



**The Municipal Corporation of the
Town of Fort Erie**

BY-LAW NO. 165-08

**BEING A BY-LAW TO PROVIDE FOR
MAINTENANCE OF PROPERTY AND LAND
(LOT MAINTENANCE BY-LAW)**

WHEREAS Subsection 11 of the *Municipal Act, 2001*, S.O. 2006,c.32 as amended provides that the municipality may pass by-laws relating to health, safety and well being of persons and the economic, social and environmental well-being of the municipality; and

WHEREAS Subsection 127 of the *Municipal Act*, S.O. 2006, c. 32, as amended, provides that a local municipality may require an 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; to regulate when and how such matters shall be done; 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; and

WHEREAS Subsection 128 of the *Municipal Act*, S.O. 2006, c. 32, as amended, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become public nuisances; and

WHEREAS Subsection 131 of the *Municipal Act*, S.O. 2006, c. 32, as amended, provides that a local 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 Subsections 445.1 and 446 of the *Municipal Act*, S.O. 2006, as amended, provides that if a municipality has the authority under this or any other *Act* or under a by-law under this or any other *Act* 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 persons expense, and may recover the costs by adding them to the tax roll and collecting them in the same manner as taxes;

NOW THEREFORE the Municipal Council of the Corporation of the Town of Fort Erie enacts as follows:

1.0 SHORT TITLE

The Short title of this By-law is the "Lot Maintenance By-Law."

2.0 DEFINITIONS

“agricultural operation” means an agricultural operation as defined by the *Farming and Food Protection Act*, S.O. 1998, c.1;

“boulevard” means that portion of the highway between the Town 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;

“debris” means any material whatsoever capable of holding water and without limiting the generality of the foregoing includes tires, cars, boats, containers of any kind and garden fixtures;

“derelict vehicle” means a used vehicle or the body or chassis of a used vehicle that

- (a) is not in an operating condition and is rusted, wrecked or partly wrecked or is dismantled or partly dismantled;
- (b) is not insured and registered under the *Highway Traffic Act*, R.S.O. 1990, c.H.8 and does not have a current, valid license plate attached to it; and,
- (c) has been entirely or partially located outside of a building for more than 30 days;

“officer” means a Municipal Law Enforcement Officer, Fire Prevention Inspector or Weed Inspector appointed under the *Weed Control Act*, R.S.O. c.W.5 or designate;

“operating condition”, in relation to a vehicle, means that it is capable of being driven on a highway in compliance with the *Highway Traffic Act*, R.S.O.1990, c. H. 8;

“owner” means a registered owner, but also includes an occupant, lessee, tenant or any other person in charge of or in control of premises;

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

“refuse” includes :

- (a) debris, junk, rubbish, or effluent belonging to or associated with a house or household or any industry, trade or business, and without limiting the foregoing, all garbage, discarded material or things, broken or dismantled things, and materials or things exposed to the elements;
- (b) wrecked, dismantled, partially dismantled, inoperative, discarded or abandoned machinery, trailers, boats, or vehicles and parts or accessories thereof;
- (c) accumulations of broken concrete or asphalt pavement, brick or stone pavers, sidewalk slabs, rubble, inert fill and used building materials;
- (d) waste lumber, construction and demolition wastes;
- (e) indoor furniture, dilapidated outdoor furniture, household appliances and electronic equipment;
- (f) furnaces, furnace parts, ducting, plumbing, pipes, fittings to pipes, water or fuel tanks, cables, wire or wire fencing;
- (g) wrecked, dismantled, partially dismantled, inoperative, discarded or abandoned mechanical equipment, mechanical parts, accessories, or adjuncts to the piping, tubing, conduits or cable;
- (h) containers of any size, type or composition;
- (i) organic waste, other than organic waste placed in a composting container;
- (j) sewage;
- (k) ashes;
- (l) animal excrement;
- (m) any article, product or goods of manufacture that by reason of its state, condition or excessive accumulation:
 - (i) has been cast aside, discharged or abandoned, or
 - (ii) is disused from its usual and intended use, or
 - (iii) is used up, in whole or in part, or expanded or worn out, in whole or in part.

