

CITY OF ST. THOMAS
BY-LAW NO. 53-2022

A by-law to establish and maintain clean and clear lands.

WHEREAS Section 8 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 Council may pass by-laws under the following provisions of the Municipal Act as amended;

AND WHEREAS Section 127 of the Municipal Act 2001, S.O. 2001, c.25, as amended, permits a municipality may pass by-laws requiring a 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, for prohibiting the disposal of refuse or debris on land without the consent of the owner or occupant of land and for defining "refuse";

AND WHEREAS Section 391 (1) of the Municipal Act, 2001, S.O. 2001 c. 25 states that section 11 authorizes a municipality to impose fees or charges on persons, for services or activities provided or done by the municipality;

AND WHEREAS subsections 425(1) and 429(1) of the *Municipal Act, 2001* authorize a municipality to pass by-laws providing that a person who contravenes a municipal by-law is guilty of an offence and to establish a system of fines for offences under a by-law;

AND WHEREAS subsection 436(1) of the *Municipal Act, 2001* provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law passed under the *Municipal Act, 2001* is being complied with;

AND WHEREAS subsection 444(1) of the *Municipal Act, 2001* authorizes a municipality to make an order requiring the person who contravened a by-law, 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 446 of the Municipal Act 2001, S.O. 2001, c. 25 as amended provides that if a municipality has the authority under this or any other Act or under a by-law under this or any other Act to direct or require a person to do a matter or thing, the Municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense and the Municipality may recover costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

AND WHEREAS the *Police Services Act, R.S.O. 1990, Section 15* authorizes the municipality to appoint persons to enforce the by-laws of a municipality and that Municipal Law Enforcement Officers are Peace Officers for the purpose of enforcing municipal by-laws;

AND WHEREAS the Council of the Corporation of the City of St. Thomas deems it desirable to regulate the maintenance of land in order to enhance the quality, health and safety of communities;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ST. THOMAS ENACTS AS FOLLOWS:

SECTION 1 - SCOPE OF BY-LAW

1.1 SHORT TITLE

This By-law and any amendments thereto shall be known as the "Lot Maintenance By-Law."

1.2 INTENT AND SCOPE

The purpose of this By-law is to: establish and maintain lands in a clean and clear condition, within the corporate limits of the City of St. Thomas.

1.3 CONTENT OF BY-LAW

All references in the By-law to sections, regulations, exceptions, tables, figures, schedules and maps, refer to those in this By-law unless otherwise indicated.

1.4 RELATION TO OTHER GOVERNMENT REQUIREMENTS (COMPLIANCE WITH OTHER REGULATIONS)

This By-Law shall not be construed so as to reduce or mitigate restrictions or regulation that is lawfully imposed by the City of St. Thomas, or by any governmental authority having jurisdiction to make such restrictions or regulations. Compliance with this By-law does not relieve a property owner from complying with:

- a) the requirements of the Ontario Building Code;
- b) the requirements of any federal, provincial, regional, or conservation authority legislation or regulations;
- c) any By-Law of the Municipality.

SECTION 2 - DEFINITIONS AND INTERPRETATION

2.1 DEFINITIONS-

The terms set out below shall have the following meanings in this By-law:

"CITY" means the Corporation of the City of St. Thomas.

"CONSTRUCTION WASTE" includes every and all material used for residential, commercial and industrial construction and all materials left over from such construction. Construction waste shall not include any material for which the by-law officer has specifically exempted, with reference to this by-law, in any sub-division agreement. Construction waste shall not include any material for which the City of St. Thomas has specifically exempted in writing.

"DERELICT VEHICLE" means a motor vehicle, tractor, trailer, truck, camper, boat, motorcycle, demolition endurance vehicle, motorized snow vehicle, or parts thereof, or any vehicle drawn, propelled or driven by any kind of power or any part thereof, that;

- a) is not in an operating condition and is discarded, rusted, deflated tires, wrecked or partly wrecked, or is dismantled or partially dismantled and/or;
- b) does not bear a currently valid licence permit

"FEED" includes the regular or intermittent supply of food;

"FOOD" means anything that can be consumed by an animal for sustenance.

"GARBAGE" has the same meaning as waste material.

"HIGHWAY" shall have the same meaning as the Highway Traffic Act, RSO 1990, c. H.8, as amended, and shall include a common and public highway, street, parkway, driveway, square, place, bridge, viaduct, or trestle, any part of which is intended for, or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

"INDUSTRIAL WASTE" means any article, thing, matter or any 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.

