

THE CORPORATION OF THE CITY OF CORNWALL

By-law # 2017-097

By-law to amend the Yard Maintenance By-law 2013-212 of The Corporation of the City of Cornwall

Whereas Section 5(3) of the Municipal Act, 2001, S.O., 2001, c. 25, as amended, (the "Municipal Act, 2001") 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 10(1) of the Municipal Act, 2001, provides that a municipality may provide any service or thing that the municipality considers necessary or desirable to the public and Subsection 10(2), paragraph 7, provides that a municipality may pass by-laws with respect to services and things that the municipality is authorized to provide under subsection 10(1); and

Whereas Section 10(2), paragraphs 5, 6, and 8 of the Municipal Act, 2001, provide that a municipality may pass by-laws respecting: economic, social and environmental well-being of the municipality; health, safety and well-being of persons; and protection of persons and property,

Whereas Council is desirous of amending Yard Maintenance By-Law # 2013-212;

Now therefore be it resolved that the Council of The Corporation of the City of Cornwall amends By-Law # 2013-212 and enacts as follows:

PART I. AMENDMENTS TO Yard Maintenance By-law 2013-212

SECTION 2 - DEFINITIONS

Add "Boulevard"

1. By-Law # 2013-212 (henceforth "the By-law") is amended by adding the definition "Boulevard" after the definition "Balcony", as follows:

“Boulevard” means that portion of the municipal road allowance which is not used as travelled roadway or shoulder and is adjacent to a property, save and except any portion of the said municipal road allowance which is sloped at a negative or positive grade of thirty (30) degrees or greater and without limitation includes municipal sidewalks;

Add “Construction Site”

2. The By-law is amended by adding the definition “Construction site” after the definition “City” as follows:

“Construction site” means the site of any work for which a building permit would be required under the Building Code Act 1992, S.O. 1992, c. 23 as amended or replaced from time to time;

Add “Domestic Storage”

3. The By-law is amended by adding the definition “Domestic storage” after the definition “Construction site” as follows:

“Domestic storage” means storage of objects incidental to a residential use, which includes but is not limited to firewood, compost heaps, building materials, and garden equipment.

Add “Exterior Side Yard”

4. The By-law is amended by adding the definition “Exterior Side Yard” after the definition “Domestic storage” as follows:

“Exterior side yard” has the meaning ascribed in the City of Cornwall Zoning By-law No 751, 1969, as amended or replaced from time to time..

Add “Front Yard”

5. The By-law is amended by adding the definition “Front yard” after the definition “Farm” as follows:

“Front yard” has the meaning ascribed in the City of Cornwall Zoning By-law No 751, 1969, as amended or replaced from time to time.

Add “General Manager”

6. The By-law is amended by adding the definition “General Manager” after the definition “Front yard” as follows:

“General Manager” means the General Manager of the Planning,

Development and Recreation Department of the City and his or her designate or successor;

Add “Screened”

7. The By-law is amended by adding the definition “Screened” after the definition “Property” as follows:

“**Screened**” when applied to a yard means that the view of the applicable portion of the yard is hidden from view from any adjacent parcel or road allowance by means of a lawfully constructed fixture such as, without limitation, a fence, wall, or hedge;

Repeal and Replace “Supervision”

8. The definition “Supervision” in the By-law is repealed and replaced with the following:

“**Supervisor**” means the Supervisor of the By-law Division of the City and his or her designate or successor;

SECTION 3 - VEGETATION

Amend Subsection 3(1)(a)

10. Subsection 3(1)(a) of the By-law is amended to add the words “including grass and weeds” and “and in the boulevard directly adjacent to their property “ such that the Subsection reads “Every owner or occupant of property shall keep vegetation including grass and weeds in the yard of their property and in the boulevard directly adjacent to their property clean and cleared up”.

