root system, which has reached or can reach a height of at least 2 metres at physiological maturity;

"Turf Grass" means ground cover comprised of one or more species of growing grass with or without trees, shrubbery or maintained planting beds or other vegetation.

"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;

"Unlicensed motor vehicle" shall mean a motor vehicle that is unlicensed.

"Wildflower" meadow means a specialized habitat within a naturalized area, which is dominated by native species of flowers and grasses. The area would require periodic mowing (once or twice per year) in order to prevent the growth and establishment of woody shrubs and trees.

Part 2 General Provisions

2.1 Administration – by the Enforcement Officer

This by-law is administered by the Enforcement Officer of The Corporation of the City of Port Colborne or an agent of the Enforcement Officer.

2.2 Land – filled up – drained - owner responsibility

Every owner shall keep his land filled up and drained.

2.3 Excavations – filled – exception – enclosed by barrier

Every owner shall fill in any excavation on the land unless it is enclosed completely by a temporary barrier at least 122 centimetres (48 inches) in height.

2.4 Water – exceeding 30 cm – drained – exception

Every owner shall drain land of accumulations of water that exceed 30 centimetres (12 inches) in depth unless it is completely enclosed by a temporary barrier of at least 122 centimetres (48 inches) in height or such water constitutes a storm water management pond approved by the City.

2.5 Land – clean – cleared – free of refuse

Every owner shall keep his land cleaned, cleared and free of refuse.

2.6 Dumping – prohibited – without lawful authority

No person shall throw, place, dump or deposit domestic or industrial waste on private property or City property without lawful authority.

2.7 Swimming Pool – maintained

Every owner shall keep or maintain the water in a swimming pool in a condition which is not a health or safety hazard, or is malodorous, or is a breeding place for mosquitoes.

2.8 Land – removal of refuse

Every owner shall remove refuse from his land

2.9 Refuse – containment and location

Every owner shall ensure that all refuse which accumulated on their property and when not placed out for collection is:

- (a) in containers:
 - i. made of rigid, watertight construction;
 - ii. provided with a tight fitting cover, which may be removed only when the container is empty or is being actively loaded;
 - iii. maintained in good condition without holes or spillage;
 - iv. closed, or emptied, rinsed and cleaned when not in use, to prevent the escape of offensive odour or waste; and
 - v. located in the side or rear yard against a building, structure, fence or retaining wall and arranged in an orderly manner.
- (b) Not permitted to accumulate longer than 10 days.

2.10 Vegetation - Grasses and Weeds

The grasses and weeds season shall commence May 1st until October 31st or first frost, whichever shall occur first, inclusive, annually.

2.11 Hobby Vehicle – provisions

Every owner shall ensure that a maximum limit of two (2) hobby vehicles are permitted per property and Vehicles used for parts are not considered Hobby Vehicles.

Part 3 General Prohibitions

3.1 Refuse – not cleared – from land – prohibited

No person shall, within the City of Port Colborne, fail to clear land of refuse.

3.2 Excavation – failure to enclose – prohibited

No person shall, within the City of Port Colborne, fail to enclose an excavation with a temporary barrier at least 122 centimetres (48 inches) in height.

3.3 Water – 30 cm deep – failure to drain – prohibited

No person shall, within the City of Port Colborne, fail to drain an accumulation of water exceeding 30 centimetres (12 inches) in depth.

3.4 Private Property – refuse – deposit on

No person shall, within the City of Port Colborne, deposit refuse on private property without lawful authority.

3.5 City Property – refuse – deposit on

No person shall, in the City of Port Colborne, deposit refuse on municipal property without lawful authority.

3.6 Refuse – containment and location

No person shall fail to contain refuse or locate refuse containers in accordance with the provisions of this by-law.

3.7 Water in Swimming Pool – fail to maintain

No person shall fail to keep or maintain the water in a swimming pool in accordance with the provisions of this by-law.

3.8 Private Property – clear buffer strip

No person shall, in the City of Port Colborne, fail to clear a buffer strip.

3.9 Vegetation - Grasses and Weeds –not cleared – from land - prohibited

No person shall fail to clear the grasses and weeds from land in excess of 15cm (6 inches) within 72 hours of notice given within the grasses and weed season.

3.10 Unsafe Standing Water

In the event that the circumstances described in section 2.4 or 2.7 are deemed to be unsafe by an Enforcement Officer, section 3.11 applies.

3.11 Immediate Action

In circumstances of section 3.10, an Enforcement Officer is specifically authorized to take immediate steps, or to cause immediate steps to be taken, to eliminate the danger associated with the unsafe standing water.

3.12 Limited Authorization

The authorization provided by section 3.11 of this by-law is limited only to such steps as are required to remove the danger.

