



## BY-LAW 2012-xx

### **PROPERTY & MUNICIPAL BOULEVARD MAINTENANCE BY-LAW** to regulate and prescribe standards for the maintenance of property and municipal boulevards within the Town of Markham

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**WHEREAS** Section 11(2)6 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws in the interest of the health, safety and well-being of its residents;

**AND WHEREAS** paragraph 11(3)1 of subsection 11 (3) of the *Municipal Act, 2001*, provides that a municipality may pass by-laws respecting highways under its jurisdiction;

**AND WHEREAS** Section 122 of the *Municipal Act, 2001*, as amended, provides that a municipality may require the owners or occupants of buildings to remove snow and ice from the roofs of the buildings and may regulate when and how the removal shall be undertaken;

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

**AND WHEREAS** Section 128 of the *Municipal Act, 2001*, 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 129 of the *Municipal Act, 2001*, provides that a municipality may prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination;

**AND WHEREAS** Section 131 of the *Municipal Act, 2001*, provides that a local 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** the Council of The Corporation of the Town of Markham deems it necessary to repeal By-laws 140-91 and By-law 2005-158 as amended being by-laws to require and regulate the cutting of tall grass and weeds and prohibiting dumping on private and public lands;

**AND WHEREAS** The Corporation of the Town of Markham deems it necessary to prevent public nuisances and the accumulation of *waste material* and to control dust within the Town;

**NOW THEREFORE** the Council of the Corporation of the Town of Markham hereby enacts as follows:

#### **1. SHORT TITLE**

This by-law may be cited as the "**Property and Municipal Boulevard Maintenance By-law**".

#### **2. DEFINITIONS**

For the purpose of this By-law the following words shall have the meaning given herein:

**ABUTTING BOULEVARD** means the portion of a municipal boulevard that is abutting or contiguous to a lot;

**BOULEVARD** means the portion of the *highway* between a *street 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.

**COUNCIL** shall mean the *Council* of The Corporation of the *Town* of Markham;

**GROUND COVER** shall mean, but is not limited to, grass and plant materials, that minimize soil/material erosion and/or the accumulation of mud;

**HIGHWAY** means a common and public *highway* and includes any bridge, trestle, viaduct or other structure forming part of the *highway* within the *Town* and includes the *boulevard* and other un-travelled portions;

**HOUSEHOLD WASTE** shall mean any article, thing, matter or effluent belonging to or associated with a residence, household or dwelling and, for greater certainty without limiting the generality of the foregoing, may include:

- a) all kitchen and table waste, of animal or vegetable origin, resulting from the preparation or consumption of food;
- b) yard clippings, tree and garden cuttings, brush or leaves; or
- c) paper, cardboard, or clothing;
- d) cans, glass, or plastic containers, or dishes; or,
- e) furniture, appliances, and fixtures.

**INOPERABLE VEHICLE** shall mean a motor vehicle as defined by the *Highway Traffic Act*, R.S.O. 1990, c.H. 8, as amended, in good repair and capable of being operated on a *highway*. It includes a vehicle that does not display a valid vehicle permit license plate issued under the *Highway Traffic Act*, as amended.

**LAND** shall mean grounds, yards and vacant and developed lots;

**LANDSCAPING** means vegetation in the form of lawns, grasses, shrubs, flowers, ornamental plantings, or any combination thereof;

**LOT** means a parcel of land, described in a deed or other document legally capable of conveying land, or shown as a block on registered plan of subdivision;

**MUNICIPAL LAW ENFORCEMENT OFFICER** shall mean an employee of the *Town* who has been appointed by By-law to enforce the provisions of Town By-laws;

**NATURAL BODY OF WATER** shall mean a creek, stream, bog, marsh, river, pond or lake normally created by the forces of nature, but which may be created or caused to be created by man, and which contains water on a regular basis;

**NATURAL GARDEN** shall mean a defined area of vegetation that has been deliberately planted or cultivated with species of wildflowers, shrubs, perennials, ornamental grasses or combinations of them, consistent with a managed and natural landscape;

**OWNER** shall mean the registered *owner*, *owner* in trust, a mortgagee in possession, a person who is managing or receiving the rent of the *property* a lessee or a person who is control of the *property* and includes a person, firm, partnership, corporation, company, association, or organization of any kind and its principal(s);

**PROPERTY** shall mean a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant *property*;

**STREET LINE** means the boundary between a *lot* and a *highway*;

**TOWN** shall mean The Corporation of The *Town* of Markham;

**WASTE MATERIAL** shall mean any garbage, refuse, debris, litter, *household waste* and yard waste and without limiting the generality of the foregoing, shall include garbage, junk, tin cans, old or decayed lumber, discarded or inoperable machinery including automobiles and parts, furniture, household fixtures and construction materials;

**WORK ORDER** shall mean an order issued under this by-law to the *owner* of a *property* requiring the *owner* who contravened the by-law or who caused or permitted the contravention or the *owner* of the *land* on which the contravention occurred to do work to correct the contravention.

