

TOWNSHIP OF MALAHIDE

By-law No. 24-24

LOT MAINTENANCE BY-LAW

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TOWNSHIP OF MALAHIDE

BY-LAW NO. 24-24

Being a By-law to Provide for the Maintenance of Land in a
Clean and Clear Condition

WHEREAS section 127(a) of the Municipal Act, S.O. 2001, c. 25, as amended, (hereinafter "Act") authorizes a local municipality to pass by-laws respecting the cleaning and clearing of lands, not including buildings, and to require the owner or occupant of such land to clean and clear that land, not including buildings, or to clear refuse or debris from such lands;

AND WHEREAS section 127(b) of the said Act authorizes a local municipality to regulate when and how the matters referred to in the previous section 127(a) shall be done;

AND WHEREAS section 127(c) of the said Act provides this policy may prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of such land;

AND WHEREAS section 127(d) of the said Act authorizes a local municipality to define "refuse" for the purposes aforesaid;

AND WHEREAS section 131 of the said Act authorizes a local municipality 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 436 of the said Act authorizes a municipality to pass by-laws providing for entry onto lands for purposes of, among other things, inspection in relation to matters otherwise prohibited and/or regulated by by-law;

AND WHEREAS section 446 of the said Act authorizes a municipality to direct or require that a matter or thing be done in default of which the municipality may enter upon land at any reasonable time to do such matter or thing at the expense of the owner and, furthermore, providing that the cost of doing such matter or thing may be recovered by the municipality by action or by adding such costs to the tax roll and collecting them in the same manner as taxes;

AND WHEREAS section 425 and 429 of the said Act authorizes a municipality to pass by-laws providing that a person who contravenes a by-law of the municipality is guilty of an offence and thereafter subject to penalty;

AND WHEREAS the Council of The Corporation of the Township of Malahide deems it desirable to regulate and govern the maintenance of land in order to enhance the quality of the community and neighbourhoods, to protect the safety, health, and well-being of the public, and to ensure the continued enjoyment of property by residents and property owners of the said Municipality.

NOW THEREFORE the Council of The Corporation of the Township of Malahide **HEREBY ENACTS AS FOLLOWS:**

1. Short Title

- (1) This By-Law shall be known as "Lot Maintenance By-Law".

2. Definitions

- (1) **"By-Law"** means this By-Law.
- (2) **"By-Law Enforcement Officer"** means a Municipal Enforcement Officer as appointed by Council or a police officer, including but not limited to a member of the Ontario Provincial Police.
- (3) **"Commercial Solid Waste or Grease Container"** means a waste or grease disposal container placed on land within the territorial limits of the Municipality for the temporary storage of waste or grease; provided that, to meet this definition, the said container shall be waterproof, leak-proof, and shall be covered at all times except when depositing waste therein or removing the contents thereof.
- (4) **"Composting"** shall mean the biological degradation or breakdown of organic material into soil-like material.
- (5) **"Composting Container"** shall mean the holding unit used to store yard, garden, or household waste for purposes of composting.
- (6) **"Corporation"** means The Corporation of the Township of Malahide.
- (7) **"Council"** means the elected Council of The Corporation of the Township of Malahide.
- (8) **"Land"** or **"Lands"** means real property, including a water lot, within the territorial limits of the Municipality and, for purposes of this By-Law includes real property constituting all or a portion of a lot lying or being appurtenant to a building or structure, whether used for residential or commercial purposes but excluding any such building or structure.

- (9) “**Lot**” means a parcel of land, the boundaries of which are defined in the last registered instrument by which legal or equitable title to the said parcel was lawfully and effectively conveyed.
- (10) “**Maintenance**” means the preservation and keeping of a property in compliance with requisite standards, prohibitions, or regulations as contained in this By-Law.
- (11) “**Motor Vehicle**” means any form of transportation for humans designed to be propelled or driven otherwise than by muscular power and includes but is not limited to automobiles, cars, trucks, motorcycles, motor homes, and trailers of any description.
- (12) “**Municipality**” means the Township of Malahide and includes the geographic area thereof.
- (13) “**Noxious Weed**” means and includes a plant designated as a noxious weed pursuant to The Weed Control Act, R.S.O. 1990, c. W.5, as amended.
- (14) “**Nuisance**” means any use or condition which interferes with the normal enjoyment or use of any lands, including but not limited to neighbouring land.
- (15) “**Occupant**” means any person or persons over the age of eighteen (18) years in possession and/or control of land or lands within the Municipality.
- (16) “**Other Vehicle**” means any form of transportation for humans designed to be propelled or driven otherwise than by muscular power and includes but is not limited to tractors, self-propelled construction and/or industrial equipment or implements of husbandry, motorized snow vehicles, or cars of steam, electric, or diesel railways.
- (17) “**Owner**” means the person or persons who owns or own any land or lands, or any lots thereof, within the Municipality and includes but is not limited to a registered or equitable owner, occupant, tenant, lessee, or mortgagee in possession.
- (18) “**Person**” means any individual, company, corporation or director thereof, partnership, firm, trust, sole proprietorship, government or government agency, authority, or entity, howsoever established, joint venture, syndicate, or other legal entity, and further includes all successors, assigns, or legal representatives thereof.
- (19) “**Private Drain**” means a sanitary private drain for the collection and transmission of sanitary sewage to the sanitary sewer and to which extraneous flows, such as storm drainage, roof water, and surface and/or ground waters are not to be intentionally admitted.

