



BY-LAW NO. 2005-127

OF

The Corporation of Norfolk County

BEING A BY-LAW TO PROHIBIT REFUSE AND DEBRIS ON PRIVATE PROPERTY.

WHEREAS the Municipal Act, S.O. 2001, C.25, Section 127 (a), as amended, provides that a municipality may pass by-laws respecting the cleaning and clearing of land, not including buildings;

AND WHEREAS the Municipal Act, S.O. 2001, C.25, Section 127 (b), as amended, states that a local municipality may regulate when and how matters required under clause (a) shall be done;

AND WHEREAS the Municipal Act, S.O. 2001, C.25, Section 127 (d), as amended states that a local municipality may define "refuse" for the purpose of this by-law;

AND WHEREAS the Municipal Act, S.O. 2001, C.25, Section 427 (1), as amended provides a municipality with the authority to direct or require that a matter or thing be done and in default of it being done such matter or thing shall require that it be done at the person's expense;

AND WHEREAS the Municipal Act, S.O. 2001, C.25, Section 427 (2), as amended, provides that for the purposes of Section 427(1), the municipality may enter upon land at any reasonable time;

AND WHEREAS the Municipal Act, S.O. 2001, C.25, Section 427 (3), as amended, provides that the municipality may recover the costs of doing a thing or matter under Section 427(1);

AND WHEREAS the Highway Traffic Act, R.S.O. 1990, as amended, Section 170(15), provides that a police officer, police cadet, municipal law enforcement officer or an officer appointed for the carrying out of the provisions of this Act may cause it to be moved or taken to and placed or stored in a suitable place and all costs and charges for removing, care and storage thereof are a lien upon the vehicle and may be enforced in the manner provided by the Repair and Storage Liens Act;

AND WHEREAS the Council of The Corporation of Norfolk County deems it necessary to prohibit the depositing of refuse and debris on private or municipal property;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF NORFOLK COUNTY HEREBY ENACTS AS FOLLOWS:

1. SHORT TITLE

1.1 This by-law shall be known as the "Clean Yard By-law".

2. DEFINITIONS

2.1 Debris – means refuse as defined within this by-law.

2.2 Long Grass- shall mean grass, weeds or organic growth of any kind exceeding 20 cm. in height or length, but for the purposes of this by-law, shall not include organic growth intended for horticultural, ornamental or agricultural purposes, or organic growth that is considered a native species which is documented as part of a prairie or savannah habitat.

2.3 Motor Vehicle – shall include an automobile, commercial motor vehicle, motorcycle, motor assisted bicycle, unless otherwise indicated in the Highway Traffic Act, and any other vehicle propelled or driven otherwise than by muscular power, but does not include the cars of electric or steam railways, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the Highway Traffic Act.

2.4 Municipal Law Enforcement Officer – shall mean a person appointed by the Council of The Corporation of Norfolk County for the purposes of enforcing County by-laws and for the purposes of this by-law shall include the Ontario Provincial Police or any other police agency.

2.5 Notice – shall mean a notice as per Schedule 'A' of this by-law.

2.6 Noxious Weeds – shall mean noxious weeds as defined by the Weed Control Act, R.S.O. 1990, as amended.

2.7 Owner – shall mean the person who owns the property and, for the purposes of this by-law, shall include any owner, occupant, tenant or lessee.

2.8 Person – shall include the owner as defined in Section 2.6 of this by-law and may also include any individual, company, corporation, partnership, firm, trust, sole proprietorship, government or government agency,

authority or entity, however constituted, joint venture, syndicate or any other legal entity, and includes all successors, assigns or other legal representatives of any such entities.

- 2.9 Property – shall mean any parcel of land or registered water lot and, without limiting the generality of the foregoing, shall mean lands and premises appurtenant to a building or structure whether residential or commercial but shall exclude any building or structure.
- 2.10 Refuse – shall include any unused or discarded material, thing or substance and, without limiting the generality of the foregoing, shall include debris, rubbish, junk, litter, discarded paper or paper products, unused or discarded materials of any kind, appliances, devices, apparatus, machinery, furniture, discarded clothing, construction materials, concrete, flagstone, gravel, asphalt, tires, unused motor vehicles or parts thereof, abandoned vehicles, inoperative motor vehicles, vehicles without validated licence plate stickers, vehicles without licence plates, objects or conditions that may create fire, health or safety hazard, dead animals, old or decayed lumber, decayed trees, discarded trees, parts of trees and leaves or discarded organic materials that are not part of a compost program.
- 2.11 Vehicle – shall include a motor vehicle, trailer, recreational vehicle, camper, all terrain vehicle, mobile home, boat, watercraft, traction engine, farm tractor, road-building machine and a vehicle drawn, propelled or driven by any kind of power, including a motorized snow vehicle, or the cars of electric or steam railways running only upon rails.

