

# The Corporation of the Town of Aurora

## By-law Number 6257-20

### Being a By-law to require owners and occupiers of land to clean, clear, and maintain private land and right of ways in the Town of Aurora.

**Whereas** Section 11(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "Municipal Act"), provides that a local municipality may pass by-laws regulating highways under its jurisdiction;

**And whereas** Section 127 of the *Municipal Act, 2001*, provides that a local municipality may require the owner and occupants of land to clean and clear the land or to clear refuse and debris from the land, not including buildings;

**And whereas** Section 128 of the *Municipal Act, 2001*, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters which in the opinion of its council are or could become or cause public nuisance;

**Now therefore the Council of The Corporation of the Town of Aurora hereby enacts as follows:**

#### 1. Definitions

1.1 In this by-law, the following words have the following meanings:

- (a) "**adjacent boulevard**" means the boulevard immediately adjacent to the front yard and/or side yard of a property;
- (b) "**agricultural purposes**" means land designated for agricultural uses under the Zoning By-Law;
- (c) "**boulevard**" means that part of a highway (whether assumed or unassumed by the Town) between the adjacent property line and the edge of the curb, or where there is no curb, that portion of the highway which is travelled or designed to be travelled by vehicles, which may or may not contain a sidewalk;
- (d) "**Clerk**" means the Town Clerk of the Town as appointed by by-law;
- (e) "**Conservation Authority**" means a conservation authority established under the *Conservation Authorities Act*, R.S.O. 1990, c. C.27;
- (f) "**fixture**" means any structure or other fixture affixed or placed on land or a building, including utility boxes, newspaper vending boxes, bench, transit shelters, telephone box, transformer box or vault, hydro pole, streetlight, stoplight poles, and street signs;
- (g) "**graffiti**" means one or more letter, symbol, number, etching, inscription, pictorial representation, or other marking that disfigures or defaces a fixture, howsoever made or otherwise affixed to a fixture;
- (h) "**highway**" means a common and public highway that constitutes a highway under Section 26 of the *Municipal Act*, whether assumed or unassumed, and includes a bridge, trestle, viaduct, or other structure forming part of the highway, and includes a portion of a highway;

- (i) **"injure"** means any action which may cause physical, biological, or chemical damage;
- (j) **"inoperable motor vehicle"** means a vehicle:
  - (i) that is in a wrecked, dismantled, partially dismantled or abandoned in a condition such that would hinder safe and immediate operation; or
  - (ii) a motor vehicles that does not have a current and valid license plates attached, unless such vehicle is covered by a fitted vehicle cover and maintained in a good condition;
- (k) **"Manager"** means the Manager of By-law Services for the Town;
- (l) **"Municipal Act"** means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended or successor thereto;
- (m) **"Municipal Law Enforcement Officer"** means a person appointed by the Town as a Municipal Law Enforcement Officer;
- (n) **"municipal property"** means any land owned or occupied by the Town;
- (o) **"naturalized property"** means:
  - (i) land that is owned or occupied by the Town of Aurora, Regional Municipality of York, the Provincial or Federal Governments, or a Conservation Authority that is left in a naturalized condition for the purpose of recreation or to protect the surrounding environment,
  - (ii) any woodland or woodlot as defined in the Town's Private Tree Protection By-law or Forest Conservation Bylaw of the Regional Municipality of York, all as amended or successor thereof, or
  - (iii) land which too steep or too dangerous to maintain, as determined by the Manager or a Municipal Law Enforcement Officer;
- (p) **"owner"** means all registered owners of a property and also includes:
  - (i) the owner in trust,
  - (ii) a mortgagee in possession,
  - (iii) any person that is managing the property or is responsible for managing the property,
  - (iv) any person who collects rent on the property or is responsible for collecting rent on the property, and
  - (v) any lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for maintenance and occupancy of the property;
- (q) **"person"** includes a natural individual and their heirs, executors, administrators or other legally appointed representatives, a corporation, partnership or other form of business association;