### **3.0 ENFORCEMENT:**

- 3.1. *Municipal Law Enforcement Officers* are hereby authorized and empowered to enforce the provisions of this By-law.

- 3.2 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law.
- 3.3 *Municipal Law Enforcement Officers* and persons under their direction may at any reasonable time enter onto any lands within the Town to determine if the provisions of this by-law are being complied with or may enter onto any lands within the Town to carry out the remedial actions required to bring the property into conformity with the by-law.
- 3.4 *Municipal Law Enforcement Officers* are empowered for the purposes of inspection to determine compliance with the By-law to:
- a) require the production for inspection of documents or things relevant to the inspection, including the removal of the documents for the purposes of making copies or extracts;
  - b) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of inspection; and,
  - c) require information from any person concerning a matter related to the inspection.

**4. GENERAL PROVISIONS**

- 4.1 No person shall permit the *ground cover* on their *lands* to exceed a height greater than 15 centimetres (6 inches), except as provided in Subsections 4.2.
- 4.2 Height of *ground cover* need not be maintained in:
- a) areas that are designated as Open Space, Environmental Protection or Agricultural under the applicable *Town Zoning By-law*;
  - b) *natural gardens*; and
  - c) *Town* owned parks, storm water management ponds and open spaces.
- 4.3 Every *owner* shall remove all objectionable markings, graffiti, stains or other defacement on their *property* to restore the surface and adjacent areas to, as near as possible, their appearance before the markings, graffiti, stains or other defacement occurred.
- 4.4 Every *owner* shall keep their *property* clear of objects or conditions that create or might create a health, fire or accident hazard.
- 4.9 Every *owner* shall grade their *land* to minimize the ponding of water unless such area constitutes;
- a) a storm water management pond approved by the *Town*;
  - b) a *natural body of water*; or
  - c) a swimming pool enclosed in compliance with the *Town's* Swimming Pool Enclosure By-law 59-75.
- 4.10 Every *owner* shall maintain their *property* clear of all *waste material*.
- 4.11 Every *owner* shall maintain their *lands* clear of all *inoperable vehicles* except where the *Town's* Zoning By-law permits a related *land* use.
- 4.12 Every *owner* shall store *household waste* in rigid containers with secure lids when stored outdoors and *household waste* shall not be stored in the front yard of a residential *property* where the *property* has a garage, side yard or designated storage facility.
- 4.13 Except as provided in Subsection 4.14., every *owner* shall ensure that their *land* is treated so as to prevent the raising of dust or loose particles and the accumulation of mud.
- 4.14 *Land* described in subsection 4.13 need not be treated so as to prevent the raising of dust or loose particles and the accumulation of mud in:

- a) *lands* subject to an active site plan or subdivision agreement;
  - b) areas zoned open space, environmental protection or agricultural under the *Town's Zoning By-law*; and
  - c) *Town* owned parks and open spaces.
- 4.15 Every *owner* shall maintain all hedges, bushes and shrubs on their *lands* from becoming overgrown and unkempt.
- 4.16 Every *owner* shall remove snow and ice from exterior walkways, steps, *landings* and ramps, and from exterior driveways and parking areas that pose a health or safety hazard to persons on their *lands*.
- 4.17 Every *owner* shall remove snow and ice from the roofs of their building(s) that pose a health or safety hazard to persons or *property* in the normal use of adjacent walkways, driveways, parking areas and entrances to the building(s).
- 4.18 Every *owner* shall maintain the *abutting boulevard* in accordance with the requirements of this By-law.
- 4.19 Every *owner* shall:
- a) clean and clear the *abutting boulevard* of all debris, waste, refuse and litter, and conform to the provisions;
  - b) clean and clear the *abutting boulevard* of any abandoned items, machinery, equipment or other thing;
  - c) maintain *ground cover* on any *abutting boulevard* at a height which is not greater than 15 centimetres (6 inches) in height;
  - d) maintain the *landscaping* on any *abutting boulevard* so that *landscaping* materials do not encroach over that portion of an adjacent *highway* that is travelled or designed to be travelled by vehicles, adjacent driveway or sidewalk; and,
  - e) maintain any hedges or fences on their property so that the hedges or fences encroach onto the *abutting boulevard*.
- 4.20 No *owner* shall dump, place, deposit or permit to be dumped, placed or deposited on any grounds, yards or vacant lots within the *Town* any *household waste* or *waste*.
- 4.21 No person shall throw, place or deposit any refuse or debris, garbage, waste on private property or on any *lands* owned by the *Town* or any local board thereof, unless such person has been authorized by the *owner* or occupant to do so.
- 4.22 No person shall aid or assist any person to throw, place or deposit any refuse or debris, garbage, and waste on private property or public *lands* or permit the use of his or her property to be utilized for such a purpose.
- 4.23 Any person who has violated Sections 4.20 and 4.21 of this section shall immediately remove or cause to be removed all refuse or debris to the satisfaction of the *Town*.
- 4.24 No person shall dump, place, deposit or permit to be dumped, placed, or deposited garbage, waste on a *highway* within the *Town* except when placed out in accordance with the *Town* by-laws respecting garbage collection.

## **5. WORK ORDER – PREMISES NOT MAINTAINED**

- 5.1. A *Municipal Law Enforcement Officer* may enter upon any *land* or *property* at any reasonable time with proper identification to determine if the *owner* is complying with the provisions of this by-law and may take photographs of the *property's* condition.
- 5.2. Where a *property* is not maintained in accordance with the requirements of this Bylaw:
- a) the *Town* may serve the *owner* a *Work Order* in writing directing the *owner* of the *property* to bring the *property* into conformance with the requirements of this By-law; and
  - b) the *owner* shall repair, remove or clean up all contraventions identified on the *Work Order* within seven (7) days of the *Work Order* being served.

**6. WORK ORDER – DELIVERY- WHEN DEEMED SERVED**

- 6.1. The *Work Order* from the *Town* may be:
- a) served personally upon the *owner*, or
  - b) mailed by regular mail to the last known address of the *owner* according to the current assessment rolls.
- 6.2. If served by regular mail, a *Work Order* under subsection 6.1. shall be deemed to have been served on the fifth day after mailing.

**7. FAILURE TO COMPLY – WORK DONE BY CORPORATION**

Where an *owner*, having been served with a *Work Order*, fails to comply with the *Work Order* within the time specified, a *Municipal Law Enforcement Officer* or the *Town's* employees or agents authorized for this purpose may, upon producing appropriate identification when requested, enter onto the *property* at a reasonable time and carry out any or all of the work described in the *Work Order*.

**8. SERVICE FEES**

- 8.1. The municipal service fees for the administration and enforcement of this By-law shall be in accordance with the *Town's Fees By-law* and any revisions thereto.
- 8.2. Service fees for the administration and enforcement of this By-law may be applied when a contravention has been confirmed by a *Municipal Law Enforcement Officer*.

**9. RECOVERY OF COSTS**

Where the *Town*, its employees or authorized agents have performed the work required to bring the *property* into compliance with the By-law, all expenses incurred by the *Town* in doing the work as well as any related fees, shall be deemed to be a debt to the *Town* and may be collected by action or the costs may be added to the tax roll for the *property* and collected in the same manner as taxes.

**10. OFFENCES**

Every person who contravenes any of the provisions of this By-law, or who obstructs or attempts to obstruct a *Municipal Law Enforcement Officer* or an employee or agent of the *Town* in carrying out his or her duties under this By-law is guilty of an offence and is liable, upon conviction to a maximum fine as established pursuant to the *Provincial Offences Act*, R.S.O., 1990, c.P.33.

**11. SEVERABILITY**

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.

**12. REPEAL OF BY-LAW 140-91 and 2005-158**

That By-law 140-91 and by-law 2005-158 be repealed.

**13. FORCE AND EFFECT**

That this By-law shall come into force and effect on the date of its final passing.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS  
DAY OF

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KIMBERLEY KITTERINGHAM  
TOWN CLERK

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FRANK SCARPITTI, MAYOR