

# The Corporation of the Town of Tecumseh

## By-Law Number 2024-084

Being a By-Law prescribing the requirements for the maintenance of land within the municipality.

**Whereas** Section 11 of the *Municipal Act*, 2001, S.O. 2001, c. 25 (the “Municipal Act, 2001”) provides that a municipality may pass By-laws respecting the social and environmental well-being of the municipality, and the health, safety, and well-being of persons;

**And Whereas** Section 127 of the Municipal Act, as amended, states that a local municipality may:

- (a) *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;*
- (b) *regulate when and how matters required under clause (a) shall be done;*
- (c) *prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land; and*
- (d) *define “refuse” for the purposes of this section.*

**And Whereas** Section 128 of the Municipal Act 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 130(1) of the Municipal Act, provides that a municipality may regulate matters not specifically provided for by the Municipal Act for purposes related to the health, safety, and well-being of the inhabitants of the municipality;

**And Whereas** Section 434.1 of the Municipal Act, 2001 authorizes a municipality to require persons to pay an administrative penalty if the municipality is satisfied that a person has failed to comply with a municipal By-law passed, subject to conditions as the municipality considers appropriate;

**And Whereas** Section 429 of the Municipal Act, 2001 provides that a municipality may establish a system of fines for offences under a By-law of the municipality passed under the Municipal Act, 2001;

**And Whereas** Section 444 of the Municipal Act, 2001 provides that if a municipality is satisfied that the contravention of a by-law of the municipality passed under the Act has occurred, the municipality may make an 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 discontinue the contravening activity.

**And Whereas** Section 445 of the Municipal Act, 2001 provides that if a municipality is satisfied that a contravention of a by-law of the municipality passed under the Act has occurred, the municipality may make an 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 work to correct the contravention;

**And Whereas** Section 446 of the Municipal Act, 2001 permits a municipality to direct or require that a matter or thing be done, such as maintaining land in a clean and clear condition, and that the municipality may direct that in default of it being done by the person directed or required to do so, it shall be done at the person's expense with costs incurred by the municipality being recovered by action or by adding the cost to the tax roll and collecting the cost in the same manner as property taxes;

**And Whereas** the Council considers it desirable to pass a by-law for the maintenance of land.

**Now Therefore the Council of The Corporation of The Town of Tecumseh enacts as follows:**

1. **Short Title**

This By-law may be referred to as the "Land Maintenance By-Law".

2. **Definitions**

In this By-Law;

2.1 **"Drained"** means free of standing water.

2.2 **"Highway"** means a common, roadway and public highway, and includes the following:

(a) Any street, road, avenue, parkway, lane, driveway, boulevard, trail, sidewalk, multi-use path, bike lane, square, place, bridge, viaduct, trestle or right of way designed or intended for, or used by the general public for the passage of vehicles or persons, and/or;

(b) The area between lateral "Property" lines of any "Highway" or road allowance including any curbs, gutters, "Boulevards", culverts, ditches and retaining walls.

2.3 **"Inoperative motor vehicle"** a motor vehicle which is without a valid license plate or:

(a) is inoperative by reason of removed wheels, motor, transmission or other parts or equipment necessary for its operation; is not road worthy condition;

(b) is in a wrecked, dismantled, discarded, inoperative or abandoned condition;

- (c) is in a state of disrepair or unsightly by reason of missing doors, glass or body parts or has broken or missing parts of such sufficiency so as to render it incapable of being licensed to operate where such licensing is necessary.
- 2.4 **“Inoperative recreational vehicle”** a vehicular unit designed for travel, camping or recreational use, including but not limited to a travel trailer, motor home, pick-up camper, motorized camper, tent trailer, boat or boat trailer, which is without a valid license plate, abandoned or in a dilapidated condition.
- 2.5 **“Land”** means real property located within the Town.
- 2.6 **“Level”** means free of raised mounds of earth.
- 2.7 **“Occupant”** includes a tenant, lessee, registered owner, occupier or other person in charge of or in possession of property.
- 2.8 **“Order”** written direction or order issued pursuant provisions under this By-Law.
- 2.9 **“Officer”** means the Town’s By-Law Enforcement Officer or designate.
- 2.10 **“Owner”** means:
- (a) the registered owner of the land, or
  - (b) the person that is responsible for maintaining the land.
- 2.11 **“Person”** has the normal and usual meaning of person and includes a corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law.
- 2.12 **“Refuse”** includes junk, rubbish, debris or disused material of any kind whatsoever and without limiting the generality of the foregoing includes an inoperative motor vehicle, an inoperative recreational vehicle, inoperative mechanical equipment, automotive and mechanical parts, disused furniture, construction or demolition material, raised mounds of earth and any vehicles, machinery, equipment, materials or structures apparently disused in their existing location.
- 2.13 **“Town”** means The Corporation of the Town of Tecumseh.
- 2.14 **“Weeds”** shall include “local weeds”, “noxious weeds” and “weed seeds”. which shall have the same meanings as found in the *Weed Control Act*, R.S.O. 1990, c. W.5 as amended or replaced from time to time.
- 2.15 **“Weed Inspector”** means the Town’s appointed Weed Inspector under the *Weed Control Act*, R.S.O. 1990, c. W.5

