

THE CORPORATION OF VILLAGE OF WESTPORT

BY-LAW 2020-24

BEING A BY-LAW TO PROVIDE FOR THE MAINTENANCE OF LANDS IN A SAFE CONDITION AND TO RESCIND BY-LAW #2018-12.

WHEREAS Section 118 of the Municipal Act, S.O. 2001, c25, provides that a municipality may regulate construction and use of scaffolding, excavation and construction and use of trenches, safety devices and require a permit for such works; and

AND WHEREAS Section 127 of the Municipal Act, S.O. 2001, c25 provides that a local municipality may require property Owners to maintain their properties in a clean, clear and safe condition; and

AND WHEREAS Section 131 of the Municipal Act, S.O. 2001, c25, provides that the 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

AND WHEREAS Section 398 of the Municipal Act, S.O. 2001, c25, provides that a local municipality may impose fees and charges for work done by the municipality to implement a bylaw, and once charged, add unpaid fees or charges to the tax roll and collect them in the same manner as municipal taxes; and

AND WHEREAS Section 436 of the Municipal Act, S.O. 2001, c25, provides that the municipality may require the production of documents and things relevant to an inspection and conduct other examinations, tests, and investigations to determine if a by-law has been contravened; and

AND WHEREAS Section 391 of the Municipal Act, S.O. 2001, c25, provides that a local municipality may impose fees and charges for work done by the municipality to implement a bylaw, and once charged, add unpaid fees or charges to the tax roll and collect them in the same manner as municipal taxes; and

AND WHEREAS Council has previously adopted Bylaw 1986-09 being a by-law to authorize property standards.

NOW THEREFORE the Council of The Village of Westport enacts as follows:

DEFINITIONS:

For the purposes of this by-law the following words shall have the following meanings:

Accessory Building shall mean a detached building, out building or structure, the use of which is incidental to the primary use of the property.

Adjacent Lands shall include all lands that are within 60 meters of any lot line of lands that are the subject of a contravention of this by-law.

Motor Vehicle shall include an automobile, motorcycle, motor assisted bicycle, a street car or other motor vehicles running only upon rails, a motorized snow vehicle, recreational vehicles, traction engine, road-building equipment and any other vehicle propelled or driven otherwise than by muscular power.

Officer shall mean a municipal law enforcement officer appointed by the Council of the Village of Westport to enforce the provisions of this by-law;

Owner shall mean the person(s) that appears on the tax roll as the Owner of a parcel of land. Without limiting the generality of the foregoing, an Owner may also include the person who at any time manages or receives the rent of the land or premises whether on his own account or as agent or trustee of any other person or who would so receive the rent if such land and premises were let, and shall also include a lessee or occupant of the property who under the terms of a lease is required to repair and maintain the property.

Property shall mean a building or structure, or part of a building or structure, and includes the lands and premises connected thereto and all mobile homes, mobile buildings, mobile structures, out buildings, fences and erections thereon, whether heretofore or hereafter erected, and includes vacant properties.

Unlicensed shall refer to any Motor Vehicle for which a license is normally required to operate that vehicle on any road and for which there is no valid and current license.

Village shall mean the Corporation of the Village of Westport.

Yard shall mean the land or compound other than publicly owned land, around the appurtenant to the whole, or any part of a dwelling and used or intended to be used or capable of being used in connection with said property.

1. General:

1.1 This By-law applies to all property within the territorial jurisdiction of the Village.

1.2 Every Owner shall keep their property, building, yard or grounds, whether vacant or occupied, in a neat, tidy and safe condition, and free from:

1.2.1 Rubbish, garbage, waste and debris of any kind;

1.2.2 Long grass, discarded brush and clippings, and excessive weed growth, or any other conditions that may promote or be susceptible to fire or infestation by rodents or other noxious conditions;

1.2.3 Timber, lumber, building materials or any other type of product or material stored or kept under conditions that are unsafe or that may be susceptible to fire or other dangerous risk or accident;

1.2.4 A tree or other plant, or limb or branch of it that is dead, diseased, decayed or damaged shall be removed from the property or otherwise pruned to remove the dead, diseased, dying or dangerous portions of the tree or plant so as to prevent an unsafe condition or damage to any building.

