

The Corporation of the City of Port Colborne

By-law _____

Being a By-law to provide for the maintenance
of property and land (Lot Maintenance By-law)
and to repeal By-law 6574/29/18

Whereas Section 11 of the *Municipal Act, S.O. 2001, C.25*, as amended, provides that a lower-tier municipality may pass by-laws respecting matters within the spheres of jurisdiction set out therein;

Whereas Section 127 of the *Municipal Act, 2001, S.O. 2001, C.25*, provides, inter alia, 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;

Whereas Section 128 of the *Municipal Act, 2001, S.O. 2001, C.25*, 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 it is the opinion of Council that the failure to clear refuse and debris from land is a public nuisance;

Whereas Section 446(1) of the *Municipal Act, 2001, S.O. 2001, C.25*, provides that a municipality may direct or require a person to clear land of refuse, and the municipality may also provide that, in default of it being done by the person directed or required to do it, the clearing of land shall be done at the person’s expense; and

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

PART 1	DEFINITIONS
PART 2	INTERPRETATION AND GENERAL PROVISIONS
PART 3	PROHIBITIONS
PART 4	EXEMPTIONS
PART 5	ORDERS AND ENFORCEMENT
PART 6	OFFENCES AND PENALTIES
PART 7	ENACTMENT

PART 1 – DEFINITIONS

1. In this by-law:
- “Agricultural Purposes” shall mean Land used for cultivating soil, producing crops and for the raising of livestock as an “agricultural operation” as defined in the *Farming and Food Production Protection Act, 1998, S.O. 1999, c. 1*, but does not include any portion of Land used as a woodlot.
- “Approved Structure” shall mean a Fully Enclosed Structure, or a Partially Enclosed Structure as defined in this By-law.
- “Border” shall mean the Cleared Land between the side and/or rear property line and a naturalized area or Wildflower meadow.
- “Buffer Strip” shall mean a Border of a minimum of 0.9 m w that delineates a Wildflower meadow or naturalized area.
- “Building Material” shall mean material stacked in good condition, which is used, or intended to be used, for construction purposes.
- “City” means The Corporation of the City of Port Colborne.

“Cleared” includes the removal of weeds or grass more than 15 centimetres (6 inches) in height 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 and includes where on any property there is a swimming pool which is a health or safety hazard, or is malodorous or is a breeding place for mosquitoes, the draining, the treatment and/or the disposing of the water.

“Domestic Waste” shall mean any article, thing, matter, or effluent belonging to or associated with a residence, household or dwelling unit and includes but is not limited to the following classes of waste material:

- (a) grass clippings, tree cuttings, brush, leaves and garden refuse;
- (b) paper, cardboard, clothing;
- (c) all kitchen and table waste, of animal or vegetable origin resulting from the preparation or consumption of food except any material of vegetable origin placed in a composing container;
- (d) can, glass, plastic container, dishes;
- (e) new or used material resulting from or for the purpose of construction, alteration, repair or demolition of any building or structure;
- (f) refrigerators, freezers, stoves or other appliances and furniture;
- (g) furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks;
- (h) Unlicensed Motor Vehicle, Inoperative Motor Vehicle, parts and accessories, vehicle tires mounted or unmounted on rims, mechanical equipment;
- (i) Rubble, inert fill, fencing materials;
- (j) Indoor Furniture;
- (k) inoperative - machinery, trailers, or boats;
- (l) Dog, cat and domestic animal excrement;
- (m) Liquids (including motor oil and gaseous waste).

“Enforcement Officer” shall mean a Municipal Law Enforcement Officer of the City of Port Colborne, Building Inspector, Fire Prevention Officer, Health Inspector, or Weed Inspector appointed under the *Weed Act* R.S.O. c.W.5. or other person appointed or employed by the *City* of Port Colborne for the enforcement of by-laws.

“Fully Enclosed Structure” means a structure with a roof and four (4) walls and is capable of enclosing and securing items within.

“Hobby Vehicle” means a vehicle that is actively being repaired or restored as a hobby of the owner/occupant of the property, a stock/race car, or vehicle that by its special nature is not routinely used or licensed but is intended to show or display on occasion but does not include vehicles used for parts.

“Improved Parking Surface” means a ground surface covered or paved with stone, concrete, asphalt, brick, interlocking pavers, or similar material.

“Indoor Furniture” means and includes any furniture intended for and made of such material that would require the furniture be sheltered from the natural elements such as rain and snow and shall include, but not limited to items such as couches, sofas, love seats, fabric covered chairs and mattresses.