(20) "**Vessel**" means any form of marine transportation for humans, commodities, or goods and designed to be propelled by any means including but not limited to internal combustion engine or engines or otherwise by steam, electric, muscular, or natural power.

(21) "**Waste Material**" means any article, thing, matter, or effluent that appears to have been set aside, discarded, abandoned, or discharged, whether of any value or not, or otherwise appears to have been used up in whole or in part, or expended or worn out in whole or in part and, without limiting the generality of the foregoing, includes but is not limited to the following:

- a. Garbage, refuse, debris, litter, grass clippings, tree and garden cuttings, brush, vegetative undergrowth and underbrush, dead, diseased or damaged trees or bushes or leaves therefrom, and leaves.
- b. Containers, including but not limited to crockery, dishes, glassware and bottles, both plastic and/or metal.
- c. Paper, cardboard, cloth, plastics, and/or synthetics.
- d. Weighty or bulky materials such as machinery, stoves, refrigerators and other such appliances, furniture, furnace parts, pipes, water or fuel tanks, wooden or metal signs or pallets, or any part or parts thereof.
- e. A motor vehicle or other vehicle which is not operative, a motor vehicle which is not currently licensed pursuant to the provisions of the Highway Traffic Act, S.O. 1990, c. H.8, as amended, discarded motor vehicle or other vehicle, automotive parts, vehicle parts and accessories, mechanical equipment, mechanical parts, unmounted tires, tires mounted on rims, and/or accessories or adjuncts to any such motor vehicle or other vehicle and mechanical equipment.
- f. A vessel which is not operative, discarded vessel, unsound or unseaworthy vessel, vessel parts and accessories, mechanical equipment, mechanical parts, and/or accessories or adjuncts to such a vessel and/or mechanical equipment.
- g. Broken concrete (other than for shore protection), asphalt pavement, patio/sidewalk slabs, surplus building materials whether new or used.
- h. Material resulting from or as part of construction, alteration, repair or demolition of any building or structure.
- i. Rubble, inert fill, and/or fencing materials.
- j. All waste of animal or vegetable origin resulting from the processing or preparation or storage or sale or consumption of food, except any material of vegetable origin placed in the composting container.

- k. Any liquid containing chemicals or solids either dissolved or in suspension.
 - l. Any animal excrement, except for animal excrement being applied for a horticultural or an agricultural use.
- (22) “Yard” or “Yards” means the land or lands, other than publicly-owned land or lands, around or appurtenant to the whole or any part of a residential or non-residential building or structure and used or capable of being used in connection with such land or lands.

3. Scope

- (1) The regulations, standards, and/or prohibitions set forth in this By-Law are deemed to create minimum standards for the promotion of the health, safety, comfort, convenience, and general welfare of the Municipality and its residents and property-owners.

4. General Prohibition

- (1) No person, including any owner or occupant of land, shall fail to comply with any regulation, standard, or prohibition set forth in this By-Law.

5. Lot Maintenance Regulations, Standards, and/or Prohibitions

- (1) Every owner of land in the Municipality shall keep such land, in whole and in part and including all yards, grounds, and vacant lands, drained and cleaned and cleared of all waste material.
- (2) For purposes of clarity and in respect of the regulation set forth in section 5(1) above, the requirement for keeping land cleaned and cleared of all waste material is deemed to include removal of any noxious weed and/or grasses in excess of 20cm in height, measured from ground level at the location from which such noxious weed or grass grows, except on any slope requiring such vegetation for slope stability, the proof of which exception is borne by the owner or owners of such land.
- (3) Every owner of land in the Municipality shall fill in any excavation located on such land so owned which is not completely enclosed by an adequate barrier and/or fencing, the adequacy of which barrier or fencing is to be determined by the Chief Building Official of the Municipality or his or her designate.
- (4) For purposes of clarity and in respect of the regulation set out in section 5(3) above, the requirement for filling in an excavation does not apply to work that, in the opinion of the Chief Building Official of the Municipality or his or her designate, is actively proceeding under a construction or building permit.
- (5) No person, including any owner of land in the Municipality, shall connect or cause or permit any connection of any weeping tile, foundation drain, roof drain,