1.2.5 Vehicles, trailers, boats, barges, or mechanical equipment which are not within a building and which are wrecked, unlicensed, not validated, discarded, dismantled or in an inoperative condition. Scrap and junk material including without limiting the generality of the foregoing, wrecked, dismantled, unused or Unlicensed Motor Vehicles, machinery, tools, tires appliances, equipment or any part thereof except in an establishment licensed or authorized to conduct and operate such a business, and then only in an arrangement such as to prevent an unsafe condition or an unsightly condition out of character with the surrounding environment;

1.2.6 Any pit, precipice or excavation that is unfenced or unprotected against risk or accident;

1.2.7 Buildings, fences, scaffolding, retaining walls or any other erection that, by reason of its ruinous or dilapidated state, faulty construction or otherwise is in an unsafe condition or may be susceptible to fire or accident;

1.2.8 Exterior of buildings and their components including soffit and fascia shall be maintained so as to prevent their deterioration due to weather and insects and shall be so maintained by painting, restoring, or repairing the walls coping or flashing and by waterproofing of joints;

1.2.9 Any combustible, flammable, volatile, caustic or explosive substance unless stored under conditions that are safe, in compliance with any applicable laws and minimize the risk of fire or accident.

1.2.10 Any accessory shed which is in dilapidated or collapsed condition.

- 1.3 No Owner or occupant of any property shall cause, allow or permit any building, yard lot or grounds to be or remain in a condition contrary to the following requirements:
 - 1.3.1 No roof drainage or sump pump drainage shall discharge into the sanitary sewer.
 - 1.3.2 No roof drainage or sump pump drainage shall be altered so as to create a hazard or danger.
 - 1.3.3 No swimming pool shall be drained onto adjacent privately owned property or into a sanitary sewer.
 - 1.3.4 The Owner or occupier of any lands shall not fill up and drain any lot or yard that creates a hazard or danger. Yards shall be maintained in a properly graded and levelled condition compatible with its intended use.
- 1.4 Paragraph 1.2.3 shall not apply to:
 - 1.4.1 Wood that has been cut and stored, in an orderly fashion, for the use in a stove or other heating appliance incidental to the heating of a building or for cooking purposes; and
 - 1.4.2 Building materials and/or equipment incidental to the construction of a building or structure or such materials or equipment incidental to the landscaping, including the grading or the placement of fill, until such time as the construction or landscaping is completed.
- 1.5 Paragraph 1.2.5, shall not apply to:
 - 1.5.1 Equipment that may be stored on lands that are associated with or incidental to an agricultural operation, whether operational or retained, as parts for other equipment;
 - 1.5.2 The storage of Motor Vehicle on lands for the purpose of repairing the Motor Vehicle for the Owner's own use, provided that the storage and repair of the Motor Vehicle does not constitute a commercial use of the land and that such repair is completed within 30 days from the date on which the Motor Vehicle is first placed for storage on the lands.
- 1.6 Notwithstanding anything to the contrary in this By-law, any material may be stored within a building provided that:

- 1.6.1 the storage of such items does not constitute a risk to persons or property on the lands in which the items are stored or on adjacent lands; and
- 1.6.2 That the items stored do not create an odour that could be considered offensive to persons on adjacent lands.
- 1.7 No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer or any person acting under an Officer's direction in the enforcement or attempted enforcement of this By-law.
- 1.8 No person shall neglect or refuse to produce any information or thing or to provide any information required by an Officer in accordance with this By-law.

2.0 **Enforcement:**

- 2.1 An Officer or any person acting under his/her instructions may at all reasonable times, upon producing proper identification, enter upon any parcel of land, excluding any building used as a dwelling, for the purpose of conducting an inspection to determine whether there is or has been a contravention of this By-law, a direction or order issued under this By-law, a condition of a license issued by the Municipality under any By-law or a court order.
- 2.2 An Officer may, as part of his/her inspection:
 - 2.2.1 Require the Owner or any person the Officer reasonably believes may have information related to the alleged contravention to produce for inspection any document or thing relevant to the inspection;
 - 2.2.2 Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - 2.2.3 Require information from any person concerning a matter related to the inspection; and
 - 2.2.4 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 the inspection.
- 2.3 An Officer who removes any document or thing in accordance with this By-law shall provide the Owner with a receipt for the document or thing and

shall return the document or thing to the Owner once it is no longer required for purposes of enforcement by the Village of Westport.

- 2.4 The Village may request an order from a Provincial Judge or Justice of the Peace authorizing an Officer to enter on land for the purpose of carrying out an inspection for a purpose described in subsection 2.1 and to exercise powers described in subsection 2.2 as specified in the order where the Village has been prevented or is likely to be prevented from doing anything set out in this By-law. An order under this subsection:

2.4.1 Shall state the date on which it expires, which date shall not be later than 30 days after the day the order is issued;

2.4.2 May be executed only between 6 a.m. and 9 p.m. unless the order provides otherwise;

2.4.3 In the case of an order authorizing an inspection of a room or place actually being used as a dwelling, the occupier must be given notice concerning when the inspection will be carried out.