“Industrial Waste” shall mean any article, thing, matter, or effluent belonging to or

associated with industry or commerce or concerning or relating to manufacture or concerning or relating to any trade, business, calling or occupation that appears to be waste material and includes but is not limited to the following classes of waste material:

- (a) piping, tubing, conduits, cable, fittings or other accessories, or adjuncts to the piping, tubing, conduits or cable;
- (b) container of any size, type or composition;
- (c) Rubble, insert fill;
- (d) mechanical equipment, mechanical parts, accessories or adjuncts to mechanical equipment;
- (e) articles, things, matter, effluent which is whole or in part or fragments thereof are derived from or are constituted from or consist of:
- (f) agricultural, animal, vegetable, paper, lumber or wood products; or
- (i) mineral, metal or chemical products; whether or not the products are manufactured or otherwise processed;
- (ii) bones, feathers, hides;
- (g) paper or cardboard packaging or wrapping;
- (h) material resulting from, or as part of, construction or demolition projects.
- (i) Unlicensed Motor Vehicle, Inoperative Motor Vehicle, vehicle parts and accessories, vehicle tires mounted or unmounted on rims, mechanical equipment;
- (j) Inoperative - machinery, trailers, or boats.

“Inoperative Motor Vehicle” shall mean a licensed or Unlicensed vehicle, having missing, damaged, deteriorated or removed parts including, but not limited to: wheels, motor transmission, doors, glass or other parts or mechanical equipment necessary for its safe operation.

“Invasive” means an Invasive plant designated by or under the *Invasive Species Act*, S.O. 2001, c. 22, including any weed designated as a local or noxious weed under a By-law.

“Land” includes yards, vacant lots or any part of a lot, which is not beneath a building and for the purpose of this By-law, includes an area within an unapproved Structure.

“Last Known Municipal Address” means the address which appears on the last revised assessment roll of the Corporation of The City of Port Colborne.

“Last Known Email Address” means the email address which has been provided to Corporation of the City of Port Colborne.

“Manager” means the City’s Manager of By-law Services

“Naturalized Area” means a portion of a lot where a lawn or perennial garden previously maintained by the owner which has been allowed to re-establish a reproducing population of native species, through a combination of natural regeneration and deliberate plantings of native species or other species to emulate a natural area.

“Owner” means a registered owner, but also includes lessee, occupant or tenant of the Land, or any other person in charge of or in control of the premises.

“Partially Enclosed Structure” means a structure with a roof and a minimum of two (2) walls and is capable of sheltering items under the structure and such shelter will deter the items from deteriorating from the elements of the weather.

“Penalty Notice” means a notice issued pursuant to the provisions of the Administrative (Non-Parking) Penalty By-law, as amended.

“Perennial Gardens” means an area deliberately implemented to produce ground cover, including Wildflowers, shrubs, perennials, ornamental grasses, or combinations of them, but does not include a Wildflower meadow or a Naturalized Area.

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

“Pests” means rodents, vermin, or insects.

“Remedial Work” means all work necessary for the correction or elimination of a contravention of this By-law as cited in any order issued under this By-law, including any such condition or health hazard, actual or potential, that the contravention may pose.

“Refuse” means any article, thing, matter, substance or effluent that: has been cast aside, discharged or abandoned or; is discarded from its usual and intended use or; is used up, in whole or in part, or expended or worn out in whole or in part; and shall include Domestic Waste and Industrial Waste; and that Domestic Waste and/or Industrial Waste does not cease to be refuse by reason that it may be commercially saleable or recyclable.

“Rubble” includes broken concrete, bricks, broken asphalt, patio, or Sidewalk slabs.

“Standing Water” means any water, other than a natural body of water that exists on a permanent basis, that is found either on the ground or in or on Refuse or debris as defined in this by-law, but shall not include any of the following maintained in good repair:

- (a) Swimming pool;
- (b) Hot tub;
- (c) Water feature; or
- (d) Artificial pond

“Unlicensed” shall mean the lack of a currently validated permit for the motor vehicle within the meaning of the *Highway Traffic Act*.

“Wildflower” meadow means a specialized habitat within a Naturalized Area, which is dominated by native species of flowers and grasses. The area would require periodic mowing (once or twice per year) to prevent the growth and establishment of woody shrubs and trees.

