

The Corporation of the City of Burlington

City of Burlington By-law 73-2022

A by-law to amend 49-2022, being a By-law to Regulate Exterior Property Maintenance including Vegetation, Refuse and Graffiti
File:110-01-1 CM-26-22 and BB-14-22

WHEREAS sections 8, 9, and 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, (the "*Municipal Act, 2001*") authorize The Corporation of the City of Burlington (the "City") to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6, and 8 of subsection 11 (2) authorize by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; and the protection of persons and property; and

WHEREAS section 127 of the *Municipal Act, 2001* authorizes the City to require the 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 to regulate when and how such matters shall be done, and for prohibiting the disposal of refuse or debris on land without the consent of the owner or occupant of land; and

WHEREAS section 425 of the *Municipal Act, 2001* permits a municipality to pass by-laws providing that any person who contravenes any by-law of the municipality is guilty of an offence; and

WHEREAS section 429 of the *Municipal Act, 2001* authorizes a municipality to establish a system of fines for offences under a by-law of the municipality passed under this Act.

WHEREAS section 441.1 of the *Municipal Act, 2001* authorizes a municipality to add any part of a fine for a commission of a provincial offence that is in default under section 69 of the POA, to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the fine and collect it in the same manner as municipal taxes; and

WHEREAS Council deems it appropriate to amend the Lot Maintenance By-law to, among other things, update the fines for contravening the by-law, and confirm defaulted fines may be added to the tax roll for any property for which all of the owners are responsible for paying the fine and collected in the same manner as municipal taxes;

NOW THEREFORE the Council of The Corporation of the City of Burlington hereby enacts as follows:

1. Heading of Part 9 of By-law No. 49-2022 is amended by adding "OFFENCES and" immediately preceding the word PENALTIES.

2. By-law No. 49-2022 is amended by adding new section 9.0 under the heading “General” immediately preceding section 9.1:

9.0 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law.

3. By-law No. 49-2022 is amended by deleting sections 9.4 and 9.5 in their entirety and replacing them with the following new sections 9.4 and 9.5:

9.4 Every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence under the provisions of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended

9.5 Every person who contravenes any provision of this By-law or who obstructs a By-law Enforcement Officer in carrying out their duties under this By-law is guilty of an offence under the *Provincial Offences Act*, is liable to a fine pursuant to the *Municipal Act, 2001*, as follows:

- (a) a minimum fine of \$500 and a maximum fine of \$100,000.00;
- (b) in the case of a continuing offence, for each day or part of a day that the offence continues, a minimum of \$500 and a maximum fine of \$100,000.00, and the total of all daily fines for the offence is not limited to \$100,000.00; and
- (c) in the case of a multiple offence, for each offence included in the multiple offence, a minimum fine of \$500, and a maximum fine of \$10,000.00, and the total of all fines for each included offence is not limited to \$100,000.00.

4. By-law No. 49-2022 is amended by adding the following new section 8.15.1 immediately following section 8.15:

8.15.1 (1) Where a Person fails to pay any part of a fine for a contravention of this By-law and the fine is due and payable under section 66 of the *Provincial Offences Act*, including any extension of time to pay the fine provided under that section, the City Treasurer, or the Treasurer’s delegate may give the Person a written notice specifying the amount of the fine payable and the final date on which it is payable, which date shall not be less than 21 days after the date of the notice.

(2) If any part of a fine or a contravention of this By-law remains unpaid after the final date specified in the notice provided under this section, the outstanding fine is deemed to be unpaid taxes pursuant to section 351 of the *Municipal Act, 2001* and can be collected in the same manner as

taxes in accordance with section 444.1 of *the Municipal Act, 2001*.

5. Despite amendments being made in this Amending By-law to By-law No. 49-2022, By-law No. 49-2022 as it read before the amendments in sections 1-4 above, shall continue to apply to proceedings in respect of offences that occurred before its amendment.
6. That in all other respects By-Law No. 49-2022 be and is hereby confirmed.
7. This By-law comes into force on the day of its passing.

Enacted and passed this 20th day of September, 2022.

Mayor Marianne Meed Ward _____

City Clerk Kevin Arjoon _____