or lay drain into any private drain servicing such lands, including any building or structure erected thereon, and, furthermore, no person, including any owner of land in the Municipality, shall discharge or cause or permit to be discharged any extraneous flow, including but not limited to roof or surface water or storm drainage, into any private drain.

- (6) Every owner of land in the Municipality and serviced by a private drain shall alter or repair that private drain to disconnect any extraneous flows from or into such private drain.
- (7) Every owner of land in the Municipality shall drain lands so owned upon which surface or groundwater has accumulated to a depth which, in the opinion of the By-Law Enforcement Officer, creates an unsafe or dangerous condition.
- (8) For purposes of clarity and in respect of the regulation set forth in section 5(7) above, the requirement for draining of surface or groundwater does not apply to swimming pools lawfully constructed, installed, and maintained, storm water management facilities, water gardens, or natural bodies of water.
- (9) Every owner of land in the Municipality shall keep all hedges and trees adjacent to a public sidewalk or highway cut and trimmed so as to allow safe and unhindered passage and an unrestricted view of pedestrians and/or vehicular traffic travelling upon such sidewalk or highway.
- (10) No person, including the owner thereof, shall use or cause or permit the use of any land in the Municipality for dumping, depositing, or otherwise disposing of waste material of any kind.
- (11) No person, including any owner thereof, shall use any land in the Municipality for storage of any motor vehicle without a current license plate or any other vehicle for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal unless that use of such land in the Municipality is in strict compliance with zoning requirements enacted by the Municipality.
- (12) No person, including any owner thereof, shall use any land in the Municipality for storage of any other vehicle or vehicles or any vessel or vessels for the purpose of wrecking or dismantling such vessel or vessels or salvaging parts there from for sale or other disposition unless such use of land is in conformity with zoning requirements enacted by the Municipality.
- (13) No person, including the owner of any land in the Municipality, shall cause or permit any Commercial Solid Waste or Grease Container to overflow its normal capacity when its cover or covers are in a closed and secured position.
- (14) No person, including the owner of any land in the Municipality, shall cause or permit foul or offensive odour or odours to emanate from any Commercial Solid Waste Container or Grease Container.

- (15) Every owner of any lot fronting any municipal highway or street where an adjacent sidewalk has been constructed shall remove and/or clear away and keep removed and cleared away all snow and ice from such sidewalk on the street side nearest to such lot, such removal to be completed within twenty-four (24) hours of a snowfall.
- (16) Every owner of any lot in the Municipality which fronts upon any municipal highway or street where an adjacent sidewalk has been constructed shall remove and clear away and keep removed and cleared away all dirt, debris, and litter from the said sidewalk on the street side nearest to such lot.
- (17) No person, including any owner thereof, shall plant, maintain, or permit any tree, brush, hedge, or shrub to grow more than one (1) metre in height on a corner lot where such tree, bush, hedge, or shrub is planted within four (4) metres of the intersection of the front lot line and the exterior lot line of such lot.
- (18) Every owner of any land in the Municipality shall keep such land clean and clear of any dilapidated or collapsed buildings or structures, or parts thereof, as erected upon such land.
- (19) Every owner of any land in the Municipality shall keep a yard or pen where a dog or dogs are allowed to run in a clean and sanitary condition and, furthermore, all excrement, feces, refuse, and dropped or scattered food associated therewith shall be removed from such yard or pen by the said owner at least once every three (3) days.
- (20) Every owner of land in the Municipality shall keep such land clean and clear of any object or objects and/or condition or conditions which are or could create any health, fire, or safety hazards, including but not limited to any object or condition which could promote or encourage the infestation and/or habitation of or by rodents, insects, or other vermin.

6. Special Provisions – Landscaping

- (1) Without limiting the generality of any provision set forth above,
 - (a) Every owner of land in the Municipality shall keep all trees, bushes, hedges, and other landscaping material in a condition so as to prevent unsightly or unreasonable undergrowth in relation and compared to the surrounding natural environment.
 - (b) Every owner of land in the municipality shall keep and take reasonable steps to keep grass, trees, bushes, hedges, and other landscaping material in a living condition.