- (r) **“property”** means any grounds, yard, parking lot, vacant land or other parcel of land, including public lands and highways, but not including buildings;
- (s) **“Public Authority”** means any commission, committee, school board, department or agency of the Government of Canada, Province of Ontario, The Regional Municipality of York or the Town;
- (t) **“refuse”** means any article, thing, matter or effluent that has been discarded by any person or that is no longer in use or reasonably intended to be used by any person having ownership or control over such object or material and includes but is not limited to the following: grass clippings, tree cuttings, brush, tree branches, leaves, garden refuse, earth and fill, paper, cardboard, clothing, kitchen and table waste, animal or organic waste, cans, glass, plastic containers, dishes, refrigerators, freezers, stoves, clothes washers, dryers, dishwashers, microwaves or other appliances, disused furniture, furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks, fencing materials, piping, tubing, conduits or cable, container of any size, type or composition, rubble, broken concrete, bricks, broken asphalt, patio or sidewalk slabs, mechanical equipment, mechanical parts, accessories to mechanical equipment, paper products, lumber or wood products, chemical products, bones, feathers, hides, material resulting from or as part of construction or demolition projects, inoperable motor vehicles, vehicle parts and accessories, vehicle tires either mounted or unmounted on rims;
- (u) **“sidewalk”** means any municipal or regional sidewalk located on a boulevard;
- (v) **“Town”** means The Corporation of The Town of Aurora and/or the geographical limits of the Town of Aurora, depending on the context of the provision in which the term appears;
- (w) **“Utility Company”** means a company which supplies water, electrical, gas, cable, internet or telephone services to a property;
- (x) **“Zoning By-law”** means The Zoning By-law of the Town of Aurora, as amended or successor thereof.

## 2. Interpretation and Application of this By-law

- 2.1 This by-law shall be known and may be cited as the “Clean Communities By-Law”.
- 2.2 The provisions of this by-law shall apply to all lands and premises within the Town of Aurora.
- 2.3 Notwithstanding the above, this by-law does not apply to activities or matters undertaken by a Public Authority or to land owned by the Government of Canada.
- 2.4 Unless otherwise specified, references in this by-law to parts, sections, subsections, clauses and schedules are references to parts, sections, subsections clauses, and schedules in this by-law.

- 2.5 The part and section headings contained throughout this document are for reference purposes only and do not form a part of this by-law. This by-law is to be interpreted without reference to such headings.
- 2.6 References in this by-law to any statute or statutory provisions include references to that statute or statutory provision as it may from time to time be amended, extended, or re-enacted.
- 2.7 This by-law shall be read with all changes in gender or number as the context requires.
- 2.8 References in this by-law to items in the plural include the singular, and references to the singular include the plural, as applicable.
- 2.9 The words "include", "includes", "including" are not to be read or interpreted as limiting the words, phrases, or descriptions that precede it.
- 2.10 If a court of competent jurisdiction declares any section, or any part of any section of this by-law to be invalid or to be of no force in effect, it is the intention of the Town that every other provision of this by-law be applied and enforced in accordance with its terms to the extent possible according to law.
- 2.11 This by-law and the provisions contained within are intended to be complementary to other by-laws passed by Council and in the event that any other applicable law requires a higher standard than the provisions contained in this by-law, the higher standard shall apply.

**3. Property and Boulevard Maintenance**

- 3.1 Every owner of a property shall keep their property free of any excavations, trenches, ditches or depressions that present, or could present, an unsafe condition.
- 3.2 Every owner of a property shall keep their property free of any:
  - (a) excavation, trench, ditch or depression that is capable of holding standing water for more than three (3) days; and
  - (b) refuse of any kind that is capable of holding standing water.
- 3.3 Every owner of a property shall keep their property free of grass or weeds exceeding (20) centimeters in height, except for:
  - (a) properties that are used for agricultural purposes; and
  - (b) naturalized properties.
- 3.4 Every owner of a property that is located in a Residential, Commercial, Employment or Promenade Zone, pursuant to the Zoning By-law, shall keep the boulevard that is adjacent to their property free of grass or weeds exceeding (20) centimeters in height.
- 3.5 No person shall throw, place or deposit any refuse on any property, except for:
  - (a) refuse thrown, placed or deposited inside of an enclosed building, an enclosed structure or a receptacle designed for that purpose;