3.13 No Obstruction of Officer

No person shall obstruct, hinder or in any way interfere with any Enforcement Officer in the enforcement of the provisions of this by-law.

3.14 Contravention of Order

No person shall contravene a Work Order or an Order to Discontinue Activity.

3.15 Vegetation – Trees – not cleared – from land – prohibited

No person shall fail to clear from land, dead, decayed, damaged or diseased trees

3.16 Damaged Trees

In the event that the tree(s) described in section 3.15 are deemed to be damaged by an Enforcement Officer, only the section(s) of a tree, which is damaged, shall be required to be cleared from land. Unless the removal of the section(s) of tree would leave the remainder of the tree unstable or unhealthy.

3.17 Refuse – removal

The removal of refuse pursuant to this By-law shall not create or cause pest or vermin issues, hoarding or any other condition that may create life safety concerns as determined by the Enforcement Officer.

Removal of refuse shall either be stored in an Approved Structure or taken to an approved landfill.

**Part 4
Exemptions**

4.1 Excavations – construction – exemption

Section 2.3 of this by-law does not apply to land on which construction is proceeding under a valid building permit or a Municipal Consent

4.2 Swimming Pools – natural bodies of water – exemption

Section 2.4 of this by-law does not apply to natural bodies of water or lawfully maintained swimming pools.

4.3 Outdoor Storage – lawful – exemption

Sections 2.5, 2.6 and 2.9 of this by-law shall not apply to land, which is lawfully used for outdoor storage of materials in compliance with the applicable Zoning and Licensing By-laws and regulations.

4.4 Region – dumping – disposal facilities – exemption

Sections 2.5 and 2.6 of this by-law shall not apply to land or structures designated by or operated by the Region of Niagara for the purpose of dumping or disposing domestic or industrial waste.

4.5 Refuse – Hobby Vehicle – exemption

Sections 2.5 and 2.8 of this by-law shall not apply to Hobby Vehicle(s)

- 4.6 Vegetation - Agricultural and Environmental Protection Lands – exemption**
This by-law does not apply to any lands zoned as Environmental Protection or lands used for agricultural purposes as defined in the City's Zoning By-law.
- 4.7 Government Owned lands – exemption**
This by-law does not apply to any lands owned by the following corporations:
The Corporation of the City of Port Colborne
The Region of Niagara
The Saint Lawrence Management Corporation
- 4.8 Perennial Gardens – exemption**
This by-law does not apply to perennial gardens, provided that the perennial gardens are managed in accordance with the Weed Control Act and provided that there is no waste.
- 4.9 Wildflower Meadow – exemption**
This by-law does not apply to a wildflower meadow or a naturalized area provided that those areas are managed in accordance with the Weed Control Act, provided that there is no waste and provided that they do not encroach within the buffer strip.
- 4.10 Containment and location – exemption**
Section 2.9 of this by-law does not apply to land undergoing active construction under a valid building permit, or where a building is undergoing an active renovation, or where an approval under the Site Plan Control By-law has been obtained that includes containment and location of garbage.
- 4.11 Building Materials – exemption**
No person shall store Building Materials on lands for more than six (6) months with or without a building permit.

Part 5 Enforcement

- 5.1 Fine – for contravention**
Any person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*.
- 5.2 Continuation – repetition – prohibited – by order**
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 and such order shall be in addition to any other penalty imposed on the person convicted.
- 5.3 Default – not remedied – fee**
Where anything required or directed to be done in accordance with this by-law is not done, within the required time frame the Enforcement Officer or persons designated by the Enforcement Officer for The Corporation of the City of Port Colborne, may upon such notice, do such thing at the expense of the person required to do it and, in so doing, may charge administration fee of 15% of such expense with a minimum fee of as set out in Schedule 'B' of this by-law; and both the expense and fee may be recovered by action or in like manner as municipal taxes.
- 5.4 Removal**
Where any of the matters or things are removed in accordance with section 5.3 of this By-law the matters or things may be immediately disposed of by the Enforcement Officer.
- 5.5 Officer – entry to inspect**
An Enforcement Officer designated to perform inspections pursuant to this By-law may at all reasonable times, enter onto land for the purposes of an inspection of the land.

5.6 City – bring property to compliance

Where it becomes necessary to proceed pursuant to section 5.3 of this By-law, a Enforcement Officer may enter onto the lands with any person and the appropriate equipment as required to bring the property into compliance with this by-law.

5.7 Work Order – contravention of by-law

If the Enforcement Officer is satisfied that a contravention of the by-law has occurred, the officer may make an order, known as a Work Order (Schedule "A"), 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 the work to correct the contravention.

5.8 Work Order - contents

The Work Order shall set out:

- (a) the municipal address or the legal description of the land;
- (b) reasonable particulars of the contravention and of the work to be done;
- (c) a deadline, being a specific date, for compliance with the Work Order (See Schedule C); and
- (d) a notice that if the work is not done in compliance with the Work Order by the deadline, the municipality may have the work done at the expense of the owner and the cost of the work may be recovered by adding the amount to the owner's tax roll.