Amend Subsection 3(1)(c)

11. Subsection 3(1)(c) of the By-law is amended by deleting the words “clean up” and replacing them with “cleared up”.

Amend Subsection 3(1)(c)(i)

12. Subsection 3(1)(c)(i) of the By-law is amended by deleting the word “plants” and replacing it with the words “grass and weeds on the property and boulevard directly adjacent to the property,” such that the Subsection reads, “for an urban property that is equal to or less than 0.4 ha (1 acre) in area, to keep all grass and weeds on the property and on the boulevard directly adjacent to the property cut to height or equal to or less than 15 cm (6 inches) except:”

Amend Subsection 3(1)(c)(ii)

13. Subsection 3(1)(c)(ii) of the By-law is amended by deleting the word “plants” and replacing it with the words, “grass and weeds on the boulevard directly adjacent to the property and on the property,” such that the Subsection reads, “for an urban property that is greater than 0.4 ha (1 acre) in area, to keep all grass and weeds on the boulevard directly adjacent to the property and on the property within 10 m (32.8 ft) of any property line cut to a height of equal to or less than 15 cm (6 inches).”

SECTION 4 - WASTE

Amend Subsection 4(2)

14. Subsection 4(2) of the By-law is amended by deleting the number “4(2)” and replacing it with the number “4(2)(a)”

Add New Subsection 4(2)(b)

15. The By-law is amended by adding Subsection 4(2)(b) which is to read:
“No person shall use an operative or inoperative vehicle, including without limitation an operative or inoperative recreational type vehicle, for storage, including for the storage of waste.”

Add New Subsection 4(2)(c)

16. The By-law is amended by adding Subsection 4(2)(c) which is to read:
“No person shall use the yard of any property in a manner that it is unsightly to the extent that it would interfere with the reasonable use or enjoyment of abutting property or of the neighbourhood.”

Add New Subsection 4(2)(d)

17. The By-law is amended by adding Subsection 4(2)(d) which is to read:
“Every owner or occupant of a property, other than a property which is being used for residential purposes, shall keep it free of waste or debris as may be left by customers, employees, occupants or other members of the public.”

Add New Subsection 4(2)(e)

18. The By-law is amended by adding Subsection 4(2)(e) which is to read:
“No owner of vacant property or land shall allow it to be used for the dumping of waste or debris or shall fail to remove any waste or debris dumped or disposed of on their vacant property or land.”

Add New Subsection 4(2)(f)

19. The By-law is amended by adding Subsection 4(2)(f) which is to read:
“A construction site shall be kept in a condition that does not negatively impact upon the enjoyment or use of abutting properties.”

Add New Subsection 4(2)(g)

20. The By-law is amended by adding Subsection 4(2)(g) which is to read:
“Notwithstanding Subsections 4(1) and 4(2), an owner or occupant may store one (1) inoperative vehicle on a residential property in a fully enclosed building, on condition that this storage does not cause non-compliance with Zoning By-Law No 751, 1969, as amended or replaced from time to time..”

Add New Subsection 4(2)(h)

21. The By-law is amended by adding Subsection 4(2)(h) which is to read:
“Every owner or occupant of property shall cut down and remove diseased, decayed, or damaged hedges, shrubs, or trees from a yard.”

Add New Subsection 4(9)

22. The By-law is amended by adding Subsection 4(9) which is to read:
“4(9)(a) No person shall use for domestic storage:

- (i) a front yard, regardless of whether it is screened or not; or
- (ii) part of an exterior side yard abutting a municipal right-of-way that is not screened.

(b) In no case shall the area of a yard used for domestic storage exceed twenty-five percent (25%) of the total yard area in which domestic storage is permitted.”

SECTION 9 - ADMINISTRATION AND ENFORCEMENT

Amend Subsection 9(2)

23. Subsection 9(2) of the By-law is amended by deleting the number “9(2)” and replacing it with the number “9(2)(a)”

Add New Subsection 9(2)(b)

24. The By-law is amended by adding Subsection 9(2)(b) which is to read:
“Where this By-Law prohibits a person from doing something, the prohibition also includes causing, allowing or requiring that the thing be done”.

Amend Subsection 9(11)

25. Subsection 9(11) of the By-law is amended by deleting reference to Subsection "10(7)" and replacing that reference with "9(7)" such that the Subsection reads, "An order to discontinue contravening activity made under subsection 9(7) or an order to do work made under subsection 9(9) may be served."