"MOTOR VEHICLE" includes an automobile, a motorcycle, a motor-assisted bicycle unless otherwise indicated in the Highway Traffic Act, RSO 1990, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car or other motor vehicle running only upon rails, a power-assisted bicycle, a motorized snow vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry or a road-building machine.

"MUNICIPAL BY-LAW ENFORCEMENT OFFICER" means a person appointed by the Council of The Corporation of the City of St. Thomas or their designate for the purpose of enforcing Municipal By-Laws and, for the purpose of this By-Law.

"UNSANITARY FEEDING OF WILDLIFE" means feeding or permitting the feeding of wildlife, or leaving food that is accessible by wildlife, which results in one or more of the following occurring so as to constitute a sanitary issue whether occurring on public or private property:

- (a) excessive accumulation of food, including bird seed and seed casings;
- (b) excessive accumulation of wildlife feces;
- (c) unreasonable interference with the normal use and enjoyment of nearby premises;
- (d) excessive attraction of vermin or predatory wildlife (including feral cats and coyotes) to the property.

"ORDER TO COMPLY" means the written order as set out in Section 6 of this By-Law.

"OWNER" means a registered owner of land, or any person in control of land, including a lessee or an occupant thereof.

"PERSON" means an individual, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau, and agency; and includes an owner.

"REFUSE" has the same meaning as waste material.

"WASTE MATERIAL" means material or substance that is unusable or unwanted effluent that, in the opinion of the Municipal Law Enforcement Officer but is not limited to:

- a) Broken or discarded material;
- b) Disconnected appliances and /or parts of such appliances;
- c) Indoor furniture;
- d) Domestic Waste;
- e) Industrial waste;
- f) Inoperable/Derelict Vehicles/Parts;
- g) Material resulting from construction;
- h) Scrap metals, wrecked, dismantled, abandoned or inoperable machinery, or parts thereof.
- i) Tree cuttings, brush, and garden refuse;
- j) Paper, cardboard, clothing;
- k) Commercial shopping carts;
- l) Rubble, broken concrete, broken asphalt, patio or sidewalk slabs, bricks, interlocking bricks, inert fill
- m) Appears to be abandoned, worthless, worn out and of no practical value;
- n) Food waste

"YARD" means the land within the boundary lines of a property not occupied by a principal building, if any, and includes unenclosed decks, unenclosed porches, unenclosed carports, unenclosed garages, grounds, or vacant property.

"PUBLIC PROPERTY" means property owned by or under the control of the City of St. Thomas or any of its agencies, boards or commissions, including public highways, and shall be deemed to include Public Utility Poles.

SECTION 3 - GENERAL STANDARDS

3.1 Every owner shall ensure that his land is kept free and clear of any:

- a) Weeds, grass or ground cover that is more than 15 centimeters or (6 inches) in height
- b) Garbage, domestic, industrial, construction waste or waste material of any kind
- c) Derelict/inoperable vehicles or parts

3.2 Every owner of land shall ensure that:

- a) No person shall throw, place or deposit refuse or debris on private property without the written authority of the owner or occupant of the property.
- b) No person shall use any land or structure within the limits of the City for dumping or disposal of garbage, refuse, domestic, industrial, construction waste or waste material of any kind, unless it is an approved dumping site by the City.
- c) All hedges, shrubs, trees and tree limbs adjacent to a public sidewalk or roadway cut and trimmed so as to allow safe unhindered passage.
- d) No person shall engage in or permit nuisance feeding of wildlife.

SECTION 4- COMPOST

4.1 All composting shall be carried out by the owner/tenant of the land in accordance with the following requirements:

- a) Composting shall take place only in a container or digester
- b) Composting shall take place in the rear yard of a property
- c) Composting shall be set back at least 1 meter (3.3 feet) from any property line
- d) The composting shall not take place within a drainage swale
- e) The composter or compost pile shall be no larger than 4.5 cubic meters, in a residential zone or abutting a residential zone.
- f) A compost container must be covered at all times, in a residential zone or abutting a residential zone, except when being emptied, or filled.
- g) Organic materials placed in composter shall be kept covered with yard waste, soil, or humus.
- h) The compost shall emit no offensive odor and it shall not be allowed to attract or harbour any vermin.
- i) The composting shall take place on the property of the person owning, having charge of or harboring the composter.

SECTION 5 - ADMINISTRATION AND RIGHT OF ENTRY

5.1 This by-law shall be enforced by the Municipal By-Law Enforcement Officers. For the purpose of ensuring compliance with this by-law, a Municipal By-Law Enforcement Officer may at all reasonable times, and without producing a warrant, and upon producing proper identification if requested by the owner or occupant, enter upon and inspect any land to determine whether the following is being complied with:

- a) The provisions of this by-law.
- b) An order made under this by-law.