“**Region**” means the Regional Municipality of Niagara;

“**sewage**” includes any liquid waste containing human, vegetable or mineral matter, waste that is in suspension whether domestic or industrial or any other waste whether in suspension or precipitated, but does not include roof water or storm run-off;

“**standing water**” means any water on property other than:

- (a) a natural, moving body of water that exists on a permanent basis;
- (b) a body of water that is maintained in such a way so as to prevent the breeding of and/or larvae growth of mosquitoes, through the operation of a re-circulation and filtration system and/or the additive of an approved substance that will prevent the breeding of and/or larvae growth of mosquitoes;
- (c) any body of water containing live fish;
- (d) any body of water natural to its surrounding environment including natural ponds, bogs, marshes and wetlands;
- (e) any body of water within a municipally owned storm water management facility; and
- (f) any body of water contained for less than four (4) days.

“**turf** ” means a layer of grass, whether planted or not but does not include ornamental grasses that have been planted;

“**vehicle**” includes a motor vehicle, trailer, boat, motorized snow vehicle and any mechanical equipment designed to be drawn, propelled or driven by any type of power, including muscular power;

“**weed**” means a noxious weed designated by or under the *Weed Control Act*, R.S.O. 1990, c.W.5, including any weed designated as a local or noxious weed under a by-law of the Town passed under that *Act*.

3.0 MAINTENANCE STANDARDS

Properties must be kept free of refuse

3.1 Every owner of property shall keep the property clean and free of refuse.

3.2 No person shall deposit or allow to be deposited refuse deliberately or accidentally onto another persons property without the written authority of the owner, other than property designated by By-law for the purpose of dumping or disposing of refuse.

3.3 Every owner of property shall ensure that the public highway, sidewalk and the boulevard in front of and flanking the property; and any back lane in the rear of the property is kept free of refuse.

3.4 The owner of property on which refuse has been thrown placed, dumped, stored, or deposited shall remove the refuse from their property so that the property is in a clean and tidy condition.

3.5 Refuse as defined by this By-law does not cease to be refuse by reason only that it may be commercially saleable or recyclable.

3.6 A person does not breach sections 3.1, 3.2 or 3.3 above by placing refuse out for collection in accordance with municipal by-laws and collection schedules, but no person shall leave refuse out contrary to such by-laws or schedules.

Removal of Graffiti

3.7 Every Owner shall keep their property clean and free from unsightly chalk marks, painted slogans and similar markings or defacements on the exterior surfaces of buildings or structures including fences on the property.

Derelict Vehicles

3.8 No Owner shall park, store or leave a derelict vehicle on his or her property.

3.9 The obligation in section 3.8 shall not apply to a derelict vehicle that is wholly contained within a building.

4.0 VEGETATION ON PROPERTY

4.1 Other than on properties zoned for agricultural operations, turf must be kept trimmed to a maximum length of 20 centimetres (6 inches), including the grassy boulevard portion of any highway or part thereof, in front of alongside or at the rear of any building or property;

4.2 Weeds must be controlled on all properties by:

- (a) pulling or otherwise removing the plants from the soil;

- (b) cutting the roots or stalks of the plants before the seeds have developed sufficiently to ripen after cutting;
 - (c) turning the soil in which the plants were growing so as to kill the Weeds; or
 - (d) in the case of poison ivy, treating it with a herbicide that causes the plants to be destroyed, or which prevents the growth of plants or the ripening of their seeds, provided that nothing in this clause authorizes the use of any herbicide contrary to any other law in force in Ontario.
- 4.3 Every Owner of property shall keep the property clean and free from:
- (a) dead decayed or damaged trees or other natural growth and the branches or limbs thereof which create an unsafe condition;
 - (b) injurious insects, termites, rodents, vermin or other pests and any condition which might be result in the harbouring of such pests.
- 4.4 Trees or shrubs on property must not be allowed to interfere with:
- (a) the Town's or Region's works, including sewer and water pipes;
 - (b) the operations of the Town or the Region on the public highway;
 - (c) pedestrian or vehicular traffic on the street;
 - (d) motorists' or pedestrians' view of directional signs or traffic control devices;
 - (e) the sightlines of motorists or pedestrians.