PART 2 – INTERPRETATION AND GENERAL PROVISIONS

- 2.1 This by-law shall be administered and enforced by the Manager or their designate.
- 2.2 This by-law applies to all lands within the City of Port Colborne.
- 2.3 Every Owner shall keep their Land filled up and drained.
- 2.4 Every Owner shall fill in any excavation on the Land unless it is enclosed

completely by a temporary barrier at least 122 centimetres (48 inches) in height.

- 2.5 Every Owner shall drain Land of Standing Water that exceed 30 centimetres (12 inches) in depth unless it is completely enclosed by a temporary barrier of at least 122 centimetres (48 inches) in height or such water constitutes a storm water management pond approved by the City.
- 2.6 Every Owner shall keep their Land cleaned, Cleared and free of Refuse.
- 2.7 No Person shall throw, place, dump, or deposit domestic or Industrial Waste on private property or City property without lawful authority.
- 2.8 Every Owner shall keep or maintain the water in a swimming pool in a condition which is not:
 - 2.8.1 a health or safety hazard;
 - 2.8.2 malodorous; or
 - 2.8.3 a breeding place for mosquitoes.
- 2.9 Every Owner shall keep or maintain the water in a hot tub, water feature or artificial pond in in a condition which is not a health or safety hazard, or is malodorous, or is a breeding place for mosquitoes.
- 2.10 Every Owner shall remove Refuse from their Land, when ordered to do so.
- 2.11 Every Owner shall ensure that all Refuse which accumulated on their property and when not placed out for collection is:
 - 2.11.1 in containers:
 - 2.11.1.1 made of rigid, watertight construction;
 - 2.11.1.2 provided with a tight-fitting cover, which may be removed only when the container is empty or is being actively loaded;
 - 2.11.1.3 maintained in good condition without holes or spillage;
 - 2.11.1.4 closed, or emptied, rinsed and cleaned when not in use, to prevent the escape of offensive odour or waste; and
 - 2.11.1.5 located in the side or rear yard against a building, structure, fence or retaining wall and arranged in an orderly manner; and
 - 2.11.2 Not permitted to accumulate longer than 14 days.
- 2.12 The grasses and weeds season shall commence May 1st until October 31st or first frost, whichever shall occur first, inclusive, annually. Noxious Weeds and Invasive Species shall commence June 1 until October 31st or first frost, whichever shall occur first, inclusive, annually.
- 2.13 Every Owner shall ensure that no more than two (2) Hobby Vehicles are kept, stored, or placed on Land, outside of a Building.
- 2.14 Firewood on Land must only be used for wood burning on same such Land.
- 2.15 Firewood shall be kept, stored, or placed in a rear or side yard provided the following provisions are met:
 - 2.15.1 The firewood is used for wood burning on the Land or in the Dwelling;
 - 2.15.2 The firewood shall be neatly piled in the side yard or rear yard, does not exceed more than 6ft in height and shall have a minimum setback back of

0.6 meter (2 ft); and

2.15.3 The firewood shall not be piled along a fence which might facilitate climbing where a Pool is located on an adjacent Property.

PART 3 – PROHIBITIONS

- 3.1 No Person shall have or permit Refuse on their Land in contravention to this by-law.
- 3.2 No Person shall fail to enclose an excavation with a temporary barrier at least 122 centimetres (48 inches) in height.
- 3.3 No Person shall fail to drain Standing Water exceeding 30 centimetres (12 inches) in depth.
- 3.4 No Person shall deposit Refuse on private property without lawful authority.
- 3.5 No Person shall deposit Refuse on the City's property without lawful authority.
- 3.6 No Person shall fail to contain Refuse or locate Refuse containers in accordance with the provisions of this by-law.
- 3.7 No Person shall fail to keep or maintain the water in a swimming pool in accordance with the provisions of this by-law.
- 3.8 No Person shall fail to keep or maintain the water in a hot tub, water feature or artificial pond in accordance with the provisions of this by-law.
- 3.9 No Person shall fail to remove Refuse from their Land, when required to do so by the City.
- 3.10 No Person shall fail to clear a Buffer Strip.
- 3.11 No Person shall fail to clear the grasses and weeds from Land in excess of 15cm (6 inches) when notice given within the grasses and weed season.
- 3.12 No Person shall fail to clear/spray for poison ivy, poison oak when notice given within the grasses and weed season.
- 3.13 In the event that the circumstances described in section 2.4, 2.5, 2.8 or 2.9 are deemed to be unsafe by an Enforcement Officer, section 3.14 applies.
- 3.14 In circumstances of section 3.13, an Enforcement Officer is specifically authorized to take immediate steps, or to cause immediate steps to be taken, to eliminate the danger associated with an unsafe open excavation and the unsafe Standing Water.
- 3.15 The authorization provided by section 3.14 of this by-law is limited only to such steps as are required to remove the danger.
- 3.16 No Person shall obstruct, hinder or in any way interfere with any Enforcement Officer in the enforcement of the provisions of this by-law.
- 3.17 No Person shall contravene a Work Order or a requirement to discontinue any activity.
- 3.18 No Person shall park, store, or house a vehicle, boat trailer, recreation vehicle or other conveyance on an area which has not been properly surfaced with an Improved Parking Surface.
- 3.19 No Person shall store any items in a Partially Enclosed Structure that may deteriorate due to the elements of the weather or may create an environment for