3. GENERAL PROVISIONS

- 3.1 Every person shall keep their property in a clean condition, and without limiting the generality of the foregoing, shall keep the property free of refuse, debris, long grass or noxious weeds.
- 3.2 Every person shall keep their property free from objects or conditions that are likely to create a health, fire or safety hazard.
- 3.3 A Municipal Law Enforcement Officer may enter upon land or property at any reasonable time for the purposes of inspection.

4. ENFORCEMENT

- 4.1 This by-law shall be enforced by a Municipal Law Enforcement Officer.
- 4.2 A Municipal Law Enforcement Officer shall determine what shall constitute a health, fire or safety hazard.

- 4.3 Where any property is not maintained in compliance with the provisions of this by-law, a Municipal Law Enforcement Officer give Notice to the owner, in writing, directing that the Property be brought into compliance with the requirements of this by-law within a defined time period but such time period shall not be less than seventy-two (72) hours from date of notice, save and except that which constitutes a safety, health or fire hazard.
- 4.4 Notice shall be in the form of Schedule 'A' to this by-law.
- 4.5 Said Notice shall be delivered to the last known address as shown on the last revised assessment rolls of the municipality.
- 4.6 In the case of a health, fire or safety hazard, a Municipal Law Enforcement Officer may compel that said hazard be removed forthwith without the notice as described in Section 4.3.

5. APPEAL PROCESS

- 5.1 It is hereby established that there shall be a Clean Yard Appeal Committee consisting of three (3) members appointed by Council for a term concurrent with the term of Council.
- 5.2 Where a person has been served with Notice as per Section 4.3 of this by-law, said person may appeal said Notice to the Clean Yard Appeal Committee by mailing an appeal detailing the specific areas of the Clean Yard Notice being appealed to the Clerk of Norfolk County within fourteen (14) days after service of the original Notice.
- 5.3 Where no appeal has been received by the Clerk as per Section 5.2, the original Notice shall be deemed to have been confirmed and no appeal is deemed to be undertaken nor shall be allowed.
- 5.4 The appeal shall be in writing and mailed by registered mail to the attention of the Clerk of Norfolk County.
- 5.5 Where an appeal is received by the Clerk of Norfolk County as per Sections 5.2 and 5.4 of this by-law, the Clerk shall arrange a hearing of the Clean Yard Appeal Committee as soon as practicable.
- 5.6 The Clean Yard Appeal Committee shall hear the appeal and may modify, confirm or quash the original Notice or may extend the original time frame given for compliance, provided that any modifications to the original Notice satisfy the intent of the by-law.

- 5.7 The Clean Yard Appeal Committee may call any witness to provide information to aid in their decision regarding the original Notice.
- 5.8 The Clean Yard Appeal Committee shall make their decision in writing and provide a copy of said decision to the appellant and to the Municipal Law Enforcement Officer.

6. BIOSECURITY PROCEDURES

- 6.1 With regard to inspections being conducted on agricultural lands where biosecurity measures are in effect, and the lands are posted as such, Municipal Law Enforcement Officers shall follow accepted provincial guidelines for conducting inspections on lands with active livestock operations.
- 6.2 All such inspections as described in Section 6.1 of this by-law will be conducted as the last scheduled inspection of the working day and only one such inspection will be conducted per working day.
- 6.3 All such inspections as described in Section 6.1 of this by-law shall be conducted in the company of the owner/operator of the livestock operation or his/her designate.

7. PENALTY

- 7.1 Every person who contravenes this by-law is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the Provincial Offences Act, R.S.O. 1990, as amended.
- 7.2 In addition to the foregoing penalty, failure to comply with the provisions of this by-law may result in the municipality undertaking to complete the work and any costs associated with the work shall be billed to the person responsible in a like manner as taxes.
- 7.3 In addition to the foregoing penalties, where a vehicle has been removed, impounded, restrained or immobilized according to Section 170(15) of the Highway Traffic Act, R.S.O. 1990, as amended, in violation of this by-law, all costs associated with the removal, impoundment, restraining or immobilization will be the responsibility of the registered owner of the vehicle.

8. SEVERABILITY

- 8.1 In the event that any of the provisions of this by-law are deemed ultra vires by any Court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

9. REPEAL

- 9.1 That former Township of Delhi By-law 26-94 and any amendments thereto and former Town of Simcoe By-law 89-33 and any amendments thereto, former Township of Norfolk By-law 1706-99 and any amendments thereto and former City of Nanticoke By-law 60-99, Sections 2.2 and 2.3 and any amendments to those sections are hereby repealed in their entirety.

10. EFFECTIVE DATE

- 10.1 The effective date of this By-law shall be the date of passage thereof.


ENACTED AND PASSED THIS 14TH DAY OF JUNE, 2005.

First Reading: June 14, 2005


Mayor

Second Reading: June 14, 2005

Third Reading: June 14, 2005


Clerk Deputy

SCHEDULE 'A'

NORFOLK COUNTY BY-LAW 2005-127

Section Number of the By-law in Alleged Violation	Identification/Description of Deficiency	Action to be Taken to Remedy Deficiency

Compliance Date: _____

Date of Scheduled Reinspection: _____