

Attachment 1 – Draft Changes to the Yard Maintenance By-law

THE CORPORATION OF THE TOWN OF LAKESHORE

BY-LAW NUMBER: 54-2018

BEING A BY-LAW TO PROVIDE FOR THE MAINTENANCE OF LAND IN A  
CLEAN AND CLEAR CONDITION

**AND WHEREAS** Section 127 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides 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 land, not including buildings, regulate when and how these matters shall be done, prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land, and define “refuse”;

**AND WHEREAS** Section 425(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the *Municipal Act, 2001*, S.O. 2001, c, 25, is guilty of an offence;

**AND WHEREAS** Section 429 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may establish a system of fines for offences under a by-law;

**AND WHEREAS** Section 446 of the *Municipal Act, 2001*, S.O. 2001, c 25, as amended, provides that a municipality may direct or require a person to do a matter or thing, and that in default of it being done by the person directed or required to do it, the municipality may have the matter or thing done at the person’s expense and add the costs of doing so to the tax roll and collect them in the same manner as property taxes;

**NOW THEREFORE** the Council of The Corporation of the Town of Lakeshore hereby ENACTS the following:

1. DEFINITIONS

1.1 In this By-law:

- “**Building Department**” shall mean the *Building Department* of The Corporation of The Town of Lakeshore
- “**Bylaw Compliance Officer**” shall mean an enforcement officer as appointed by Council of the Town of Lakeshore from time to time for the enforcement of Town Bylaws;
- “**Clean**” shall mean the removal and proper disposal of *refuse* and waste material of any kind from any land within the boundaries of the Town of Lakeshore;
- “**Costs**” shall mean all monetary expenses incurred by the *Municipality* throughout the process of *remedial action*, plus all other fees as prescribed in the Town of Lakeshore Tariff of Fees Bylaw, as amended, and the Municipal Act;
- “**Derelict Motor Vehicle**” shall mean a *motor vehicle* that is disassembled, dismantled or in an inoperable condition and

includes a *motor vehicle* that does not have a valid license plates and/or permits in accordance with the *Highway Traffic Act*;

**“Domestic Waste”** shall include waste belonging to or associated with a house or household or concerning or relating to the home or family;

**“Grass”** shall mean all forms, types and species of grasses;

**“Spa”** shall mean a vessel designed or intended for recreational, therapeutic, or bathing purposes commonly referred to as a swim spa, hot tub, whirlpool, hydro massage pool, jetted tub or spa.

**“Industrial waste”** shall include waste belonging to, relating to or associated with industry, commerce, manufacturing, trade, business, calling or occupation;

**“Motor Vehicle”** shall include an automobile, truck, motorcycle, snowmobile, trailer, motorhome, ATV, *recreational vehicle, utility trailer* and any other vehicle propelled or driven otherwise than by muscular power, including motor vehicles running solely upon rails, or a traction engine, farm tractor, self-propelled implements of husbandry or road building machine;

**“Municipal Act, 2001”** shall mean the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;

**“Municipality”** shall mean the Corporation of the Town of Lakeshore;

**“Naturalized Area”** shall mean a property or a portion of a property, of at least .2 hectare (0.5 acres) containing intentional native vegetative growth that has been deliberately implemented to produce ground cover, forest or other natural space, including one or more species of wildflowers, shrubs, perennials, grasses, trees or combinations thereof, consistent with a managed and natural landscape other than regularly mown grass.

**“Overgrown”** shall mean vegetation that is: in an uncut, unkempt or unsightly state or a potential health or safety risk;

**“Owner”** shall mean any *person*, or his/her/it’s agent, who is the registered owner of a property, according to the records at the applicable Land Registry Office or as shown on the last revised assessment roll of the *Municipality*; and, for the purposes of this bylaw shall also include: an occupant in possession of all or part of a property, and/or a contractor who is carrying out work as part of a permit to construct or demolish issued by the building department;

**“Swimming Pool”** shall mean any body of water contained in whole or in part by artificial means, including:

a) a pond located outdoors, above or below grade, on privately owned property;

b) any body of water contained in a man-made vessel;

i. which has a minimum depth of water at any point of 610 mm and with more than

2.0 m<sup>2</sup> in potential liquid surface area; and

ii. which may be used or is capable of being used for swimming or diving or both;

iii. includes those swimming pools which are designed to be removed periodically on a seasonal or more frequent basis;

and does not include a swimming pool that is:

i. a pond or reservoir utilized for farming purposes or as part of a golf course;

ii. those swimming pools regulated by the Ontario Building Code; or,

iii. an existing natural body of water or stream, a privately or publicly owned storm water management facility.

**“Person”** in addition to its regular meaning, includes a business, corporation, partnership, joint venture or any director, officer or manager of a business, corporation, partnership or joint venture.

