

By-Law 2009-101

A By-Law of the City Of Greater Sudbury to Require the Clearing of Yards and Certain Vacant Lots

Whereas the *Municipal Act, 2001* authorizes municipalities to require owners or occupants of land to clean and clear the land and to remove refuse and debris from the land;

And Whereas the *Act* allows a municipality to prohibit and regulate with respect to dust and other matters;

And Whereas the upkeep of property including the upkeep of yards and vacant land is a concern of the Council of the City of Greater Sudbury;

And Whereas the lack of upkeep of yards and vacant land can lead to the degradation of a neighbourhood and of a community and can represent a hazard to health and safety of the residents of a community;

And Whereas Council of the City of Greater Sudbury deems it advisable to regulate as provided herein;

Now Therefore Council of the City of Greater Sudbury hereby enacts as follows:

Part 1 – Definitions and Application

1.-(1) In this By-law:

“*Act*” means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended or replaced from time to time;

“By-law Enforcement Officer” includes a member of any police service with jurisdiction in the City, and any person appointed by the Council for the enforcement of municipal by-laws;

“City” means the municipal corporation of the City of Greater Sudbury or the geographic area of the City of Greater Sudbury as the context requires;

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

- (1) grass clippings, tree cuttings, brush, leaves and garden refuse;
- (2) paper, cardboard, clothing;

- (3) 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 composting container;
- (4) cans, glass, containers, dishes;
- (5) new or used material resulting from or used for the purpose of construction, alterations, repair or demolition of any building or structure;
- (6) refrigerators, freezers, stoves or other appliances;
- (7) furniture;
- (8) furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks;
- (9) unlicensed motor vehicles, inoperative motor vehicles, vehicle motor parts and accessories, vehicle tires mounted or unmounted on rims, mechanical equipment; and
- (10) fencing materials;

“General Manager” means the General Manager of Infrastructure Services of the City, and includes his or her authorized designate;

Hearing Committee” means the Hearing Committee authorized pursuant to the City’s Procedure By-law, as amended or replaced from time to time;

“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:

- (1) piping, tubing, conduits, cable, fittings or other accessories, or adjuncts to the piping, tubing, conduits or cable;
- (2) containers of any size, type or composition;
- (3) rubble, inert fill;
- (4) mechanical equipment, mechanical parts, accessories or adjuncts to mechanical equipment;
- (5) articles, things, matter, effluent which are derived from or are constituted from or consist of:
 - (a) agricultural, animal, vegetable, paper, lumber or wood products; or
 - (b) mineral, metal or chemical products;whether manufactured or otherwise processed or not;
- (6) bones, feathers, hides;
- (7) paper or cardboard packaging or wrapping;

- (8) material resulting from, or as part of, construction or demolition projects; and
- (9) unlicensed motor vehicles, inoperative motor vehicles, vehicle parts and accessories, vehicle tires mounted or unmounted on rims, mechanical equipment;

“Inoperative Motor Vehicle” means a licensed or unlicensed motor 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;

“Owner” includes the person holding registered title to land and the person for the time being managing or receiving the rent or paying the municipal taxes on the land in question, whether on his, her or its own account or as agent or trustee of any other person or who would so receive the rent if such land were let, and shall also include a lessee or occupant of the land and a condominium corporation;

“Person” includes any individual, firm, partnership, association, corporation, company or organization of any kind;

“Refuse” means any article, thing, matter, substance or effluent that:

- i) has been cast aside, discharged or abandoned; or
- ii) is discarded from its usual and intended use; or
- iii) is used up, in whole or in part, or expended or worn out in whole or in part;

whether or not it is or may be saleable or recyclable, and shall include without limitation domestic waste and industrial waste;

“Swimming Pool” means a structure which is located on or in or above the ground and which is capable of containing an artificial body of water for swimming, wading, diving or recreational bathing with a water depth of 0.6 metres or more at its deepest point;

“Vacant Lot” means an area of land not owned by the Crown,

- i) on which there are no buildings or structures; and
- ii) which is zoned “Residential”, “Institutional”, or “Commercial” pursuant to the applicable Zoning By-law in effect for the subject land, or which is used for residential, institutional, or commercial purposes, regardless of zoning; and

“Yard” means an area of land which is appurtenant to and located on the same lot as a building or structure and used or intended to be used or capable of being used in connection with the said building.

