

THE CORPORATION OF THE CITY OF NORTH BAY

BY-LAW NO. 2011-185

**BEING A BY-LAW TO ESTABLISH STANDARDS RESPECTING
EXTERIOR PROPERTY MAINTENANCE AND GRASS
CONTROL ON RESIDENTIAL LANDS**

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*, S.O. 2001, c.25, as amended, 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*, S.O. 2001, c.25, as amended, 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*, S.O. 2001, c.25, as amended, 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*, S.O. 2001, c.25, as amended, 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*, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws providing that any person who contravenes a by-law of the municipality passed under this Act is guilty of an offence;

AND WHEREAS Section 435 of the *Municipal Act, 2001*, S.O. 2001, c.25 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*, S.O. 2001, c.25, provides that a 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 under a by-law;

AND WHEREAS Section 446 (1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws directing or requiring that a matter or thing be done and 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. Section 446(2) provides that a municipality may enter upon land at any reasonable times for the above purpose and Section 446(3) provides that a municipality may recover the cost of doing a thing or matter required above and may recover the costs by action or by adding the costs to the tax roll and collecting them in the same manner as taxes;

AND WHEREAS the Council of The Corporation of the City of North Bay passed Resolution No. 2011-565 at its Regular Meeting on the 2nd day of August, 2011, authorizing the establishment of standards for exterior property maintenance and grass control on residential lands in the City of North Bay;

AND WHEREAS it is deemed expedient to pass this by-law;

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

PART 1 – DEFINITIONS

1. For the purposes of this By-law, the following definitions and interpretations shall govern:
 - 1) **“By-law Enforcement Coordinator”** shall mean the By-law Enforcement Coordinator of the City or a person delegated by him for the purposes of this By-law;
 - 2) **“Chief Building Official”** shall mean the Chief Building Official appointed by Council under Section 3 of the *Building Code Act*;
 - 3) **“Chief Property Standards Officer”** shall mean the Chief Property Standards Officer appointed by Council under Section 15.1 of the *Building Code Act*;
 - 4) **“City”** shall mean The Corporation of the City of North Bay;
 - 5) **“Compost”** shall mean discarded organic material commonly referred to as compost and includes leaves, grass clippings and kitchen waste;
 - 6) **“Council”** shall mean the Municipal Council of The Corporation of the City of North Bay;
 - 7) **“Clean or cleared”** shall include the removal of Debris and Refuse, 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;
 - 8) **“Debris”** shall mean the same as Domestic Waste and Refuse;
 - 9) **“Domestic Waste”** shall mean 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, 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, 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;

- 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.
- 10) **“Grass”** shall mean cultivated vegetation consisting of typically short various plants with long narrow leaves growing on lawns;
- 11) **“Inoperative Motor Vehicle”** shall mean a licensed or unlicensed vehicle having missing, damaged, deteriorated, or removed parts of, including but not limited to, wheels, motor transmissions, doors, glass or other parts or mechanical equipment necessary for its safe operation and includes a motor vehicle that is not licensed for the current year;
- 12) **“Motor Vehicle”** shall mean 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*, 1990, c.H.8 as amended;
- 13) **“Officer”** shall mean the Chief Building Official, Chief Property Standards Officer, By-Law Enforcement Coordinator a municipal law enforcement officer, and a Property Standards Officer or other person appointed or employed by the City for enforcement of by-laws;
- 14) **“Owner”** shall mean a registered owner, tenant, beneficial owner, lessee or occupant or another person having an interest in real property within the geographical boundaries of the City;
- 15) **“Perennial Gardens”** shall mean 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;
- 16) **“Refuse”** shall mean the same as Domestic Waste and Debris;
- 17) **“Residential Land”** shall include any private property, grounds, yards, driveways, areas beneath carports, areas on open decks, porches and verandahs and vacant lots designated as residential by the City’s Zoning By-law 28-80;
- 18) **“Waste Management By-law”** shall mean 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;
- 19) **“Weed”** shall mean any uncultivated, undesirable plant growing and competing with grass on lawns;
- 20) **“Zoning By-Law”** shall mean The Corporation of the City of North Bay Zoning By-Law No. 28-80 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 – GENERAL PROVISIONS AND ADMINISTRATIVE MATTERS

2.1 Administration of the By-law:

This By-law shall be administrated by an Officer.

2.2 Application of By-law:

This By-law shall apply to each Owner within the geographic boundaries of The City.

PART 3 – CLEAN AND CLEAR RESIDENTIAL LANDS

3.1 Domestic Waste:

Every Owner shall ensure that their Residential Lands are kept free of Domestic Waste at all times.

3.2 Grass and Weeds:

Every owner shall ensure that Grass and Weeds are trimmed or cut to a height of 20 centimeters (8 inches) or less at all times on Residential Lands.

Provisions relating to the trimming of Grass and Weeds above do not apply to Perennial Gardens as defined.