Pests to gather or nest.

- 3.20 The removal of Refuse pursuant to this By-law shall not create or cause pest issues, hoarding or any other condition that may create life safety concerns as determined by the Enforcement Officer.
- 3.21 Removal of Refuse shall either be stored in an Approved Structure or taken to an approved landfill.
- 3.22 No Person shall fail to comply with the Firewood provisions as stated in this By-law.
- 3.23 No Person shall fail to comply with the grasses and weed provisions as stated in this By-law.

PART 4 – EXEMPTIONS

- 4.1 Section 2.3 of this by-law does not apply to Land on which construction is lawfully proceeding.
- 4.2 Section 2.5 of this by-law does not apply to natural bodies of water or lawfully maintained swimming pools.
- 4.3 Sections 2.5, 2.6 and 2.9 of this by-law shall not apply to Land which is lawfully used for outdoor storage of materials in compliance with the applicable Zoning and Licensing By-laws and regulations.
- 4.4 Sections 2.5 and 2.6 of this by-law shall not apply to Land or structures designated by or operated by the Region of Niagara for the purpose of dumping or disposing domestic or Industrial Waste.
- 4.5 Sections 2.6 of this by-law shall not apply to Hobby Vehicles, provided that the Owner is actively engaged in repair or operations which shall last no longer than 2 (two) years.
- 4.6 This by-law does not apply to any Lands zoned as Environmental Protection or Lands used for Agricultural Purposes as defined in the City's Zoning By-law.
- 4.7 This by-law does not apply to any Lands owned by the following corporations:
 - 4.7.1 The Corporation of the City of Port Colborne
 - 4.7.2 The Region of Niagara
 - 4.7.3 The Saint Lawrence Management Corporation
- 4.8 This by-law does not apply to Perennial Gardens, provided that the Perennial Gardens are managed in accordance with the *Weed Control Act* and provided that there is no waste.
- 4.9 This by-law does not apply to a Wildflower meadow or a Naturalized Area provided that those areas are managed in accordance with the *Weed Control Act*, provided that there is no waste and provided that they do not encroach within the Buffer Strip,
- 4.10 Section 2.11 of this by-law does not apply to Land undergoing active construction under a valid building permit, or where a building is undergoing an active renovation, or where an approval under the Site Plan Control By-law has been obtained that includes containment and location of garbage.
- 4.11 Notwithstanding any other provision of this By-law, no Person shall store Building Materials on Land for more than six (6) months without an active building permit.

