



Office Consolidation

Refuse and Dumping By-law 381-2005

(Amended by By-laws 401-2007, 136-2008, 321-2009, 165-2011)

To prohibit the dumping of refuse in Brampton and to require that owners and occupants of lands in Brampton keep their land clear of refuse, graffiti and stagnant water

WHEREAS Section 127 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended ("*Municipal Act*") permits a local municipality to require owners and occupants to clean and clear land, not including buildings; **(By-law 321-2009)**

AND WHEREAS Section 128 permits a local municipality to prohibit and regulate with respect to public nuisances;

AND WHEREAS Section 446 permits a local municipality to direct that where an owner has defaulted, the municipality may have the default remedied at the owner's expense and add the cost to the tax roll; **(By-law 321-2009)**

AND WHEREAS Part XIV of the *Municipal Act, 2001* governs the authority of municipalities to enforce by-laws; **(By-law 165-2011)**

AND WHEREAS Sections 435, 436 and 437 provide that subject to certain restrictions the municipality may set out in its by-laws powers of entry to determine compliance with a municipal by-law or municipal order; **(By-law 165-2011)**

NOW THEREFORE, the Council of the Corporation of the City of Brampton ENACTS as follows:

1. DEFINITIONS

“Accessory Building” (**repealed – By-law 321-2009**)

“By-law Officer” means a Property Standards Officer or any other enforcement officer appointed to enforce and administer the City’s by-laws. (**By-law 321-2009**)

“City” means the Corporation of the City of Brampton.

“City Property” means the land situated within the City that is owned or controlled by the City.

“Deliver” means to serve by:

- (a) personal service, and for a corporation means leaving a copy of the document with an officer, director or agent of the corporation, or with a person at any place of business of the corporation who appears to be in control or management of the place of business;
- (b) by ordinary or certified mail to the occupant at the address of the property or to the owner at the address as shown on the last revised assessment roll, in which case service is effective five days after the date of mailing;
- (c) by courier;
- (d) by leaving or posting at the property for service on the occupant, and at the address as shown on the last revised assessment roll for the owner and service is effective the day after the posting; or
- (e) by email, but only if the receiver of the email provides an acknowledgement the notice was received, and in such circumstances, the service is effective as of the time of the acknowledgement.

“Director” means the Director of Enforcement and By-law Services or his or her delegate (**By-law 136-2008**).

“dwelling” means a unit that: (**By-law 165-2011**)

- (a) consists of a self-contained set of rooms located in a building or structure,
- (b) is used as a residential premises,
- (c) contains kitchen and bathroom facilities that are used only by the occupants of the unit,

- (d) is used as a single housekeeping unit, which includes a unit in which no occupant has exclusive possession of any part of the unit, and
- (e) has a means of egress to the outside of the building or structure in which it is located, which may be a means of egress through another residential unit

And for greater certainty a dwelling does not include a backyard outdoor swimming pool located on the same Private Property where the dwelling is located, so long as the swimming pool is not located with the walls of the building or structure that constitutes the dwelling.

“Graffiti” means unauthorized writing or drawing on a surface. **(By-law 321-2009)**

“Local Public Bodies” means any municipal business, corporation, school board, public utility commission, transportation commission, public library board, local board of health, board of Commissioners of police or any other board, commission, committee, board or local authority under any general or special Act with respect to the affairs or purposes of the City, the Regional Municipality of Peel or any part thereof, and includes the Peel District School Board, the Dufferin-Peel Catholic District School Board, Conseil Scolaire de District du Centre-Sud-Ouest and Conseil Scolaire de District Catholique Centre-Sud.

“Owner” includes **(By-law 136-2008)**:

- (a) the person for the time being managing or receiving the rent of the land, or premises, in connection with which the word is used whether on his, or her 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;
- (b) the legal or beneficial owner; **(By-law 321-2010)**
- (c) a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property; and
- (d) manager of the property,

“Person” includes any natural person, firm, partnership, association, corporation, company or organization of any kind.