7. Special Provisions – Natural Gardens

- (1) Without limiting the generality of any provision set forth above and subject to the regulations and prohibitions set forth in section 7(2) below, the owner of any land in the Municipality may grow and maintain a managed and natural landscape, including one or more species of wild flowers, shrubs, trees, herbaceous plants, ferns, and/or grasses, or any combination thereof and regardless of whether such species are native or non-native to the Municipality and/or edible or not edible (referred to as a “natural garden”), upon such land.
- (2) No owner of land in the Municipality shall plant, grow, or maintain a natural garden that:
 - (a) contains any noxious weed;
 - (b) in a suburban area as identified or defined in section 4 of the Official Plan for the Municipality that:
 - (i) fails to maintain a growth setback of two (2) metres from the nearest edge of a highway (as defined by the Highway Traffic Act, R.S.O 1990, c. H.8, as amended) within which any tree, shrub, plant, flower, fern, or grass cannot exceed 15cm in height as measured from the ground level at the location from which it grows; and/or
 - (ii) Fails to maintain a growth setback of two (2) metres from the nearest edge of a sidewalk constructed adjacent to such land within which any tree, shrub, plant, flower, fern, or grass cannot exceed 15cm in height as measured from the ground level at the location from which it grows.

8. Special Provisions – Lot Grading and Drainage / Fill Placement

- (1) Without limiting the generality of any provision set forth above, every owner of land in the Municipality,
 - (a) shall keep such land adequately drained of surface water, including suitable provision for its disposal without causing or creating erosion;
 - (b) shall not discharge water, including but not necessarily limited to surface water, water collected from the roof of any building or water from a swimming pool, onto any driveway, entranceway, walkway, sidewalk, stair, step, or any land adjacent thereto, or any highway in such a manner so as to cause damage or create an unsafe condition;
 - (c) shall not cause or permit roof drainage to be discharged onto the ground less than one (1.0) metre from any building constructed

thereon, provided that, at the location of discharge, such water does not escape onto or adversely affect adjacent lands or otherwise cause erosion;

- (d) shall not permit the discharge of water from drain pipes, tiles or other such device, designed and intended for the collection and discharge of water, into a ditch, road allowance or adjacent property without the express written permission from the Township of Malahide and/or the adjacent land owner.
- (e) shall not cause or allow any fill piled upon such land to remain in and on the levelled state for longer than fourteen (14) days from the date of such piling, unless the land contains a construction site for which a building permit has been issued by the Municipality and is in effect;
- (f) shall not cause or allow any fill piled upon land to remain uncovered by sod, seed, or agricultural crops for more than thirty (30) days from the date of such piling, unless the land either:
 - (i) is being actively farmed,
 - (ii) contains a construction site for which a building permit has been issued by the Municipality and is in effect, or,
 - (iii) is subdivided under a signed subdivision agreement with the Municipality.
- (g) shall not cause or permit fill to remain upon land which results in the lot grading being altered from what was initially approved in the lot grading plan.

9. Special Provisions – Outdoor Storage

- (1) Where outdoor storage is permitted in the zoning by-law, every owner of any land in the Municipality shall:
 - (a) locate and maintain such storage in a safe condition, wherein all stored items and materials are packed or stacked in a neat and orderly fashion or in bins, containers, structures, or enclosures appropriate for the nature, composition, or other characteristic properties or distinctive attributes of such stored items and materials; and,
 - (b) completely enclose such outdoor storage area with fencing at least 1.5 metres in height, which fencing shall be constructed in such a fashion to screen the view of all items and materials so stored and provided that such fenced enclosures,
 - (c) shall be located at least six (6.0) metres from any highway, and,

- (d) shall be landscaped on the exterior sides thereof, save any side which adjoins any building, driveway, or parking or loading area.

10. Special Provisions – Fences / Fencing

- (1) Every owner of land or lands in the Municipality upon or between which a fence, fences, or fencing has been erected shall maintain such fence, fences, or fencing,
 - (a) in general repair, free from loose or insufficiently secured, rotten, warped, or broken materials or elements;
 - (b) in a safe and structurally sound condition, capable of sustaining safely its own weight and any load to which it could reasonably be subjected;
 - (c) free of dangerous objects; and,
 - (d) reasonably plumb, unless specifically designed to be other than vertical.