(2) This By-law applies to all land within the City of Greater Sudbury.

(3) This By-law applies to land owned or used by the City of Greater Sudbury.

Part 2 - Refuse

Throwing of Refuse

2.-(1) Except as provided for in Section 3, no person shall throw, place or deposit refuse on any land without the consent of the owner of the land.

(2) Except as provided for in Section 3, no owner shall use or permit any land he or she owns to be used for the dumping or disposal of refuse.

Exemption

3.-(1) Section 2 does not prohibit the filling or raising of land with earth or rock for the purpose of lot grading or construction in accordance with the City's Topsoil and Site Alteration By-law.

(2) Section 2 does not prohibit the disposal of refuse on any land which has been lawfully designated and/or licenced for that purpose by the City or another authority with jurisdiction.

(3) Section 2 does not prohibit a person from temporarily storing on his or her yard, waste or recyclables or placing waste or recyclables at a collection location, in approved containers in accordance with the City's Waste Management By-law.

Part 3 - Yard Maintenance

Keep Clear

4.-(1) No owner shall fail to keep his or her yard free and clear of objects, accumulations and conditions that create an unsafe condition, a health hazard, or an unsightly condition.

(2) No owner shall fail to remove any refuse on his or her yard, whether or not he or she caused or permitted the refuse to be on the yard.

Grass

5. No owner shall fail to cut any grass, weeds or wild vegetation growing on their yard that exceeds 20 centimetres in height from June 1 to December 1.

Hedges / Shrubs / Trees

6.-(1) No owner shall fail to ensure that any hedges, shrubs, trees or other plants planted or growing on his or her yard do not:

- (a) interfere with or adversely affect the safety of the public;
- (b) interfere with or adversely affect the safety of vehicular or pedestrian traffic on adjoining streets, sidewalks or walkways;
- (c) constitute an obstruction of view for vehicular traffic;
- (d) wholly or partially conceal any hydrant or water valve;
- (e) interfere in whole or in part with the use of any hydrant or water valve; or
- (f) overhang or encroach upon any pavement, sidewalk or travelled portion of any street or highway.

(2) No owner shall fail to cut down and remove from his or her yard any dead, diseased, decayed, or damaged hedges, shrubs or trees.

No Ponding of Water

7. No owner shall fail to keep his or her yard graded, filled up or otherwise drained so as to prevent recurrent ponding of storm water.

Hazardous Holes, Pits

8.-(1) Subject to Subsection 8(2), no owner shall cause or permit the existence or continued existence on his or her yard of any holes, pits, excavations or trenches which could constitute a safety hazard.

(2) Despite Subsection 8(1), an owner may permit the existence or continuance of a hole, pit, excavation or trench on his or her yard, provided it is reasonably secured from public entry.

Swimming Pool

9. No owner who has a swimming pool in his or her yard shall fail to:

- (a) keep or maintain the swimming pool in an operational condition;
- (b) maintain the water in the swimming pool such that the water is not discoloured;
or
- (c) maintain the water in the swimming pool in a condition which is not malodorous.

Firewood, Building Materials, Garden Equipment

10.-(1) Subject to Subsection 10(2), no owner shall store firewood, building materials, garden equipment or similar materials in his or her yard unless such firewood, building materials, garden equipment or similar materials:

- (a) are stored only in the rear yard or side yard, as defined in the City's zoning by-law applicable to the property;
- (b) do not occupy more than 15% of the area of the yard; and
- (c) are neatly piled.

(2) Despite 10(1), no owner shall store firewood, building materials, garden equipment or similar materials in his or her yard in such amounts or volume as to constitute a health or safety hazard.

Part 4 – Vacant Land and Vacant Lots

Dust Control

11. No person being the owner of non-agricultural land which is vacant as a result of a building demolition shall fail to maintain such land in a manner so as to suppress dust arising.