“Private Property” means land which is not owned by the City, its Local Public Bodies and agencies; the Regional Municipality of Peel, its Local Public Bodies and agencies; the Toronto and Region Conservation Authority; Credit Valley Conservation; the Crown in Right of Ontario, and its boards, commissions and agencies; and the Crown in Right of Canada and its boards, commissions or agencies; and crown corporations. **(By-law 321-2009)**

“Property” (repealed – By-law 321-2009)

“Refuse” includes:

- (a) Debris, junk or effluent belonging to or associated with a house or household or any industry, trade or business, and without limiting the generality of the foregoing, includes all of the items in the definition of waste;
- (b) Vehicle parts or accessories;
- (c) Furniture, appliances, machinery, barbeques or parts thereof;
- (d) Animal excrement; and
- (e) Without restricting the foregoing, any unused or unusable material that by reason of its state, condition or excessive accumulation:
 - i) Appears to have been cast aside, discarded or abandoned;
 - ii) Appears to be worthless, useless or of no particular value; or
 - iii) Appears to be used up, expended or worn out in whole or in part.

“Repair” includes the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the property shall conform to the standards established in this By-law.

“Stagnant Water” means sitting water that provides an environment for bacteria to grow. **(By-law 321-2009)**

“Waste” includes garbage, special collection materials, recyclable materials, organic materials, yard waste and prohibited waste.

“Vehicle” includes a motor vehicle, trailer, boat, motorized snow vehicle or other mechanical power driven equipment.

“Yard” (repealed – By-law 321-2009)

“Yard Waste” includes plant cuttings, roots, weeds, leaves, hedge and shrub trimmings, brush cuttings, twigs and branches under 7.5 centimetres in diameter, natural christmas trees and any other item designated as yard waste by the Director.

ADMINISTRATION

2. The Director or his or her designate shall be responsible for the administration and enforcement of this by-law.

DECLARATION BY COUNCIL

3. Council declares that Refuse, Graffiti and Stagnant Water are each a public nuisance within the meaning of Section 128 of the *Municipal Act* and this opinion is arrived at in good faith. **(By-law 321-2009)**

REFUSE

4. No person shall:
 - (a) place Refuse or Graffiti,
or
 - (b) permit Refuse or Graffiti to be placed,upon Private Property without the consent of the Owner of the property.
(By-law 321-2009)
- 4.1 The presence of a “No Dumping” sign shall be deemed to indicate a lack of consent on the part of an Owner of Private Property. **(By-law 321-2009)**
- 4.2 No person shall:
 - (a) place Refuse or Graffiti,
or
 - (b) permit Refuse or Graffiti to be placed,upon the property of the City or its Local Public Bodies or agencies, the property of the Regional Municipality of Peel or its Local Public Bodies or agencies, the property of Credit Valley Conservation or the property of the Toronto and Region Conservation Authority, without the written consent of the Owner.
(By-law 321-2009)

REMOVAL OF REFUSE

5. Owners and occupants of Private Property shall remove Refuse, Graffiti or Stagnant Water from their property so that the property is in a clean and tidy condition. **(By-law 321-2009)**

6. The obligations in sections 4, 4.1, 4.2 and 5 shall not apply to Refuse, Graffiti or Stagnant Water. **(By-law 321-2009)**
7.
 - (a) An Owner or occupant of a property does not breach section 4 or 4.2, or incur the obligation in section 5, by placing garbage, recyclables, Yard Waste or garden trimmings out for pickup, so long as the placement occurs later than 7:00 p.m. on a day preceding a scheduled collection day or no later than 7:00 a.m. on a scheduled collection day. **(By-law 321-2009)**
 - (b) Every Owner and occupant shall ensure that receptacles and uncollected Waste is removed from the place at which it was set out no later than 8:00 p.m. on the scheduled collection day. **(By-law 321-2009)**

NOTICE

8. Prior to taking any action under Section 12 or 15, the Director or any By-Law Enforcement Officer shall Deliver a notice requiring the Owner or occupant of a property to,
 - (a) remove Refuse, Graffiti or Stagnant Water from the property;
 - (b) refrain from placing or permitting Refuse, Graffiti or Stagnant Water to be placed on the property;or
 - (c) undertake the necessary works required to bring the property to a clean and tidy condition;within the time specified in the notice.
(By-law 321-2009)
9. Every notice referred to in Section 8 shall identify the property.

