

# The Corporation of the Municipality of Brighton

## By-Law Number 029-2012

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### Being a by-law respecting litter, yard waste and the maintenance of property.

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**Whereas** Section 127 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a local municipality may require an 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; to regulate when and how such matters shall be done; to prohibit depositing of refuse or debris on land without the consent of the owner or occupant of the land; and to define refuse;

**And Whereas** Section 128 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters, that, in the opinion of Council, are or could become public nuisances;

**And Whereas** Section 131 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality may prohibit and regulate the use of any land for the storage of motor vehicles for the purpose of wrecking or dismantling them or salvaging parts from them for sale or other disposition;

**And Whereas** Section 11 of the Municipal Act, 2001, S.O. 2001, c.25, as amended provides that a municipality may pass by-laws respecting, inter alia, health, safety and the well being of persons and waste management;

**And Whereas** Section 446 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that where a municipality has authority under the Municipal Act or any other Act or under a by-law made under the Municipal Act or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed to do it, the matter or thing shall be done at the person's expense and the municipality may recover the expense incurred by action or by adding the cost to the tax roll and collecting them in the same manner as property taxes;

**Now Therefore**, the Council of the Corporation of the Municipality of Brighton enacts as follows:

#### Section 1: General Provisions

##### 1. Short Title

This By-Law shall be known as the "Clean Yards By-Law".

##### 1.2 Definitions

###### 1.2.1 In this By-Law:

- a) **"Agriculture"** shall mean general farming uses and without limiting the generality of the foregoing, shall include the general cultivation of land and associated production, conditioning, processing and storage of field crops, the wholesaling of vegetables, fruit, horticultural and nursery stock, the breeding and care of livestock, fur-bearing animals, bees, and the selling of such stock or products produced on the premises, and the production and wholesaling of forest products including fuel wood, pulp wood timber, trees and maple products.
- b) **"Dwelling"** shall mean a building containing rooms which function as a housekeeping unit used or intended to be used as a domicile by one or more persons; containing cooking, eating, living, sleeping and sanitary facilities.

- c) **“By-Law Enforcement Officer”** shall mean a Provincial Offences Officer, or other person appointed or employed by the Corporation of the Municipality of Brighton for enforcement of By-Laws.
- d) **“Domestic Waste”** shall mean any waste, litter, debris, rubbish, refuse, sewage, effluent, discard, or garbage of a type arising from a residence, belonging to or associated with a house or residential property and without limiting the generality of the foregoing includes a motor vehicle that appears by reason of its age, appearance, mechanical condition or lack of licence plates to be inoperative, inoperative mechanical equipment, automotive and mechanical parts, disused furniture, old clothing, garden refuse, earth or rock fill, broken concrete, asphalt pavement, brick pavers and sidewalk slabs, old or decayed lumber, material from construction or demolition projects and other vehicles, machinery equipment, materials or structures apparently disused in their existing location. Domestic waste as defined in this By-Law does not cease to become domestic waste by reason only that it may be commercially saleable or recyclable.
- e) **“Excessive Growth of Grass and Weeds”** shall mean grass and or weeds which have grown to a height so as to be inconsistent with the surrounding environment;
- f) **“Indoor Furniture”** shall mean and include any furniture intended for and made of such material that would require the furniture by sheltered from the natural elements such as rain and snow and shall include but not be limited to items such as couches, sofas, love seats, fabric covered chairs, pillows and cushions, mattresses and box springs;
- g) **“Industrial Waste”** shall mean debris, rubbish, refuse, sewage, effluent, discard or garbage of a type arising from industrial or commercial operations, or belonging to or associated with industry or commerce or industrial or commercial property, and without limiting the generality of the foregoing includes all garbage, debris, discarded material or things, broken or dismantled things, a motor vehicle that appears by reason of its age, appearance, mechanical condition or lack of licence plates to be inoperative, inoperative mechanical equipment, automotive and mechanical parts, disused furniture, old clothing, garden refuse, earth or rock fill, broken concrete, asphalt pavement, brick pavers and sidewalk slabs, old or decayed lumber, material from construction or demolition projects and other vehicles, machinery equipment, materials or structures apparently disused in their existing location. Industrial waste as defined in this By-Law does not cease to become industrial waste by reason only that it may be commercially saleable or recyclable.
- h) **“Last Known Address”** shall mean the address, which appears on the last revised assessment rolls of the Corporation of the Municipality of Brighton;
- i) **“Municipality”** shall mean the Corporation of the Municipality of Brighton;
- j) **“Municipally Owned Lands”** shall mean the property owned or maintained by the Corporation of the Municipality of Brighton shown on the last revised assessment roll and shall include all municipal road allowances and rights of way;
- k) **“Noxious Weed”** shall mean a species of weed designated by or under the Weed Control Act, R.S.O. 1990, c. W.5, as a noxious weed;
- l) **“Occupant”** shall mean any person or persons over the age of 18 years in possession of the property;
- m) **“Order”** shall mean any notice of non-compliance issued under this By-Law;
- n) **“Owner”** shall mean the person in whom is vested the ownership, dominion or title of property and includes his or her agent, administrator or assignee;
- o) **“Person”** shall mean and include an individual, firm, corporation, association or partnership and includes an occupant or an owner of a property;