5.9 Work Order – service

The Work Order may be delivered by any one or more of the following methods:

- (a) personal delivery to the person to whom it is addressed;
- (b) personal or couriered delivery to either an adult person, or to the mailbox, of the residential address of the addressee;
- (c) delivery by registered or certified mail;
- (d) delivery by facsimile transmission; or
- (e) posted as a placard in a conspicuous location at the site which is the subject matter of the notice;
- (f) posted as a door hanger at the site which is the subject matter of the notice;
- (g) delivery by Xpresspost of prepaid mail.

5.10 Deemed Delivery

- (a) Where a notice is personally delivered, it is considered to have been delivered at the date and time at which it was handed to the addressee.
- (b) Where a notice is personally delivered to the residential address of the addressee, it is considered to have been delivered on the next business day following the date of delivery.
- (c) Where a notice is delivered by registered or certified mail, it is deemed to have been delivered on the fifth business day after the day of mailing.
- (d) Where a notice is delivered by facsimile, it is considered to have been delivered on the next business day following the date showing on the proof of transmission document.
- (e) Where a notice is posted on occupied property in accordance with section 5.9 (e) and 5.9 (f), it is considered to have been delivered the next business day following the date it is posted.
- (f) Where a notice is posted on unoccupied property in accordance with Section 5.9 (e), it is considered to have been delivered five (5) days after the date it is posted.
- (g) Where a notice is delivered by Xpresspost, it is deemed to have been delivered on the next business day following the day of mailing.

5.11 Repeat Offender

Where it becomes necessary to enforce this By-law within the same calendar year. The time frames for work to be completed are set out in Schedule 'C'

Enactment

6.1 By-law – Repeal

That By-law 6329/09/16, Being a By-law to Provide for the Maintenance of Property of Land (Lot Maintenance By-law), is hereby repealed in its entirety.

6.2 Effective Date

This by-law comes into force on the day it is passed.

6.3 Short Title

The short title of this by-law shall be the "Lot Maintenance By-law".

Enacted and passed this 23rd day of April, 2018



John Maloney
Mayor



Amber LaPointe
City Clerk

City Of Port Colborne

By-law No. 6574/29/18

Schedule "A"

OPTION 'A'

WORK ORDER – Contravention of the By-law

Pursuant to Subsection 3.14 of the City of Port Colborne
Lot Maintenance By-law

Date issued:		File No.:	
Address to which order applies:			
Order issued to:			
Owner Name			
Street Address			
City, Province			
Postal Code			

A contravention of Part _____ of the City of Port Colborne Lot Maintenance By-law
_____ is found to exist at the above noted address:

<u>CONTRAVENTION</u>	<u>ACTION REQUIRED</u>
Insert here: Items in contravention	Insert here: the type of refuse/issue that is on the property (i.e garbage, debris.)
	Refuse includes but is not limited to:

You are hereby ordered, under Subsection _____ of the City of Port Colborne
Lot Maintenance By-law _____ to bring this property in to compliance
on or before: _____ (Insert here: compliance
date) (See Schedule C for timeframes).

Failure to do so The Corporation of the City of Port Colborne (or designate) will cause
the property to be brought into compliance in accordance with Part 5 (Sections 5.3 and
5.4) of By-law _____ of the City of Port Colborne. The City may recover the
costs incurred by it in doing the work or causing it to be done 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.

By-law Enforcement inspections where required as a result of a failure to remedy a by-
law violation by the date of compliance as set out in a written notice/order are subject to
a re-inspection fee of \$95.00. This fee will be levied following the re-inspection and is
subject to HST.

Order issued by: _____
Officer - MLEO
City of Port Colborne

OPTION 'B' – GREEN TAG – Grass Violation Door Hanger as attached.

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Schedule "B"

Fees

As set out in the City of Port Colborne Consolidated Fees and Charges By-law
6558/13/18, Schedule T

City of Port Colborne

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Schedule "C"

Time Frame for Work to be Completed

Item	Time Frame for Work – Excluding Delivery Time
Remove refuse	7 days
Remove open household garbage	7 days
Clear grass over 15cm	3 days
Remove water 30 cm	2 days
Maintain swimming pool water	5 days
Enclose excavation	2 days
Miscellaneous	5 days

Repeat Offenders Time Frame for Work to be Completed

Item	Time Frame for Work – Excluding Delivery Time
Remove refuse	3 days
Remove open household garbage	3 days
Clear grass over 15cm	2 days
Remove water 30 cm	2 days
Maintain swimming pool water	2 days
Enclose excavation	2 days
Miscellaneous	2 days