PART 5 – ORDERS AND ENFORCEMENT

- 5.1 An Enforcement Officer may at all reasonable times, enter onto and inspect Land for the purposes of determining whether or not there is compliance or non-compliance with any provision of this By-law or an Order issued hereunder.
- 5.2 If the Enforcement Officer is satisfied that a contravention of the by-law has occurred, the officer may make an order, known as a Work Order requiring the Person who contravened the By-law or who caused or permitted the contravention or the Owner or occupier of the Land on which the contravention occurred to do the Remedial Work to correct the contravention.
- 5.3 The Work Order shall set out:
 - 5.3.1 the municipal address or the legal description of the Land;
 - 5.3.2 reasonable particulars of the contravention and of the work to be done;
 - 5.3.3 a deadline, being a specific date for compliance with the Work Order; and
 - 5.3.4 a notice that if the work is not done in compliance with the Work Order by the deadline, the municipality may have the work done at the expense of the Owner and the cost of the work may be recovered by adding the amount to the Owner's tax roll.
- 5.4 The Work Order may be delivered by any one or more of the following methods:
 - 5.4.1 Personal delivery to the Person to whom it is addressed;
 - 5.4.2 personal or couriered delivery to either an adult Person, or to the mailbox, of the residential address of the addressee;
 - 5.4.3 delivery by registered or certified mail;
 - 5.4.4 delivery by facsimile transmission; or electronic mail (e-mail)
 - 5.4.5 posted as a placard in a conspicuous location at the site which is the subject matter of the notice;
 - 5.4.6 posted as a door hanger at the site which is the subject matter of the notice;
or
 - 5.4.7 delivery by Xpresspost of prepaid mail.
- 5.5 Where a notice is personally delivered, it is considered to have been delivered at the date and time at which it was handed to the addressee.
- 5.6 Where a notice is personally delivered to the residential address of the addressee, it is considered to have been delivered on the next business day following the date of delivery.
- 5.7 Where a notice is delivered by registered or certified mail, it is deemed to have been delivered on the fifth business day after the day of mailing.
- 5.8 Where a notice is delivered by facsimile, or e-mail it is considered to have been delivered on the date showing proof of transmission document.
- 5.9 Where a notice is posted on occupied property in accordance with section 5.4.5 and 5.4.6, it is considered to have been delivered the next business day following the date it is posted.
- 5.10 Where a notice is posted on unoccupied property in accordance with Section 5.4.5, it is considered to have been delivered five (5) days after the date it is posted.

- 5.11 Where a notice is delivered by Xpresspost, it is deemed to have been delivered on the next business day following the day of mailing.
- 5.12 Where a Work Order is not complied with or any other thing required or directed to be done in accordance with this by-law is not done within the required time frame, the Enforcement Officer or Persons designated by the Enforcement Officer may upon reasonable notice, do such thing at the expense of the Person required to do it and, in so doing, may charge administration fee of 25% of such expense, subject also to any minimum fee as set out in the Fees and Charges By-law as amended from time to time, and both the expense(s) and fee may be recovered by action or in like manner as municipal taxes.
- 5.13 Where it becomes necessary to proceed pursuant to section 5.12 of this By-law, an Enforcement Officer may enter onto the Lands with any Person and bring the appropriate equipment required to bring the property into compliance with this by-law.
- 5.14 Where any of the matters or things are removed in accordance with section 5.12 of this By-law the matters or things may be immediately disposed of by the Enforcement Officer.

PART 6 – OFFENCES AND PENALTIES

- 6.1 Any Person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*.
- 6.2 The court in which the conviction has been entered, and any court of competent jurisdiction, thereafter, may make an order prohibiting the continuation or repetition of the offence by the Person convicted and such order shall be in addition to any other penalty imposed on the Person convicted.
- 6.3 This By-law is designated as a by-law to which the Administrative (Non-Parking) Penalty By-Law applies.
- 6.4 Any Person who contravenes any of the provisions of this By-law, when given a Penalty Notice in accordance with the City's Administrative (Non-Parking) Penalty By-Law, is liable to pay the City an administrative penalty in the amount specified in the City's Administrative (Non-Parking) Penalty By-Law, as amended from time-to-time.

PART 7 – ENACTMENT

- 7.1 By-law 6574/29/18, Being a By-law to Provide for the Maintenance of Property of Land (Lot Maintenance By-law), is hereby repealed in its entirety.
- 7.2 This by-law comes into force on the day it is passed.
- 7.3 The short title of this by-law shall be the "Lot Maintenance By-law".

Enacted and passed this _____ day of _____, 2024.

William C. Steele
Mayor

Saima Tufail
Acting City Clerk

City of Port Colborne

Schedule “A” to By-law _____

Time Frame for Work to be Completed

Item	Time Frame for Work – Excluding Delivery Time
Remove refuse	7 days
Remove open household garbage	7 days
Clear Noxious or Invasive Species	7 days
Clear grass over 15cm	3 days
Remove water 30 cm	2 days
Maintain swimming pool water/hot tub water feature or artificial pond	5 days
Enclose excavation	2 days
Relocate/stack or remove firewood	5 days
Relocate/remove vehicle to improved surface	2 days
Miscellaneous	5 days

Time Frame for Work to be Completed by Repeat Offenders

Item	Time Frame for Work – Excluding Delivery Time
Remove refuse	3 days
Remove open household garbage	3 days
Clear Noxious or Invasive Species	7 days
Clear grass over 15cm	2 days
Remove water 30 cm	2 days
Maintain swimming pool water/hot tub water feature or artificial pond	2 days
Enclose excavation	2 days
Relocate/stack or remove firewood	2 days
Relocate/remove vehicle to improved surface	2 days
Miscellaneous	2 days