Keep Clear

12.-(1) No owner shall fail to keep his or her vacant lot free and clear of objects, accumulations and conditions that create an unsafe condition, a health hazard, or an unsightly condition.

(2) No owner shall fail to remove any refuse on his or her vacant lot, whether or not he or she caused or permitted the refuse to be on the lot.

Grass

13. No owner shall fail to cut any grass, weeds or wild vegetation growing on their vacant lot that exceeds 20 centimetres in height from June 1 to December 1.

Hedges / Shrubs / Trees

14.-(1) No owner shall fail to ensure that any hedges, shrubs, trees or other plants planted or growing on his or her vacant lot do not:

- (a) interfere with or adversely affect the safety of the public;
- (b) interfere with or adversely affect the safety of vehicular or pedestrian traffic on adjoining streets, sidewalks or walkways;

- (c) constitute an obstruction of view for vehicular traffic;
- (d) wholly or partially conceal any hydrant or water valve;
- (e) interfere in whole or in part with the use of any hydrant or water valve; or
- (f) overhang or encroach upon any pavement, sidewalk or travelled portion of any street or highway.

(2) No owner shall fail to cut down and remove from his or her vacant lot any dead, diseased, decayed, or damaged hedges, shrubs or trees.

No Ponding of Water

15. No owner shall fail to keep his or her vacant lot graded, filled up or otherwise drained so as to prevent recurrent ponding of storm water.

Hazardous Holes, Pits

16.-(1) Subject to Subsection 16(2), no owner shall cause or permit the existence or continued existence on his or her vacant lot of any holes, pits, excavations or trenches which could constitute a safety hazard.

(2) Despite Subsection 16(1), an owner may permit the existence or continuance of a hole, pit, excavation or trench on his or her vacant lot, provided it is reasonably secured from public entry.

Firewood, Building Materials, Garden Equipment

17. No owner shall store firewood, building materials, garden equipment or similar materials on his or her vacant lot in such amounts or volume as to constitute a health or safety hazard.

Part 5 - Enforcement

Enforcement - No Obstruction

18.-1) This By-law may be enforced by a Municipal By-law Enforcement Officer.

(2) No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer exercising a power or performing a duty under this By-law.

Right of Entry - Inspection

19. A By-law Enforcement Officer may enter on land at all reasonable times to ascertain whether the provisions of this By-law are complied with and whether the terms and conditions of any order made or notice given under this By-law are complied with.

Notice of Contravention

20.-(1) Where a Municipal Law Enforcement Officer discovers property contravening any provision of this By-law, he or she may give written notice to the owner setting out:

- (a) reasonable particulars of the contravention;
- (b) the location where the contravention occurred;
- (c) the work to be done to bring the property into compliance with this By-law;
- (d) the date by which the work must be done; and
- (e) the contents of Section 23 of this By-law concerning appeal provisions.

(2) Notice under subsection 20(1) shall be given by the Municipal Law Enforcement Officer to the owner by delivering the notice personally to the owner, by mailing the notice to the owner by registered mail at the address recorded for the owner in the assessment roll for the land, by placing the notice in the mail box or other depository ordinarily used for mail or by placing the notice on the door of a building located on the land.

(3) Where notice is given by personal service, it shall be effective on the date given; when given by registered mail, it shall be deemed effective upon the earlier of the date on which the registered mail is signed for or on the 5th day after mailing; and when placed in the mail box or other depository ordinarily used for mail or posted on the door of the building, shall be deemed effective on the 5th day after the leaving or posting.

(4) Where the condition of the property is such that it constitutes a hazard to members of the public, the General Manager may follow the provisions of Section 22 without having first sent the Notice.

Comply with Notice

21. Every person who is served with a Notice under this By-law and who has not appealed the Notice in accordance with Section 23 shall comply with the requirements of the Notice within the time period specified in the Notice.

Failure to Comply

22.-(1) Where an owner is in default of doing the matter or thing required to be done pursuant to a Notice under this By-law and has not appealed the Notice in accordance with Section 23, the General Manager may have the matter or thing done and the cost thereof may be recovered from the owner by action or by adding same to the property tax rolls for the property and collected in the same manner as taxes.