- (b) refuse that is set out for collection in compliance with the Waste Collection By-law;
- (c) refuse that is required or used for a lawful business purpose that is in accordance with the Zoning By-law and any other applicable legislation; or
- (d) refuse that is temporarily set aside or placed as part of an ongoing construction or demolition process, provided:
  - (i) such refuse is confined to the immediate vicinity of the construction or demolition activity,
  - (ii) such refuse if confined to the property that is subject to such construction or demolition activity, and
  - (iii) such construction or demolition process is in compliance with any applicable law.

3.6 Every owner of a property shall keep their property free of refuse, except for:

- (a) refuse that is set out for collection in compliance with the Waste Collection By-law; and
- (b) refuse that is required or used for a lawful business purpose that is in accordance with the Zoning By-law and any other applicable legislation.

3.7 Every owner of a property shall keep the boulevard that is adjacent to their property free of refuse, except for:

- (a) refuse that is set out for collection in compliance with the Waste Collection By-law; and
- (b) refuse that is required or used for a lawful business purpose that is in accordance with the Zoning By-law and any other applicable legislation.

3.8 Every owner of a property or a building shall keep free of graffiti any parts of the property or the building that are:

- (a) common elements,
- (b) common access corridors and passageways,
- (c) visible from any areas to which the public has access,
- (d) areas that are owned by multiple unrelated persons,
- (e) and areas to which the public has access.

For clarity, the requirements under this section do not apply to any parts of a building that are the inside of a residential dwelling.

3.9 Every person that owns a fixture, wall, fence, pole or other structure on a highway or other public space, shall keep such wall, fence, pole or other structure free of graffiti.

3.10 No person shall place, or cause to be placed, or permit to be placed graffiti on any property, fixture or structure.

- 3.11 No person shall injure or destroy a hedge, shrub, flower or tree planted by the Town on a boulevard or on other municipal property.
- 3.12 No person shall defecate or urinate in public on any property or in or on a public place.
- 3.13 Notwithstanding, nothing in this section 3 shall be deemed as prohibiting, preventing or limiting the placement, repair or maintenance of structures, electrical wiring, piping, drainage or plumbing that is conducted by a Utility Company pursuant to an approval from or agreement with the Town or otherwise pursuant to legislative authority.

**4. Administration and Enforcement**

- 4.1 The Manager shall be responsible and is delegated the power to administer and enforce this by-law, including prescribing the content of any forms or other documents required under this by-law from time to time.
- 4.2 The Manager and Municipal Law Enforcement Officers of the Town are hereby delegated the authority to enforce this by-law, including the authority to conduct inspections pursuant to this by-law, the Municipal Act, as amended, and any other enacted applicable by-law or legislation.
- 4.3 The Manager is authorized to delegate responsibilities for the administration and enforcement of this by-law to any Town staff or external third parties deemed to be qualified and appropriate by the Manager for such purposes.

**5. Power of Entry, Inspection, Prohibitions**

- 5.1 A Municipal Law Enforcement Officer, or any other individual authorized to enforce this by-law on behalf of the Town, may at any reasonable time enter upon any land for the purpose of carrying out an inspection to determine whether the following are being complied with
  - (a) this by-law;
  - (b) any direction or order under this by-law; or
  - (c) an order issued under section 431 of the Municipal Act.
- 5.2 Where an inspection is conducted pursuant to this section, a Municipal Law Enforcement Officer or any other individual authorized to enforce this by-law on behalf of the Town, 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 and extracts;
  - (c) require information from any person concerning a matter related to the inspection; and
  - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.

