

# **The Corporation of the Town Of Richmond Hill**

## **By-Law 31-19**

A by-law to regulate the height of Grass and Weeds on private property and boulevards within the Town of Richmond Hill

**WHEREAS** pursuant to Section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended ("*Municipal Act, 2001*") the Corporation of the Town of Richmond Hill (the "Corporation") has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

**AND WHEREAS** pursuant to Section 11 of the *Municipal Act, 2001* the Corporation may provide any service or thing that it considers necessary or desirable for the public and may pass by-laws with respect to various matters;

**AND WHEREAS** pursuant to Sections 11(3) and Section 27 of the *Municipal Act, 2001*, the Corporation may pass by-laws in respect of a highway under its jurisdiction;

**AND WHEREAS** pursuant to Section 23 of the *Municipal Act, 2001*, the Council of the Corporation may delegate its powers and duties to a person or body, subject to certain restrictions in that section;

**AND WHEREAS** pursuant to Section 128 of the *Municipal Act, 2001*, the Corporation may prohibit and regulate with respect to public nuisances, including matters which in the opinion of its Council are or could become or cause public nuisance;

**AND WHEREAS** weeds may result in allergic reactions or health problems for individuals, can disrupt ecological systems and have an impact on the health, safety and wellbeing of inhabitants and the natural environment;

**AND WHEREAS** tall Grass and Weeds may pose a risk to safety and fire safety, may impair visual sight lines, may create habitats for mosquitos, rodents or other insects and animals and contribute to neighbourhood blight;

**AND WHEREAS** pursuant to Part XIV of the *Municipal Act, 2001*, a municipality may pass by-laws relating to enforcement matters, including setting out offences and penalties for contravention of its by-laws; powers of entry for inspections and for determining compliance with a by-law or an order made pursuant to the by-law; issuing work orders; taking remedial action when persons fail to comply with work orders; entering onto land for the purpose of taking such remedial actions; and, adding the resulting costs to the tax roll and collecting them in the same manner as property taxes.

## ARTICLE 1 -INTERPRETATION

### 1.1 Definitions

In this by-law, the following words shall have the following meanings:

- (a) **“Boulevard”** means the part of a Highway, which may or may not contain a sidewalk, that is not used, or intended to be used, for vehicle travel by the general public, and is situated between the travelled portion of the highway and the boundary line of adjoining Property;
- (b) **“Commissioner”** means the Commissioner of Community Services of the Corporation or a successor office as the case may be;
- (c) **“Corporation”** means The Corporation of the Town of Richmond Hill.
- (d) **“Ditch”** means the area from the top of slope to the centre line of a channel dug in the ground used for drainage alongside of a road or an agricultural field.
- (e) **“Grass and Weeds”** means:
  - (i) all forms of grass, and
  - (ii) all noxious weeds and local weeds designated under the Weed Control Act, R.S.O., c. W.5.but excludes any forms of ornamental grass within a Garden;
- (f) **“Highway”** means any Public Property that constitutes a highway under Section 26 of the Municipal Act, 2001 that is under the jurisdiction of the Corporation;
- (g) **“Municipal Act, 2001”** means the Municipal Act, 2001, S.O. 2001, c.25, as amended or superseded;
- (h) **“Municipal By-law Enforcement Officer”** means an individual appointed for the purpose of enforcing the provisions of this by-law or all of the by-laws of the Town;
- (i) **“Garden”** means a clearly defined area of vegetation within Property that has been, or appears to have been, deliberately planted or cultivated with species of plants which may or not include wildflowers and ornamental grasses or combinations of them, consistent with a managed landscape;
- (j) **“Natural Growth Area”** means a Property, or part of a Property, that is:
  - (i) subject to environmental protection and/or conservation, pursuant to the Town of Richmond Hill’s Official Plan and/or Zoning By-law and amendments thereto;

- (ii) environmentally sensitive or susceptible to flooding or erosion, and/or which is regulated by a Conservation Authority;
  - (iii) comprised of steep slopes, ponds, and/or other natural or ecological features that make either the existence of a lawn and/or the maintenance of such an area's vegetative growth unreasonable in the opinion of a Municipal By-law Enforcement Officer; or
  - (iv) comprised of natural environment lands that are being managed or preserved by a federal or provincial government authority, agency, body or department, the Regional Municipality of York or the Corporation, or any agency, body or department of either of these municipalities for the protection, operation or existence of storm water management infrastructure, wildlife, watercourses, wetlands and/or forestry areas;
- (k) **“Work Order”** means an order requiring an Owner to do work to correct a contravention of this by-law;
- (l) **“Owner”** means:
- (i) the registered owner(s) of Property as shown in the records of the Land Registry Office; or
  - (ii) a Person other than the registered owner(s) that is an occupant, tenant, mortgagee in possession or other Person in possession or charge of the Property or the premises thereon, or receiving the rent in connection with the Property or premises, whether on the Person's own account or on the account of an agent or trustee of any other Person and includes an agent or trustee of the owner;
- (m) **“Person”** means an individual, corporation or partnership.
- (n) **“Property”** means all property, premises, grounds and yards, whether or not vacant or including a building or structure, within the geographic boundaries of the Town of Richmond Hill; and
- (o) **“Public Property”** means property owned by or under control of any federal or provincial government authority, agency, body or department, the Regional Municipality of York or the Corporation, or any agency, body or department of either of these municipalities.