- 2.5 Notwithstanding the foregoing, if upon inspection of a property, an officer is satisfied that the property poses an immediate danger to the health or safety of any person, the officer may perform or cause to be performed at the Owner's expense such remedial repairs or other work necessary to terminate the immediate danger.

2.6 **Placarding**

A Provincial Offences Officer may cause to be placed in a prominent position on the exterior of any building located on the property which does not conform to the standards set out in this bylaw a placard in the form set out in Schedule "A" to this bylaw and no person shall pull down or deface any such placard. The placing of the placard shall be deemed to be sufficient service of the Notice on the Owner or other persons.

2.7 **Date of Service**

When a Notice has been served by a Provincial Offences Officer, the date of service shall be deemed to be the date upon which the Notice is delivered for Registered Mailing at a Post Office, or when a Notice is personally served by a Provincial Offences Officer upon any person, or upon the date of placarding of a property.

3.0 **Order To Remedy:**

3.1 An Officer, upon finding a contravention of this By-law, may issue an order to the Owner:

3.1.1 Requiring the Owner to cease the activity that contravenes the By-law; and

3.1.2 Requiring the Owner to bring the land into compliance with this By-law.

3.2 An order issued pursuant to subsection 3.1 may require work to be done even though the facts that constitute the contravention of this By-law were present before this By-law came into force.

3.3 An order may be served:

3.3.1 Upon the Owner personally, which shall establish the effective date of service; or

3.3.2 By registered mail sent to the last known address of the Owner in accordance with the information contained in the latest tax roll maintained by the Village, which shall establish an effective date of service as the date the order is delivered for registered mailing at the Post Office; or

3.3.3 By placing the order on the property in a prominent place, which date shall establish the effective date of service as the date of posting the order on the property.

3.4 An order issued pursuant to this By-law shall specify:

3.4.1 The legal and civic address (if available) of the lands subject to the contravention;

3.4.2 The nature and location of the contravention on the lands specified;

3.4.3 A description of the work to remedy the contravention;

3.4.4 A time period from the date of delivery of the order for the contravention to be remedied, if applicable;

3.4.5 Where the order requires that the Owner take action to remedy the contravention, the following statement:

"The Owner shall conduct the work identified in this order within the time period specified, failing which the Village or the officers thereof, may enter upon the property to which this order applies and without further notice to the Owner, perform the work specified in this order. All costs incurred by the Village to conduct the work identified in this order shall be the responsibility of the Owner and the Owner shall be invoiced for this work accordingly. In the event of the failure of the Owner to submit payment for an invoice arising from this order, all costs as provided on the invoice shall be added to the property tax roll and shall be collected as taxes against the property to which the order applies."

3.5 The Village may, where the Owner fails to remedy the contravention in the time specified in the order:

3.5.1 An Order of Non-compliance may be served by personal service or registered mail, to the owner of the property, and all persons having an interest therein or by placarding a building on the property, containing particulars of the non-conformity and stating that after a certain date, to be specified in the Notice of Non-compliance, the property will be subject to a re-inspection.

3.5.2 Direct its employees or agents to enter onto the lands subject to the order at any reasonable time without further notice to the Owner;

3.5.3 Conduct all work necessary to ensure the parcel of land is in compliance with this By-law;

3.5.4 Remove all items from the lands that are not in compliance with this Bylaw and which have been identified in the order to remedy;

3.5.5 Store or cause to be stored, any item(s), in accordance with the *Repair and Storage Liens Act*, R.S.O. 1990; and

3.5.6 Prepare a list of all items stored and forward this list to the Owner for recovery of these items.

3.6 Items that have been removed from a parcel of land and placed in storage by the Village pursuant to subsection 3.5 and that have not been recovered by the Owner within the time period specified in accordance with the *Repair and Storage Liens Act*, R.S.O. 1990, shall be disposed of in accordance with that Act.

3.7 Notwithstanding anything to the contrary in this By-law, if in the opinion of an Officer, the nature of the contravention that exists on a parcel of land is

such there is an imminent risk to persons or property, the Officer may cause the contravention to be removed or remedied as soon as possible.

- 3.8 Where the Village acts pursuant to subsection 3.7, it shall as soon as possible thereafter provide the Owner with a statement of work completed to remove or eliminate the contravention.