11. Administration and Enforcement

- (1) This By-Law shall be administered by a By-Law Enforcement Officer appointed by Council and shall be enforced by either such By-Law Enforcement Officer or a police officer.
- (2) The By-Law Enforcement Officer may, from time to time, designate another person or persons or retain the services of a qualified consultant to assist in the performance of duties hereunder.
- (3) The By-Law Enforcement Officer may enter on any land at any reasonable time for the purpose of carrying out an inspection of such land, including for the purpose of determining whether or not this By-Law or any Notice of Violation issued hereunder is being complied with.
- (4) For the purpose of conducting an inspection pursuant to section 11(3) above, a power of entry may be exercised by a By-Law Enforcement Officer to carry out an inspection and the said By-Law Enforcement 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 related to a matter relevant to the inspection;

- (d) alone or in conjunction with any person possessing special or expert knowledge, make examinations or take tests, samples, or photographs necessary for the purposes of the inspection.

12. Notice of Violation

- (1) If a By-Law Enforcement Officer is satisfied that a violation or contravention of this By-Law has occurred, the said By-Law Enforcement Officer may serve written notice upon the owner of the involved land, directing that the violation be remedied within a specific period. Such notice shall contain reasonable particulars of the violation adequate to identify same and the location of the land as well as the date by which compliance must be effected.
- (2) In the event that the violation in the notice is not remedied within the aforesaid period of time, the By-Law Enforcement Officer:
 - (a) may cause the violation to be remedied at the expense of the owner. The Municipality shall not be responsible for any damage or loss that may be sustained by the owner as a result and/or;
 - (b) may initiate proceedings in the Ontario Court of Justice for the violation.
- (3) Where a By-Law Enforcement Officer deems a violation of this By-law to constitute an emergency or danger to the public, the said By-Law Enforcement Officer may, without notice, cause such violation to be remedied at the expense of the owner. The Municipality shall not be responsible for any damage or loss that may be sustained by the owner as a result. Where the violation is remedied without prior notice to the owner, the By-Law Enforcement officer shall serve written notice upon the owner of the land describing the particulars of the violation so as to adequately identify same and the location of the land as well as the date upon which the remedial action was taken.
- (4) Any notice given under this By-Law may be given by regular mail, electronic mail or personal delivery. Delivery by regular mail shall be deemed to have been effected on the third day after posting.
- (5) The Municipality may recover its costs of remedying a violation of this By-Law by invoicing the owner, by institution of court proceedings, or by adding the cost to the tax roll in the same manner as municipal taxes. The exercise of any such remedy shall not preclude the exercise of any other available remedy.

13. Offence and Penalty

- (1) Any person who contravenes any provision of this By-Law or a notice issued hereunder is guilty of an offence and, upon conviction, is liable to a minimum fine of \$300.00 and a maximum fine of not more than \$15,000.00.

- (2) A director or officer of a corporation who knowingly concurs in a violation or contravention by the corporation of any provision of or notice under this By-Law is guilty of an offence and, upon conviction, is liable to a minimum fine of \$300.00 and a maximum fine of not more than \$15,000.00.
- (3) If either a notice has been issued under this By-Law or any Court of competent Jurisdiction has issued an Order in respect of this By-Law and such notice or Order has not been complied with, then any ongoing contravention of such notice or Order shall be deemed to be a continuing offence for each day or part thereof that the said notice or Order is not complied with.
- (4) Any person who contravenes any provisions of this By-Law so as to constitute or commit a continuing offence shall be liable to a fine of not less than \$300.00 and not more than \$15,000.00 for each day or part of a day that such offence continues. The total of any such daily fines for such continuing offence shall not exceed \$100,000.00.
- (5) In the event of conviction of an offence of this By-Law, the Court entering such conviction or any other Court of competent jurisdiction may, in addition to any other penalty, make an Order prohibiting the continuation or repetition of the offence by the person so convicted.
- (6) No person shall hinder or obstruct an Officer in the performance of their duties while they are exercising a power or authority under this by-law.

14. Severability

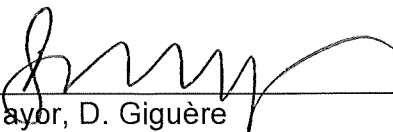
- (1) If a Court of competent jurisdiction declares any section or part of this By-Law invalid, the remainder of this By-Law shall continue in force unless the Court makes an order to the contrary.

15. Effective Date

- (1) This By-Law shall come into full force and take effect on the date it is passed.

READ a FIRST and SECOND, time this 20th day of June, 2024.

READ a THIRD time and FINALLY PASSED this 20th day of June, 2024.



Mayor, D. Giguère



Clerk, A, Adams