## 1.2 **Short Title**

This By-law may be cited as the “Grass and Weeds By-law”.

## **ARTICLE 2 - APPLICATION**

### **2.1 Application**

The provisions of this by-law shall apply to all Property within the boundaries of the Town of Richmond Hill, save and except for any:

- (a) Public Property (excluding Boulevards to which the provisions of this by-law shall apply);
- (b) Property or Boulevards, or a portion thereof, that is a Ditch; and
- (c) Property or a portion thereof designated as a Natural Growth Area

## **ARTICLE 3 - GENERAL PROVISIONS**

### **3.1 Grass and Weeds Maintenance**

No Owner of Property shall:

- (a) permit the Grass and Weeds on their Property to exceed a height of 20 centimetres.
- (b) save and except as set out in Section 3.2, permit the Grass and Weeds on the Boulevard(s) adjoining their Property to exceed a height of 20 centimetres; or
- (c) fail to comply with a Work Order issued pursuant to this by-law.

### **3.2 Municipal Maintenance**

Section 3.1(b) shall not apply, and the Corporation shall maintain a Boulevard where:

- (a) a Boulevard, or portion thereof, is adjoining a rear yard of a residential Property;  
or
- (b) a Boulevard, or portion thereof, is adjoining a side yard of a residential Property and a four lane collector Highway.

### **3.3 Hindering or Obstructing**

No Person shall hinder or obstruct, or attempt to hinder or obstruct, any other Person who is exercising a power or performing a duty under this by-law.

## **ARTICLE 4 - ADMINISTRATION**

### **4.1 Administration of By-law by Commissioner**

The Commissioner is responsible for the administration of this by-law and may designate any employee or officer of the Corporation to exercise any power or perform any duty in connection with such administration.

#### **4.2 Municipal By-law Enforcement Officers**

Any Municipal By-law Enforcement Officer is authorized to enforce the provisions of this By-law and for the purpose of such enforcement may exercise any of the powers and perform any of the duties set out in this by-law.

#### **4.3 Natural Growth Area**

The Commissioner, or his designate pursuant to Section 4.1, may designate any Property or portion thereof as a Natural Growth Area.

#### **4.4 Power of Entry**

A Municipal By-law Enforcement Officer may enter on the Property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- (a) the provisions of this by-law;
- (b) a Work Order issued under this by-law; or
- (c) an order under Section 431 of the *Municipal Act, 2001*.

#### **4.5 Inspection**

For the purposes of an inspection carried out pursuant to Section 4.4, a Municipal By-law Enforcement Officer may:

- (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 including their name, address, phone number and identification; and
- (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 inspection.

#### **4.6 Inspection Pursuant to Order**

A Municipal By-law Enforcement Officer may undertake an inspection pursuant to an order issued under s 438 of the *Municipal Act, 2001*.

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## **ARTICLE 5 -WORK ORDERS AND REMEDIAL ACTION**

### **5.1 Work Order**

Where a Property or Boulevard adjoining any Property, or the Grass and Weeds thereon, are in contravention with any of the provisions of this by-law, the Municipal By-law Enforcement Officer may issue a Work Order to the Owner of the Property to discontinue the contravention and bring the non-conforming Property or Boulevard, or the Grass and Weeds thereon, into conformity.

### **5.2 Contents of Work Order**

The Work Order shall set out the reasonable particulars of the contravention adequate to identify the contravention, the location of the land on which the contravention occurred, and the date by which there must be compliance with the Work Order. The Work Order may also provide that if the Owner fails to correct the contravention, the Corporation may do the work to correct the contravention, at the expense of the Owner. The Work Order may be served in accordance with Section 5.3 of this by-law.

### **5.3 Delivery of Work Order**

A Work Order may be served by:

- (a) personal service upon the Owner;
- (b) pre-paid registered mail sent to the last known address of the Owner, or as shown on the most recent records of the Corporation; or
- (c) prominently posting a copy of the Work Order either:
  - (i) on the Property in respect of which the Work Order is made;
  - (ii) if the Work Order is in respect of a Boulevard, on the Property adjoining the Boulevard; or
  - (iii) on any premises on the Property.