5.2 An officer may, for the purpose of inspection:

- 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 or extracts.
- c) Require information from any person concerning a matter related to the inspection.
- 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.

Any cost incurred from this will be at the owner's expense. Further, no person shall hinder or obstruct, or attempt to hinder or obstruct, any Municipal By-Law Officer or other person exercising a power or performing a duty under this by-law.

SECTION 6 - ENFORCEMENT

6.1 An officer may by written order, sent by regular mail to the last known address (last revised assessment roll), sent to the last known electronic mail address, posted on site or personally delivered to owner or owners of property, within the time specified in the order to:

- a) Discontinue the contravening activity, and/or
- b) Do work to correct the contravention

6.2 The order will state:

- i. the section that is in contravention of the by-law
- ii. the location/address of the contravention
- iii. reasonable particulars of the contravention
- iv. the work to be completed
- v. the date by which the work must be completed (minimum 5 days provided)

6.3 Where an owner contravenes an Order the officer may without any further notice cause the work to correct the contravention to be done at each owner's expense. Without limitation, the officer may retain such persons to assist in completing the work as the Municipal By-law Enforcement Officer determines appropriate. All costs incurred by the City in relation to such work may be recovered by the City by being added to the tax roll and collected in the same manner as property taxes. An administrative fee will also be added as set out in Schedule "A" hereto.

SECTION 7 - PENALTY

Each person who contravenes any provision of this by-law is guilty of an offence. A person convicted of an offence contrary to a provision of this by-law in a proceeding commenced under Part III of the Provincial Offences Act, R.S.O. 1990, c. P.33, is liable to a fine of no less than two hundred and fifty dollars(\$250.00), and no more than Ten Thousand Dollars (\$10,000) for each day or part of a day on which the offence occurs or continues provided that the total of all daily fines for the continuing offence shall not exceed One Hundred Thousand Dollars(\$100,000).

A person convicted of an offence contrary to a provision of this by-law in a proceeding commenced under Part 1 of the Provincial Offences Act, R.S.O. 1990, c. P.33, is guilty of an offence and on conviction is liable to a fine as provided in the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.

SECTION 8 - 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.

SECTION 9 - EXEMPTION

- 9.1** This By-Law does not apply to lands owned and/or held by the City of St. Thomas.
- 9.2** Section 3.2 (d) shall not apply to:

(a) land zoned for agricultural uses;

(b) a person leaving food for an ear-tipped cat or a feral cat colony for the purposes of a trap, neuter or spay and release program approved by the City;

(c) a person leaving food as bait in a trap to capture wildlife if they have the legal authority to do so.

SECTION 10 - REPEAL

THAT By-Law No. 6-94 is hereby repealed in its entirety.

SECTION 11 - EFFECTIVE DATE


THAT this By-Law shall take effective upon the passing thereof and upon the approval of the set fines by the Regional Senior Justice of the Ontario Court of Justice.

READ a First and Second time this 4th day of April, 2022

READ a Third time and Finally passed this 4th day of April, 2022.



Maria Konefal, City Clerk



Joe Preston, Mayor

SCHEDULE "A"
By-Law 53 -2022

Administration Fee for Issuance of Orders

Lot Maintenance Order-----\$200.00

Fees for services related to execution of Orders

Fees for staff service:

Time- Municipal Law Enforcement Officer-----\$50.00/hour

Mileage, photocopying, phone, etc.-----as per City guidelines

External Disbursements:-----actual cost

(professional services, contractor services, etc.)

Administration Fee-----15% of total disbursements

By-Law ⁵³ -2022: Lot Maintenance

Part I Provincial Offences Act

Set Fine Schedule

Item	Short form wording	Provision creating or defining offence	Set fine
1.	Failure to keep grounds cleared of weeds, grass, ground cover more than 15 cm in height.	3.1 (a)	\$250.00
2.	Failure to keep grounds cleared of waste material	3.1 (b)	\$500.00
3.	Failure to keep grounds cleared of derelict vehicles or parts	3.1 (c)	\$500.00
4.	Throw, place or deposit refuse or debris on private property	3.2 (a)	\$500.00
5.	Failure to cut or trim hedges adjacent to public sidewalk or roadway	3.2 (c)	\$500.00
6.	Engage in or permit nuisance feeding of wildlife	3.2 (d)	\$500.00

The general penalty provision for the offences listed above is Section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.