**“Pond”** shall mean a contained body of water not intended for swimming or diving which is located in an area permitting residential uses but does not include bodies of water that are designed for storm water retention, those located on farms, or those on golf courses.

**“Property”** shall mean a *structure* or part of a *structure*, and includes the lands and premises appurtenant thereto as well as *vacant property*; but for the purposes of this bylaw shall not include any building as defined in the Building Code Act, S.O. 1992, c.23, as amended. *“Properties”* shall have a corresponding meaning.

**“Refuse”** shall mean material that is left, thrown away, or unfit for use;

**“Remedial Action”** shall mean any action taken by the *Municipality* to achieve compliance with an Order issued under section 445 of the *Municipal Act, 2001* and this By-Law, including but not limited to: the pick-up, removal, storage and/or disposal of *refuse, domestic waste, industrial waste, grass, weeds, motor vehicles* and/or *infestation* from any land within the boundaries of the Town of Lakeshore;

**“Road”** shall mean a public right-of-way which has been designated and/or improved for vehicular traffic, and for greater certainty, shall include those lands adjacent to the travelled portion of the road such as sidewalks or boulevards nor privately owned.

**“Sidewalk”** shall mean the portion of a municipal or county road located between the edge of the roadway and the nearest adjacent property line that has been improved with concrete or other hard surface and is intended for use by pedestrians;

**“Stagnant Water”** shall mean an accumulation of untreated or uncirculated water on any swimming pool cover or in any swimming pool or pond.

**“Storage”** shall mean the keeping of goods or materials. “Store” shall have a corresponding meaning;

**“Waste Receptacle”** shall mean a receptacle designed for or used for the collection of waste.

**“Weeds”** shall mean noxious weeds designated by or under the *Weed Control Act, R.S.O. 1990. W. 5*, as amended and any other plant meeting the common definition.

## 2. PROPERTY MAINTENANCE

2.1 Every owner of a *property* shall keep his/her/its *property* free of all garbage, *refuse*, *domestic waste*, *industrial waste* or other miscellaneous debris.

2.2 Every owner of a *property* shall keep his/her/its *property* free of any conditions that might create a health, fire or accident hazard.

2.3 Every owner of a *property* shall trim, cut or destroy *weeds* or *grass*, whether dead or alive, that are more than 20cm (8in) in height.

2.4 Every owner of a *property* shall keep vegetation (other than *weeds* and *grass*) trimmed, and kept from becoming unreasonably *overgrown*, or in a condition that may affect safety, visibility, or the passage of the general public.

2.5 Every owner of a *property* for which a permit to construct or demolish has been issued by the *building department*, shall keep all garbage, debris, building materials, equipment and other related items associated with the ongoing work in a safe, contained, and orderly manner.

2.6 Every owner of *property* shall remove a plant, tree, limb, branch or portion of it that is dead, diseased, decayed or damaged so as to prevent:  
a) an unsafe condition, or  
b) damage to any building.

2.7 No person shall deposit any garbage, *refuse* or debris upon *property* under the ownership or control of the *municipality*, ~~or upon another owner's property.~~

2.8 Every owner of *property* shall ensure that his/her/its waste receptacle is removed from *property* under the ownership or control of the *municipality*, by 8 p.m. on the date of waste collection.

2.9 Where a *swimming pool* has been removed or demolished, the owner of a *property* shall restore the affected land with approved fill material to match existing site grading in a manner that will not adversely affect adjacent properties to the satisfaction of the *By-law Compliance Officer*.

2.72.10 Every owner of a *property* maintain the *swimming pool*, *spa*, *pond* and any covers so that they are free from *stagnant water*.

## 3. NATURALIZED AREAS

3.1 Sections 2.3 and 2.4 shall not apply to areas designated as *naturalized areas*, as approved by the Chief Building Official.

- 3.2 No *owner* shall permit or cause to be permitted the creation, modification or destruction of a *naturalized area* on their *property* without the approval of the Chief Building Official.
- 3.3 Applications for the creation, modification, or destruction of *Naturalized Areas* shall be submitted to the Chief Building Official on the prescribed form, and shall include a site-plan depicting the size and location of the lands being subject to the application, as well as any other information deemed necessary by the Chief Building Official.
- 3.4 The Chief Building Official may approve or deny any application made under Section 3.3, or require that modifications be made to the size and location of a proposed *naturalized area* for any reason. The reasons for refusal or modification of an application shall be provided to the applicant in writing.

#### 4. REMOVAL OF SNOW AND/OR ICE

- 4.1 Every *owner* shall, within twenty-four (24) hours of a significant accumulation, as determined by the Corporation; remove all snow and/or ice from any municipal *sidewalk* adjacent to their *property*.
- 4.2 No person shall damage, or permit or cause to be damaged, any *sidewalk* or *road* during the removal of snow and/or ice.