### **5.4 Deemed Receipt of Work Order**

A Work Order is deemed to be received by an Owner:

- (a) in the case of personal service as in subsection 5.3(a) or posting as in subsection 5.3(b), upon such personal services or posting; and
- (b) in the case of prepaid registered mail, on the 5<sup>th</sup> day after it is mailed.

### **5.5 Owner to Comply**

An Owner in receipt of a Work Order shall comply with the requirements of any Work Order.

### **5.6 Failure to Comply – Remedial Work Done by Corporation**

If an Owner in receipt of a Work Order fails to correct the contravention referred to in the Work Order by the date specified in the Work Order, the Corporation, in addition to all other remedies it may have, may enter onto the Owner's Property to do all work necessary to correct the contravention. The Corporation will carry out such work in accordance with any applicable noise restrictions set out in any in force Town noise by-law.

### **5.7 Exercise of Remedial Work**

The Corporation's power to undertake remedial work to correct a contravention may be exercised by the Commissioner, any Municipal By-law Enforcement Officer, any employee or officer designated to do so by the Commissioner pursuant to Section 4.1 or a member of the York Regional Police, as well as by any Person under their direction.

### **5.8 Recovery of Corporation's Costs of the Work**

The Corporation's actual costs incurred in conducting the work described in Section 5.6, including any administration fees, shall be deemed to be a debt to the Corporation and may be collected by action or added to the tax roll and collected in the same manner as municipal taxes.

## **ARTICLE 6 - OFFENCES AND PENALTIES**

### **6.1 Offence**

Every Person who contravenes a provision of this by-law, including a Work Order issued under this by-law, is guilty of an offence. If a corporation has contravened a provision of this by-law, including a Work Order issued under this by-law, every director and officer who knowingly concurred in such a contravention is guilty of an offence.

### **6.2 Presumption**

Where the height of Grass and Weeds on Property or on the Boulevard adjoining it exceeds 20 centimetres in contravention of any of the provisions of this by-law, the Owner shall be presumed to have been the Person who caused or permitted the contravention, which presumption may be rebutted by evidence to the contrary on a balance of probabilities. Where an Owner is a corporation, the directors and officers of the corporation shall be presumed to have knowingly concurred in the contravention of this

by-law, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

### **6.3 Identification**

Where any Person authorized to enforce this by-law has reasonable grounds to believe that an offence has been committed under this by-law, the authorized Person may require the name, address and proof of identity of that Person, and the Person shall supply the required information.

### **6.4 Continuing Offence**

If Grass and Weeds on Property or a Boulevard adjoining Property have exceeded a height of 20 centimetres in 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 a continuing offence for each day or part of a day that the contravention remains uncorrected.

### **6.5 Non-Compliance with Work Order**

If a Work Order has been issued under this by-law, and the Work Order has not been complied with, the contravention of the Work Order shall be deemed to be a continuing offence for each day or part of a day that the Work Order is not complied with.

### **6.6 Penalties**

On conviction of an offence under this by-law, every Person is liable for a fine in accordance with the following rules made pursuant to section 429 of the *Municipal Act, 2001*:

- (a) upon a first conviction, to a fine of not less than \$100.00 and not more than \$50,000.00;
- (b) Upon a second or subsequent conviction for the same offence, to a fine of not less than \$400.00 and not more than \$100,000.00
- (c) Upon conviction for a continuing offence, to a fine of not less than \$100.00 and not more than \$10,000 for each day or part of a day that the offence continues. The total of the daily fines may exceed \$100,000.00
- (d) Upon conviction of a multiple offence, for each offence included in the multiple offence, to a fine of not less than \$100.00 and not more than \$10,000.00. The total of all fines for each included offence is not limited to \$100,000.00.

## **6.7 Multiple Offence**

For the purposes of this by-law, “multiple offence” 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.

## **6.8 Second or Subsequent Offence**

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.

# **ARTICLE 7 - GENERAL**

## **7.1 Severability**

In the event that any particular provision or part of a provision of this Chapter is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or provisions or part of the provision shall be deemed to be severed from the remainder of this Chapter and all other provisions shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

## **7.2 Transition**

After the date of the enactment of this by-law, by-law no. 217-96 of the Corporation as amended shall apply only to those Properties for which a notice to comply with By-law no. 217-96 has been issued prior to the date of the enactment of this by-law, and then only to such Properties until such time as the work required by the notice to comply has been completed or any enforcement proceedings with respect to such notice to comply, including any remedial work carried out by the Corporation, shall have been concluded.

## **7.3 Repeal**

Except for the purposes as set out in Section 7.2 of this By-law, by-law No. 217-96 and all amendments thereto, is hereby repealed.

PASSED THIS 25 DAY OF MARCH, 2019.

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Mayor

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Clerk