### **3. General Provisions**

- 3.1 The provisions of this By-law shall apply to all lands within the boundaries of the Town as are now or hereafter legally constituted.
- 3.2 Nothing in this By-law shall serve to relieve any person from the obligation to comply with any other applicable law.
- 3.3 If any court of competent jurisdiction finds any provision of this By-law is invalid or is ultra vires of the jurisdiction of the Town, such provision shall be deemed to be severable and shall not invalidate any of the other provisions of this By-law.

### **4. Maintenance of Land – General**

- 4.1 Every Owner or Occupant of land shall keep their land free of Refuse and in a clean and clear condition.
- 4.2 Every Owner or Occupant of land shall keep their Land Level.
- 4.3 Every Owner or Occupant of Land shall keep their Land Drained.
- 4.4 Every Owner or Occupant of land shall keep their land free of Weeds, long grass greater than 20 centimeters (8 inches), excessive brush and undergrowth.
- 4.5 No Person shall deposit Refuse or debris on Land without the consent of the Owner or Occupant of the Land including Land owned by the Town or on a Highway.

### **5. Administration & Enforcement**

- 5.1 The provisions of this By-law shall be administered by the Town's Officers or any employee or agent of the Town acting under their direction.
- 5.2 The Officer or any employee or agent of the Town acting under their direction may enter upon Lands at any reasonable time for the purpose of determining or effecting compliance with any provision of this By-law or Order issued under this By-law.
- 5.3 Every Person is required to provide identification to the Officer under Section 4 of this By-law and shall identify themselves to the Officer. Giving their correct name, date of birth, and address shall constitute sufficient identification. Failure to provide sufficient identification shall constitute obstruction of the Officer.
- 5.4 Notwithstanding Section 4.4, Council may direct the Town's Weed Inspector to cause Weeds to be destroyed in the prescribed manner on all or part of any lot shown on a registered plan of subdivision and on lots not exceeding ten (10) acres that are not shown on such a plan.

- 5.5 Before Weeds are destroyed in accordance with section 4.4, the Town shall publish notice of its intent to have the Weeds destroyed posted on the property.
- 5.6 Where notice is published in accordance with Section 4 or an order issued pursuant to this By-law, such matters or thing may be done by the Town at the Person's expense and the Town may recover the costs from the Person by action or by adding the costs to the tax roll and collecting the costs in the same manner as taxes.

## 6. Issuance of Orders

- 6.1 Where an Owner fails to comply with any provision set out in this By-law, an order may be issued by the Officer to the Owner requiring compliance within the time frame specified in the order ("Order").
- 6.2 An Officer may issue an Order requiring any Person who caused or permitted a contravention of this By-law to discontinue such contravention or requiring any Person who cause or permitted a contravention to do work to correct the contravention.
- 6.3 If a Person fails to comply with an Order, an Officer may enter the lands at any reasonable time for the purposes of remedial action and to ensue compliance at the property Owner's expense.
- 6.4 The Town may recover the costs of remedial actions and enforcement incurred under this By-law by legal action and/or by adding them to the tax roll and collecting them in the same manner as property taxes.
- 6.5 **Contents of Order:** An Order issued under this By-Law shall:
- (a) State the municipal address of the property, a street line of which is located immediately adjacent to the subject boulevard area or, in the case of a fixture, the municipal address of the property closest to that fixture;
  - (b) Give reasonable particulars of the repairs, restoration or maintenance to be made to the Land;
  - (c) Indicate the time frame for complying with the terms and conditions of the Order; and
  - (d) State that, if the Order is not complied with within that time, the Town may carry out the work at the Owner's expense.
- 6.6 **Method of Delivery of Order:** The Order, and any subsequent written Order amending or withdrawing the Order, may be delivered by any one or more of the following methods:

- (a) Personal delivery to the Person to whom it is addressed;
- (b) Personal or couriered delivery to either an adult person, of the residential address of the addressee;
- (c) Delivery by prepaid mail to the Person's last known address or as otherwise contemplated in Subsection 343(6) of the *Municipal Act*, 2001 S.O. 2001; or
- (d) Posted in a conspicuous place on the property.

## 7. Deemed Delivery:

- 7.1 Where an Order is personally delivered, it is considered to have been delivered at the date and time at which it was handed to the addressee.
- 7.2 Where an Order is 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.
- 7.3 Where an Order is delivered by prepaid mail, it is deemed to have been delivered on the fifth day after the day of mailing.