3.3 Inoperative Motor Vehicles:

3.3.1 Storing of Inoperative Motor Vehicles:

An Owner shall not keep an Inoperative Motor Vehicle or parts thereof upon their Residential Land. Vehicles lacking current valid licence plates shall be parked or stored only within a private garage or other building and in accordance with the Zoning By-law.

3.3.2 Motor Vehicle Salvage Prohibited:

An Owner shall not use any Residential Land in the City for storing an Inoperative Motor Vehicle for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal including for purposes of repairing other vehicles except in accordance with the Zoning By-law.

3.3.3 Exceptions:

Articles 3.3.1 and 3.3.2 of Part 3 do not apply if the Zoning By-law permits the Land to be so used and the Owner holds a current and valid licence issued by the City for the Residential Land, permitting motor vehicle salvage or storage. Articles 3.3.1 and 3.3.2 of Part 3 do 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 Protection Act*, S.O. 1998, c.1, as amended.

3.4 Large Appliance Safety:

3.4.1 Large Appliances – Remove or Secure Door:

If a refrigerator, freezer, stove, washer, dryer or any other large appliance is Domestic Waste and has been set out on Residential Land pending 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.

PART 4 – ENFORCEMENT AND PENALTIES

4.1 Right to Enforce By-law:

An officer is authorized to enforce this by-law pursuant to the provisions hereof, the *Municipal Act, 2001*, S.O., c.25, Section 9, as amended or any successor

thereof, and the *Provincial Offences Act*, R.S.O. 1990 c. P. 33, as amended or any successor thereof.

4.2 Entry onto Land to Inspect:

Pursuant to section 436 of the *Municipal Act, 2001*, an Officer may enter onto Residential Land at any reasonable time for the purpose of carrying out an inspection to determine whether or not:

- a) this by-law is being complied with;
- b) a direction or order of the City made pursuant to the *Municipal Act, 2001* or any successor thereof or made pursuant to a by-law of the City is being complied with; or
- c) an order made pursuant to Section 431 of the *Municipal Act, 2001* which prohibits the continuation of repetition of an offence is being complied with.

4.3. Non-Obstruction of city employee or agent:

Pursuant to section 426 (1) of the *Municipal Act 2001*, no Owner or person shall hinder or obstruct an Officer employed to enforce this by-law from carrying out an inspection of Residential Land nor shall any Owner or person obstruct any employee or agent authorized by the City to carry out any work under authority of this by-law.

4.4 Entry to remedy:

Pursuant to section 446(1) and 446(2) of the *Municipal Act 2001*, where the City proceeds with action under this By-law, an Officer appointed by the City may enter onto the Residential Land accompanied by any person(s) under his or her direction and with the appropriate equipment as required to bring the Residential Land into compliance with this by-law.

4.5 Offence:

An owner who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine, penalty or order as provided for in the *Provincial Offences Act*, R.S.O. 1990. c.25, Section 426(a) as amended or any successor thereof.

4.6 Non-Compliance with Direction or Order:

Pursuant to section 446(1) and (2) of the *Municipal Act 2001*, if an Owner fails to comply with an Officer's direction or order within five (5) days, the City;

- a) without further notice to the Owner shall have the right to remedy the contraventions at the Owner's expense and for this purpose the City with its servants and agents from time to time, to enter in and upon the Residential Land;
- b) shall not be liable to compensate the Owner of the Residential Land by reason of anything done by or on behalf of the City; and
- c) the matter or thing shall be done at the Owner's expense.

4.7 Recovery of Expenses:

4.7.1 Pursuant to section 446(3) of the *Municipal Act 2001*, if the City takes action under Section 4.6(a) hereof to correct the contraventions, the costs of such action may be added to the tax roll and collected in the same manner as municipal property taxes.

4.7.2 If the City undertakes the work to correct the contraventions, the Owner will be charged 100% of the cost of the necessary work, plus an administrative cost in the amount of 25% of the cost of doing the work.

PART 5 – SEVERABILITY

5.1 Where a court of competent jurisdiction declares any section or part of a section of this by-law invalid, the remainder of this by-law shall continue in force unless the court makes an order to the contrary.

PART 6 – MISCELLANEOUS

6.1 This By-law may be referred to as the “Clean Yard By-law”.

6.2 If there is a provision in this By-law and a provision of any other City by-law, the provision that establishes the higher standard shall apply.

READ A FIRST TIME IN OPEN COUNCIL THIS 15TH DAY OF AUGUST, 2011.

READ A SECOND TIME IN OPEN COUNCIL THIS 15TH DAY OF AUGUST, 2011.

READ A THIRD TIME IN OPEN COUNCIL AND ENACTED AND PASSED THIS 15TH DAY OF AUGUST, 2011.

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MAYOR ALLAN McDONALD

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CITY CLERK CATHERINE CONRAD