(2) For the purposes of Subsection 22(1), the Municipal Bylaw Enforcement Officer may enter onto the property with such person or persons and such equipment or facilities as may be required to bring the property into compliance with the Notice.

Enforcement Fee

22.1-(1) Enforcement fees shall be payable in accordance with the provisions of the User Fees By-law then in effect.

(2) Any fee payable pursuant to subsection 22.1(1) shall be in addition to:

- (a) any fine levied upon conviction of an offence under this By-law; and
- (b) any costs incurred for remediation.

(3) No fee payable pursuant to subsection 22.1(1) shall be waived or cease to be payable in the event that no charge is laid or a charge that is laid does not lead to a conviction.

Appeal from Notice

23.-(1) The City's Hearing Committee shall hear appeals under Section 23(4).

(2) A person served with a Notice who disagrees with all or any part of its content, may submit an objection in writing to the General Manager within five business days of his or her deemed receipt of the Notice. The General Manager is authorized to conduct a review and to revoke, confirm or alter all or part of the Notice. Written notice of the decision of the General Manager shall be provided to the person who filed an objection.

(3) Prior to altering a Notice issued by a Police Officer, the General Manager shall consult with the Chief of Police or his or her designate.

(4) Where a person disagrees with all or any part of the content of a Notice as confirmed or altered by the General Manager, the person may appeal the decision to the Hearing Committee within five (5) business days of the deemed receipt of the General Manager's decision by submitting a written request to the General Manager and paying of an administrative fee in an

amount determined in accordance with the City's Miscellaneous User Fee By-law then in effect. Upon timely receipt of the fee and the written request, the General Manager shall request the City Clerk to schedule a hearing.

(4.1) Despite Subsection 23 (2) and 23(4) no person who has been served with a Notice and who has on any prior occasion been served with a Notice pertaining to the same property and the same violation or violations shall be entitled to appeal to the General Manager or to the Hearing Committee.

(5) The City Clerk shall schedule a hearing of any appeals filed before the Hearing Committee as soon as reasonably practicable, and shall advise the person appealing of the time and place of the hearing at least ten days prior to the hearing.

(6) At any such hearing, the person appealing may present evidence and make submissions regarding the Notice.

(7) At any such hearing, the Hearing Committee may proceed to consider the matter, whether or not the owner is in attendance, and may confirm, amend or revoke all or part of the Notice or may add conditions to a Notice.

(8) A decision of the Hearing Committee with respect to any Notice is final and binding, takes effect upon the rendering of the decision by the Hearing Committee and is not reviewable by City Council.

(9) In the event the Hearing Committee revokes the Notice, the Appeal fee shall be refunded.

(10) For the purposes of this Section 23, all notices shall be given and deemed received in the same manner as service of a Notice under section 15.

Offence

24.-(1) Every owner who contravenes any of the provisions of this By-law, or fails to comply with a Notice to perform work under Section 20, (or as amended or confirmed by the General Manager or the Property Standards Committee), is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*.

(2) For the purposes of this Section, each day on which a person contravenes any of the provisions of this By-law shall be deemed to constitute a separate offence.

(3) The levying and payment of any fine shall not relieve a person from the necessity of paying any costs or charges for which such person is liable under this By-law or of performing the work directed under a Notice.

Order

25. When an owner has been convicted of an offence under this By-law, the Ontario Court (Provincial Division), or any court of competent jurisdiction thereafter may, in addition to any other penalty imposed, issue an order to the owner directing the performance of remedial work within a specified time period, or requiring the City to perform the work and requiring the owner to pay the costs thereof.

Part 6 - General

Short Title

26. This By-law shall be known as the Clearing of Yards and Vacant Lots By-Law.

Conflict

27. Where a provision of this By-law conflicts with the provisions of another By-law in force in the City, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

Enactment

28. This By-law shall come into force and take effect immediately upon the final passing thereof.

READ A FIRST AND SECOND TIME IN OPEN COUNCIL this 15th day of April,

2009

_____ Mayor

_____ Clerk

READ A THIRD TIME AND FINALLY ENACTED AND PASSED IN OPEN COUNCIL

this 15th day of April, 2009

_____ Mayor

_____ Clerk