#### 5. DERELICT MOTOR VEHICLES

- 5.1 No *owner* shall *store*, or permit or cause to be *stored derelict motor vehicles* on his/her/its *property*.
- 5.2 No *owner* shall *store*, or permit or cause to be *stored, motor vehicle parts* or components on his/her/its *property*.
- 5.3 Sections 5.1 and 5.2 shall not apply to any *property* where those prohibitions are specifically permitted in accordance with The Town of Lakeshore Zoning Bylaw No. 2-2012, as amended.

#### 6. ENFORCEMENT

- 6.1 A *Bylaw Compliance Officer* may enter upon any *property* at any reasonable time to determine whether the lands conform to this Bylaw or to determine whether a direction, requirement or Order made under this Bylaw or an order under Section 431 of the *Municipal Act, 2001* is being complied with.
- 6.2 For the purposes of an inspection under Section 6.1 of this Bylaw, a *Bylaw Compliance Officer* may:
- a) require the production for inspection of documents or things that may be relevant to the land or any part thereof;
  - b) inspect and remove documents or things relevant to the land or part thereof for the purpose of making copies or extracts;
  - c) require information from any person concerning a matter related to the land or part thereof;
  - d) be accompanied by a person who has special or expert knowledge in relation to the land or part thereof;

- e) alone or in conjunction with any person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 6.3 The *Bylaw Compliance Officer* may, make an order pursuant to section 445 of the *Municipal Act, 2001* regarding any contravention of this by-law.
- 6.4 An order made pursuant to section 6.3, above shall be served on the owner personally, by regular or registered mail, or by placing a placard in a conspicuous place on the property.
- 6.5 Every Order sent via registered or regular mail pursuant to section 6.4, above, shall be deemed to have been served on the third day after mailing.
- 6.6 If any *owner* or *occupant* fails to carry out the requirements of an Order under this Bylaw, the *Municipality* may do or cause to be done the *remedial action* necessary to meet the requirements of the Order and add all *costs* to the tax roll to be collected in the same manner as *property taxes*.
- 6.7 Having removed items from the *property* in accordance with this By-law, the *Municipality* may, in its absolute discretion, elect to *store*, or cause to be *stored*, any or all such items for a maximum of thirty (30) days in order to permit the *owner* of such items to recover and personally dispose of them and the costs of such *storage* shall form a lien on the items in accordance with the *Repair and Storage Liens Act*, R.S.O. 1990, c.R.25, as amended.

## 7. ADMINISTRATION

- 7.1 The *Bylaw Compliance Officer* shall be responsible for the administration and enforcement of this Bylaw.
- 7.2 If any provision of this Bylaw or the application thereof to any person shall to any extent be held to be invalid or unenforceable, the remainder of this Bylaw or the application of such provision or requirement to all persons other than those to which it is held to be invalid or unenforceable, shall not be affected thereby and each provision and requirement of this Bylaw shall be separately valid and enforceable to the fullest extent permitted by law.
- 7.3 The *Municipality* shall not be liable to the *owner* or any other *person* by reason of any work conducted, the *storage* of any item or any other loss during the exercise of the powers contained within this Bylaw.

## 8. PENALTIES

- 8.1 Any person who contravenes any provision of this Bylaw is guilty of an offence and, upon conviction, is liable on a first conviction to a fine of not more than \$5,000.00 and on a subsequent conviction to a fine of not more than \$10,000.00.
- 8.2 Every person who fails to comply with an Order issued by the *Bylaw Compliance Officer* pursuant to section 6.3, above, is guilty of an offence and upon conviction, is liable to a fine of not more than \$10,000 per day for every day the offence continues after the time given for complying with the Order has expired.

## 9. REPEAL

9.1 With the passing of this bylaw, the following bylaws shall be repealed:

- Town of Lakeshore Bylaw No. 149-2003, “Refuse and Debris”
- Town of Lakeshore Bylaw No. 82-2001, “Snow and Ice”
- Town of Lakeshore Bylaw No. 8-2008, “Long Grass and Weeds”

10. TITLE

10.1 This By-Law may be cited as the “Yard Maintenance Bylaw”.

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Read a first time this 22<sup>nd</sup>-12<sup>th</sup> day of MayJune, 2018.  
Read a second time this 22<sup>nd</sup>-12<sup>th</sup> day of MayJune, 2018.  
Read a third time and finally passed this 22<sup>nd</sup>-12<sup>th</sup> day of MayJune, 2018.

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Tom Bain, Mayor

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Darlene Mooney, Deputy Clerk