## 8. Powers of Entry

- 8.1 In accordance with Section 436 of the *Municipal Act*, an Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether the following are being complied with:
  - (a) this By-law;
  - (b) a direction or order made under the *Municipal Act* or this By-law; or
  - (c) a condition of an Order issued granted under this By-law.

## 9. Penalty Provisions

- 9.1 Every Person who contravenes any provision of this By-law is guilty of an offence and upon conviction thereof is liable to a fine in the maximum amount provided for by the *Provincial Offences Act*, R.S.O. 1990, c.P.33, (hereinafter called *Provincial Offences Act*) as may be amended from time to time.
- 9.2 A Person who contravenes any provision of this By-law is guilty of an offence and can, at the option of the Officer, be issued a penalty notice in respect thereof requiring the payment of a penalty pursuant to the Towns Administrative Monetary Penalties System (AMPS) By-law 2024-048 as amended from time to time.

- 9.3 For the purposes of this By-law, “multiple offences” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law.
- 9.4 For the purposes of this By-law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.

## 10. **Continuation & Repetition Prohibited by Order**

- 10.1 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.

## 11. **Administrative Penalties**

- 11.1 Instead of laying a charge under the Provincial Offences Act for any breach of any provision of this By-law, an Officer, may issue an Administrative Penalty to the Person who has contravened this By-law provided the authority for the Town to issue Administrative penalties has been granted by municipal by-law.
- 11.2 An Officer has the discretion to either proceed by way of an Administrative Penalty (if prescribed) or a charge laid under the Provincial Offences Act. If an Administrative Penalty is issued to a Person for a contravention of this By-law, no charge shall be laid against that same Person for the same contravention.
- 11.3 The amount of the Administrative Penalty for a contravention of a provision of this By-law is fixed as set out in an Administrative Penalty By-law of the Town, as amended from time to time, or any successor by-law.
- 11.4 If an Officer issues a penalty notice under AMPS, the property Owner may appeal the penalty through the Administrative Monetary Penalties System appeal process outlined in By-Law 2024-048 as amended.
- 11.5 A Person who is issued an Administrative Penalty shall be subject to the procedures as provided for in the Administrative Penalty By-law of the Town, as amended from time to time, or any successor by-law.
- 11.6 An Administrative Penalty imposed on a Person pursuant to this By-law this is not paid within fifteen (15) days after the day it becomes due and payable, constitutes a debt of the Person to the Town and may be added to a municipal tax roll and collected in the same manner as municipal taxes.

**12. Collection of Unpaid Fines**

- 12.1 Where a fine is in default, the Town may proceed with civil enforcement against the Person upon whom the fine has been imposed, pursuant to the Provincial Offences Act.
- 12.2 The Town may make a request to the treasurer of a local municipality to add any part of a fine that is in default to the tax roll for any property in the local municipality for which all the Owners are responsible for paying the fine and collect it in the same manner as municipal taxes.

**13. Offences**

- 13.1 Any Person who contravenes or fails to comply with any provision of this By-Law or an Order issued pursuant to this By-law is guilty of an offence.
- 13.2 No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under this By-law.
- 13.3 No Person shall fail to comply with any condition or term of any Order issued under this By-Law. If there is a contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be continuing offence for each day or part of a day that the contravention remains uncorrected.

**14. Validity and Severability**

- 14.1 If any provision or part of this By-Law is declared by any court or tribunal of competent jurisdiction to be invalid, illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the remainder of the By-Law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.
- 14.2 If there is a conflict between the provisions of this By-Law and any other by-law of the Town in force or a provincial or federal statute or regulation, the more restrictive provisions shall apply

**15. Repeal**

- 15.1 By-Law 2004-28 and any amendments thereto are hereby repealed in their entirety upon the coming into force of this By-Law.
- 15.2 Any by-laws of the Town or resolutions of Council, or portions thereof, inconsistent with or contrary to this By-Law are hereby repealed upon the coming into force of this By-Law.

**16. Transition**

- 16.1 Every enforcement action or proceeding taken pursuant to the Repealed By-Law shall, as necessary, be deemed to have been taken pursuant to



this By-law and every such enforcement action or proceeding may be carried to its conclusion pursuant to the authority granted by this By-Law.

16.2 If an enforcement action or proceeding has been validly commenced pursuant to the Repealed By-Law and authority for such enforcement action or proceeding does not exist pursuant to this By-Law, then such enforcement action or proceeding may be continued to its conclusion and the provisions of the Repealed By-Law necessary to permit such enforcement action or proceeding to be concluded shall be deemed to remain in effect for the purposes of bring such enforcement action or proceeding to a conclusion.

17. **Enactment**

17.1 This By-law shall come into force and effect upon the date of its final passing thereof.

**Read** a first, second, third time and finally passed this 22nd day of October, 2024.

---

Gary McNamara, Mayor

---

Robert Auger, Clerk