Replace Subsection 9(12) with new Subsection 9(12)(a)

26. All of Subsection 9(12) of the By-law is repealed and replaced with Subsection "9(12)(a)" as follows:

"Where a person does not comply with a direction, order, or requirement under this By-law, including an Order to discontinue activity or perform work issued pursuant to Subsections 9(7) or 9(9), the Supervisor, or the Supervisor's delegates, agents, or contractors, may carry out such direction, order, or requirement at the person's expense."

Add New Subsection 9(12)(b)

27. The By-law is amended by adding Subsection 9(12)(b) which is to read:

"No person, owner or occupant shall hinder or obstruct the Supervisor or any of the Supervisor's authorized delegates, contractors, or agents in carrying out work pursuant to Subsection 9(12)(a)".

Repeal and replace all of Subsection 9(13)

28. All of subsection 9(13) of the By-law is repealed and replaced with the following:

"9(13) (a) In addition to and without limiting any cause of action or remedy which may be available at common law or by statute, the City may recover the costs of carrying out a direction, order, or requirement under Subsection 9(12)(a) by adding such costs to the tax roll and collecting such costs in the same manner as real property taxes, and such costs shall be subject to the same penalty and interest charges as real property taxes.

(b) Costs of carrying out a direction, order, or requirement pursuant to Subsection 9(12)(a) shall include:

(i) An administrative fee of 25% of the cost of carrying out such direction, order or requirement, subject to a minimum of \$110 and a maximum of \$475; and

(ii) a re-inspection fee of \$55 per subsequent site visit required to

inspect property at which work was done by the City pursuant to Subsection 9(12)(a).

(c) The minimum and maximum administrative fees set out in Subsection 9(13)(a)(i) shall increase annually on the dates set out below as follows:

	Minimum	Maximum
As of January 1, 2018	\$113	\$480
As of January 1, 2019	\$116	\$485
As of January 1, 2020	\$120	\$495

(d) The re-inspection fee set out in Subsection 9(13)(a)(ii) shall increase annually on the dates set out below as follows:

As of January 1, 2018: \$60

As of January 1, 2019: \$65

As of January 1, 2020: \$70

Repeal and replace all of Subsection 9(14)

29. All of Subsection 9(14) of the By-law is repealed and replaced with the following:

“9(14) (a) The Supervisor is authorized carry out a direction, order, or requirement at the expense of a property owner in accordance with Subsection 9(12)(a) without further authorization where costs of carrying out the direction, order, or requirement do not exceed \$5,000.

(b) The General Manager may authorize the Supervisor to carry out a direction, order, or requirement at the expense of a property owner in accordance with Subsection 9(12)(a) without further authorization where the costs of so carrying out the direction, order, or requirement are in excess of \$5,000 but do not exceed \$10,000.

(c) The City's Council may authorize the Supervisor to carry out any direction, order, or requirement at the expense of a property owner in accordance with Subsection 9(12)(a) the cost of which exceeds \$10,000.”

SECTION 10 - TRANSITION, REPEAL, COMING INTO FORCE, ETC.

Add New Subsection 10(1.1)

30. The By-law is amended by adding Subsection 10(1.1) after current Subsection 10(1) which is to read:

“For greater certainty, no person is exempt from compliance with the provisions of this By-Law solely because of any activity, conditions, use, habit, or practice which pre-date the coming into force of this By-law or any amendment hereto.”

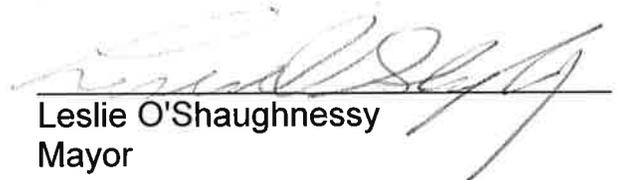
PART II. AMENDMENTS COMING INTO FORCE

31. This Amending By-law comes into force on the date of its passing, save and except sections 10, 11, 12, and 13 which shall come into force as of February 28, 2018.

Read, signed and sealed in Open Council this 26th day of June, 2017.



Manon Levesque
City Clerk



Leslie O'Shaughnessy
Mayor