- 5.3 No person shall hinder or obstruct or attempt to hinder or obstruct the Town, its employees, officers or agents from carrying out any powers or duties under this by-law.
- 5.4 No person shall contravene any order or direction issued by the Town pursuant to this by-law or the Municipal Act.
- 5.5 Where a Municipal Law Enforcement Officer, or an individual authorized to enforce this by-law, has reasonable grounds to believe that an offence has been committed by any person, they may require the name, address and proof of identity of that person, and the person shall supply the required information.
- 5.6 No person shall decline or neglect to give, produce or deliver any access, information, document or other thing that is requested by the Town pursuant to this by-law.
- 5.7 No person shall knowingly make, participate in, assent to or acquiesce in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this by-law.

**6. Orders**

- 6.1 Where the Manager or any Municipal Law Enforcement Officer is satisfied that a contravention of this by-law has occurred, such Manager or Municipal Law Enforcement Officer may make an order requiring that the person who caused or permitted such contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity and/or to do work to correct the contravention.
- 6.2 An order pursuant to this section shall set out the following:
  - (a) the municipal address and/or the legal description of the land or premises on which the contravention occurred;
  - (b) reasonable particulars of the contravention;
  - (c) what is required of the person subject to the order;
  - (d) the date by which there must be compliance with the order and/or, if any work is ordered, the date by which any such work must be done;
  - (e) if any work is required to be done, a statement that if such work is not done in compliance with the order and within a specified time period, the Town will have the work done at the expense of the person directed or required to do it; and
  - (f) information regarding the Town's contact person.
- 6.3 An order pursuant to this section shall be deemed to have been received upon:
  - (a) personal service of the order to the person being served;
  - (b) the day after posting a copy of the order on the land on which the contravention took place; or

- (c) the fifth (5<sup>th</sup>) day after the order is sent by registered mail to the last known address of the owner of the land on which the contravention took place or the last known address of any other person in contravention of this by-law.

## 7. Remedial Action and Cost Recovery

- 7.1 Wherever this by-law or an order issued under this by-law directs or requires any matter or thing to be done by any person within a specified time period, in default of it being done by the person directed or required to do it, the action may be taken under the direction of the Manager or a Municipal Law Enforcement Officer at that person's expense and the Town may recover the costs incurred through a legal action or by recovering the costs in the same manner as taxes.
- 7.2 For the purposes of taking remedial action under this section, the Town, its staff and/or its agents may enter, at any reasonable time, upon any lands on which a default to carry out a required thing or matter occurred.

## 8. Offence and Fines

- 8.1 Every person who contravenes any provision of this by-law, including an order issued under this by-law, is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.
- 8.2 If a corporation has contravened a provision of this by-law, including an order issued under this by-law, every director and officer who knowingly concurred in such a contravention is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.
- 8.3 Pursuant to subsection 429(2) of the Municipal Act, all contraventions of this by-law or orders issued under this by-law are designated as multiple offences and continuing offences. If a contravention of any provision of this by-law has not been corrected, or an order issued under this by-law has not been complied with, the contravention of such a provision or an order shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected or an order not complied with. A multiple offence is an offence in respect of two (2) or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this by-law.
- 8.4 In addition to fines under this section, a person convicted of an offence under this by-law may be liable to a special fine in the amount of the economic advantage or gain that such a person obtained from the contravention of this by-law.

## 9. Presumption

- 9.1 An owner of a property on which a contravention has occurred shall be presumed to have carried out or caused or permitted to be carried out the contravention, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

## 10. Repeal of By-laws and Enactment

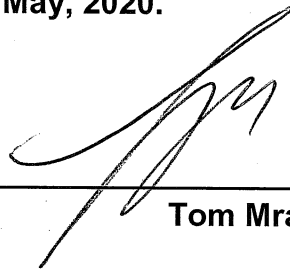
- 10.1 Any by-law which was in effect in the Town on the date of passage of this by-law which covers the same subject matter as this by-law shall remain in effect only



for the purposes of the completion of any procedure that was commenced under that by-law.

10.2 By-law Number 4738-05, as amended, and By-law Number 4754-05.P, as amended, be and are hereby repealed.

**Enacted by Town of Aurora Council this 26<sup>th</sup> day of May, 2020.**



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**Tom Mrakas, Mayor**



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**Michael de Rond, Town Clerk**