5.0 STANDING WATER

- 5.1 Every Owner of land shall keep the land free of Standing Water.
- 5.2 Every Owner of land shall keep the land free of containers or Debris capable of holding Standing Water in such a manner as to be exposed to the breeding of and/or larvae growth of insects.
- 5.3 Every Owner of land shall ensure that a swimming pool, hot tub, wading pool, or artificial pond is maintained in proper operating condition, and in good repair.

5.4 Every Owner of land shall ensure that land is free and clear of excavations capable of holding Standing Water.

6.0 STREET NUMBER DISPLAY

6.1 Every owner of a building within the urban area shall cause to be displayed and maintained thereon the street number of the building in such manner as to be plainly legible and visible from the centre of the street upon which the building fronts.

7.0 PERMITTED EXCEPTIONS

7.1 Notwithstanding the provisions of this By-law, used lumber, used building materials, inoperative or derelict motor Vehicles, trucks, trailers, unused machinery, machinery parts and automotive parts may be stored on an agricultural operation provided that:

- (a) such material is screened from view from any property zoned residential in the Town's comprehensive Zoning By-law or public highway within 500 feet; and
- (b) that the material is used for replacement parts, Vehicles or materials as part of the agricultural operation.

7.2 Nothing in this By-law prohibits property to be used for a use that is permitted pursuant to the Town's Comprehensive Zoning By-law.

8.0 ENFORCEMENT

8.1 An officer or their designate shall enforce the provisions of this By-law and is authorized to enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not this By-law is being complied with.

8.2 Where an owner fails to comply with any provision of this By-law, an Order may be issued to the owner requiring compliance. The Order will give reasonable particulars of the reasons that the property does not comply and indicate the time for complying with the Order and giving notice that, if the Order is not complied with within that time, the Town may carry out the Order at the owners expense.

8.3 If in the opinion of the officer there is doubt as to the condition of the property, structure, or tree(s) the officer may order the examination and testing of the said condition by a qualified professional, which shall be at the owner's expense if the opinion of the officer is upheld.

8.4 An Order may be personally delivered or served by Registered mail or when necessary posted on the property. Where an Order is mailed, the Order shall be deemed delivered on the earlier of receipt of the Order by the addressee or the fifth day following the date of mailing, whether actually received or not.

8.5 If the owner retains the services of a professional to prepare a written report then the owner shall submit the report to the officer for evaluation and review.

8.6 Where an Order has been issued and compliance has not been achieved within the required time period set out in the Order the Town may, through its employees or agents or persons acting on its behalf, enter upon the land to take the steps required to effect compliance, and all expenses incurred may be added to the tax roll and collected from the owner in the same manner as municipal taxes.

8.7 Every person who contravenes any provision of this By-law, is guilty of an offence and upon conviction is liable to the penalties prescribed under the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended.

8.8 No person shall hinder or obstruct an Officer, appointed under this by-law or employed to enforce this By-law, from carrying out an inspection of lands, nor shall any person obstruct any employee or agent authorized to carry out work for the Town specified in an Order issued hereunder.

9.0 ADMINISTRATION AND INTERPRETATION

9.1 If there is a conflict between a provision of this By-law and a provision of any Town By-law, the provisions that establish the highest standard to protect the health and safety of the public shall apply.

9.2 Pursuant to the provisions of Section 23.1 to 23.5 of the *Municipal Act 2001* the Clerk of the Town of Fort Erie is hereby authorized to effect any minor modifications or corrections of an administrative, numerical, grammatical, semantical or descriptive nature or kind to the By-law and schedules as may be necessary after the passage of this By-law.

9.3 By-law No. 141-03 is hereby repealed.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS
24TH DAY OF NOVEMBER, 2008.**



MAYOR



CLERK

I, Carolyn J. Kett, the Clerk of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 165-08 of the said Town. Given under my hand and the seal of the said Corporation this _____ day of _____, 2008.