4.0 **Offences and Penalties:**

- 4.1 It is an offence to contravene any provision of this By-law or any order made under this By-law.
- 4.2 Each day or part of a day that a person contravenes any provision of this by-law constitutes a separate offence.
- 4.3 Any individual who contravenes this By-law is guilty of an offence and, upon conviction, is liable to a fine pursuant to the Provincial Offences Act.
- 4.4 Any corporation that contravenes this By-law is guilty of an offence and, upon conviction, is liable to a fine pursuant to the Provincial Offences Act.
- 4.5 In addition to all other fees/fines, the Village may impose actual costs plus an administration fee as set out in the General Fees and Rates By-law.
- 4.6 All costs incurred by the Village to remedy a contravention of this by-law as provided for herein, including the storage of any item, shall be due within 30 days from the date of an invoice delivered by the Municipality.
- 4.7 All fees including any interest thereon and due to the Municipality in accordance with this By-law may be added to the tax roll of the real property owned by the person(s) that incurred the fees arising from the remedy of the contravention and collected in like manner as municipal taxes.
- 4.8 The Village 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 By-law.

5.0 **Repeal:**

- 5.1 By-law 2018-12, is hereby repealed.

6.0 **General**

- 6.1 That Council does hereby authorize the Clerk to submit this by-law to the Ontario Ministry of the Attorney General to obtain Short Form wording

approval for the issuance of fines contained in Schedule "B", and Council further authorizes the Clerk to make any necessary minor changes to the description of the fines contained therein, as recommended by the Ministry of the Attorney General, provided that such changes do not constitute a change from the intent of the said fine.

6.2 That Schedule "A" and Schedule "B" shall form a part of this By-law

7.0 **Effective Date**

6.1 This By-law shall come into effect on the date of passing, thereof.

8.0 **Title of By-law**

8.1 This By-law may be cited as the "Safe Property By-law".

ENACTED AND PASSED THIS 5TH DAY OF MAY 2020.

MAYOR

CLERK

SCHEDULE 'A' TO BY-LAW 2020-24



NOTICE

This Property has been found to not be in conformity with the standards set out in the Safe Property By-law, By-law No.2020-24

Any person who pulls down or defaces this placard is liable to the same penalty as provided in Section 2 of the Safe Property By-law of The Corporation of the Village of Westport.

Dated at the Village of Westport this 5th day of May, 2020.

(Name)
Provincial Offences Officer
613 273-2191

The Corporation for the Village of Westport

Part I Provincial Offences Act

Bylaw 2020-24 - Maintenance of Lands in a Safe Condition

SCHEDULE B

FINES AND PENALTIES

ITEM		SECTION	SET FINE
	GENERAL		
1	Failure to keep property free from rubbish, garbage, waste, etc	1.2.1	\$300
2	Failure to keep property free from long grass, excessive weed growth	1.2.2	\$300
3	Failure to keep building materials safely stored	1.2.3	\$300
4	Failure to remove dead, diseased or damaged tree & other plants	1.2.4	\$300
5	Failure to store wrecked, unlicensed or inoperable vehicles, boats or other mechanical equipment within a building	1.2.5	\$300
6	Failure to store wrecked, unlicensed or inoperable vehicles, boats or other mechanical equipment in a safe condition	1.2.5	\$300
7	Failure to store wrecked, unlicensed or inoperable vehicles, boats or other mechanical equipment in an unsightly condition out of character with the surrounding environment	1.2.5	\$300
8	Failure to fence or protect a pit, precipice, excavation	1.2.6	\$300
9	Failure to maintain fences, scaffolding retaining walls, etc in a safe condition	1.2.7	\$300
10	Failure to maintain building exteriors to prevent deterioration	1.2.8	\$300
11	Failure to safely store combustible, flammable, volatile substances	1.2.9	\$300

ITEM		SECTION	SET FINE
12	Failure to remove dilapidated or collapsed accessory shed	1.2.10	\$300
13	Discharge roof or sump pump drainage into sanitary sewer	1.3.1	\$500
14	Failure to prevent a hazard by the drainage of roof or sump pump discharge	1.3.2	\$500
15	Drainage of swimming pool or hot tub onto adjacent privately owned property or sanitary sewer	1.3.3	\$500
16	No owner shall alter or drain any lands so as to create a hazard or danger.	1.3.4	\$500
17	Storage of materials that constitute a risk to persons or property or adjacent lands	1.6.1	\$300
18	Storage of materials that create an offensive odour to persons on adjacent lands	1.6.2	\$300