ENTRY ON PREMISES

10.
 - (1) A By-law Officer may enter on Private Property at any reasonable time for the purpose of carrying out an inspection under this By-law to determine whether or not the provisions of this By-law are being obeyed and to enforce and carry into effect the provisions of this By-law **(By-law 165-2011)**
 - (2) For the purposes of an inspection referred to in subsection 10(1) the By-law Officer may,
 - (a) require the production for inspection of documents or things from any person relevant to the inspection;

- (b) inspect and remove documents or things from any person 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; 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 purposes of the inspection. **(By-law 165-2011)**
- (3) A sample taken under subsection 10(2) clause (d) shall be divided into two parts, and one part shall be delivered to the person from whom the sample is taken, if the person so requests at the time the sample is taken and provides the necessary facilities. **(By-law 165-2011)**
- (4) If a sample is taken under subsection 10(2) clause (d) and the sample has not been divided into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken. **(By-law 165-2011)**
- (5) The By-law Officer shall provide a receipt for any document or thing removed under subsection 10(2) clause (b) and the document or thing shall be promptly returned after the copies or extracts are made. **(By-law 165-2011)**
- (6) Copies of or extracts from documents and things removed under subsection 10 (2) and certified as being true copies of or extracts from the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the originals. **(By-law 165-2011)**
11. (1) A By-law Officer exercising a power of entry under section 10 of this By-law shall not enter or remain in any room or place actually being used as a dwelling unless, the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused. **(By-law 165-2011)**
- (2) If entry is refused, then the By-law Officer may only gain entry if the appropriate warrant or order is obtained under section 438, 439 or 386.3 of the *Municipal Act, 2001* **(By-law 165-2011)**
- (3) Notwithstanding subsection 11(2) entry if permitted if:
- a.) the delay necessary to obtain an order under section 438 of the *Municipal Act, 2001*, or to obtain a warrant under section 439 of the *Municipal Act, 2001* or to obtain the consent of the occupier would result in an immediate danger to the health or safety of any person; or
 - b.) the municipality has given notice of its intention to enter to the occupier of the land as required under subsection 435 (2) and the entry is authorized under section 79, 80 or 446 of the *Municipal Act, 2001*. **(By-law 165-2011)**

DEFAULT

12. (a) Where the Owner is in default of doing the matter required to be done under this by-law, the Director may have the matter done and the cost thereof, including an administration fee, shall be added to the property tax rolls of the Owner and collected in the like manner as municipal taxes. **(By-law 321-2009)**
 - (b) **(Deleted – By-law 401-2007)**
13. When the Director or his or her designate orders work to be done under this by-law, paragraph 5 of Section 435(1) of the *Municipal Act* does not require the work ordered by the Director or his or her designate to be undone, and does not require the City to provide compensation as a result of doing the remedial work. **(By-law 321-2010)**
14. Please see Schedule B of User Fee By-law 380-2003 for the quantum of the administration fee referred to in Section 12(a). **(By-law 136-2008)**

PENALTY

15. In addition to any other remedy, every person who contravenes any of the provisions of this by-law is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.00 exclusive of costs. **(By-law 136-2008)**

REPEAL

16. By-law 167-91 is repealed.

SHORT TITLE

17. This by-law may be referred to as the Refuse and Dumping By-Law. **(By-law 321-2009)**

READ a FIRST, SECOND and THIRD TIME and PASSED in OPEN COUNCIL this 28th day of November, 2005.

Original Signed by
Susan Fennell, Mayor
Leonard Mikulich, City Clerk