- p) **“Property”** shall mean any grounds, yard or vacant land;
- q) **“Refuse”** shall mean and include all manner of waste, debris and sewage as provided for or defined in this By-Law but does not include a building or buildings on a property, but does include parts or pieces of such structures on the property that are dismantled or are rubble, or which have become detached from a building, whether by construction, demolition, damage or deterioration and any article, thing, matter, substance or effluent that:
- i. has been cast aside, discharged or abandoned, or
  - ii. is disused from its usual and intended use, or
  - iii. is used up, in whole or in part, or expanded or worn out, in whole or in part; and
  - iv. shall include domestic waste and industrial waste.
- r) **“Standing Water”** shall mean any water on a property other than:
- i. a natural moving body of water that exists on a permanent basis;
  - ii. a body of water that is maintained in such a way so as to effectively prevent the breeding of and/or larvae growth of mosquitoes, such as through the operation of a re-circulation and filtration system and/or the additive of an approved substance that will prevent the breeding of and/or larvae growth of mosquitoes;
  - iii. any body of water containing live fish or amphibians which are habitually present;
  - iv. any body of water natural to its surrounding environment including natural ponds, bogs, marshes and wetlands;
  - v. any body of water within a municipally owned storm water management facility;
  - vi. any body of water contained for less than four (4) days
  - vii. any body of water due to seasonal flooding that is beyond the control of the property owner.
- s) **“Vacant Lands”** shall mean lands with no building(s) or having no land uses established;
- t) **“Vehicle”** shall include an automobile, truck, bus, motorcycle, motor assisted bicycle, traction engine, farm tractor or farm machinery, road building machine, construction vehicle, bulldozer, backhoe, excavator, grader, asphalter, earth mover, compactor, crane, lift, skid steer, generator, welder, street car or other vehicle running only upon rails, motorized snow vehicles, off road vehicle, trailer, boat, bicycle, or any vehicle drawn, propelled or driven by any kind of power, including but not limited to mechanical power, muscular power, wind power or solar power;
- u) **“Vehicle Parts”** shall mean and include any component or element, whether operable or not, used in the assembly, construction, maintenance or repair of a vehicle;
- v) **“Water Course”** shall mean an identifiable depression in the ground in which a natural flow of water occasionally, regularly or continuously flows, even if the bed is sometimes dry, and even if the banks are sometimes overflowed or submerged;
- w) **“Yard”** shall mean land, other than publicly owned land, around and appurtenant to the whole or part of a building (and used, or capable of being used in connection with the building) and may include a paved area used for the parking of vehicles.

### 1.3 Interpretation

- 1.3.1 In this By-Law statutory references are to statutes of Ontario and the regulations made thereunder and shall be deemed to refer to such statutes and regulations as amended, consolidated, re-enacted and in force from time to time.

**1.3.2** This By-Law shall be read with all changes of gender and number required by the context or circumstances.

## **1.4 Exemption**

**1.4.1** The provisions and regulations of this By-Law do not apply to materials or equipment directly related to construction works on lands on which construction is actively proceeding in accordance with a permit issued pursuant to the Building Code Act.

**1.4.2** This By-Law does not apply so as to prevent a farm, meeting the definition of “agricultural operation” under the Farming and Food Production Protection Act, 1998, S.O. 1998, c.1, from carrying out a normal farm practice for and defined under that Act.

## **Section 2: Applicable Provisions**

### **2.1 Maintenance of Property**

**2.1.1** No owner shall fail to keep the vegetation on the property clean and cleared-up.

**2.1.2** For the purpose of article 2.1.1, “clean” or “cleared-up” shall mean:

- a) the removal of noxious weeds from their property and shall include the untravelled portion of the highway abutting their property;
- b) the cutting of grass so that its height is maintained so as to be consistent with the surrounding environment.

**2.1.3** Property located in the following zones, as designated in the Municipality of Brighton Zoning By-Law, shall be exempt from the provisions of Section 2.1.2 (1) of this By-Law:

- a) Environmental Protection (EP), Open Space (OS), and Flood Potential (FP) Zones;
- b) Agricultural (A) Zones, Rural (RU) Zones and all other zones that permit agricultural use, and the land in question is actively used for an agricultural purpose, with the exception of the yard spaces surrounding any *dwelling* being a minimum of 0.2 hectares;
- c) Future Development Zones more than 60 metres from all other abutting zones unless otherwise directed by Council.

### **2.2 Standing Water**

**2.2.1** No owner shall fail to keep the land free of standing water.

**2.2.2** No owner shall fail to keep the land free of containers or debris capable of holding standing water in such a manner as to be exposed to the breeding of and/or larvae growth of insects.

**2.2.3** No owner shall fail to ensure that any swimming pool, hot tub, wading pool, or artificial pond is maintained in proper operating condition, and in good repair.

**2.2.4** No owner shall fail to ensure that land is free and clear of excavations capable of holding standing water.

### **2.3 Litter**

**2.3.1** No person shall cause, permit, throw, place or deposit refuse and/or other debris on private land without the written authority of the owner or occupant of the land.

**2.3.2** No person shall throw, place or deposit refuse and/or debris on land owned or occupied by the Municipality without the written authorization of the Municipality.

**2.3.3** A person does not breach articles 2.3.1 and 2.3.2 by placing garbage out for collection on their property in accordance with the County of Northumberland

By-Laws and collection schedules, but no person shall leave out garbage contrary to such By-Laws or schedules.

- 2.3.4** No owner shall fail to clean or clear exterior walls of any building or structure on the land and their components so as to be free of posters which are for giving of notice for an event that has already occurred, or where the message contained is not readable due to damage or deterioration to the poster or its content, or where the posters are loosened, dislodged, torn or otherwise in a condition that may permit them to detach and become litter.
- 2.3.5** No owner shall fail to clean or clear exterior walls of any building or structure on the land and their components so as to be free of graffiti drawn, etched, painted, engraved, or otherwise marked on such wall or building or structure.
- 2.3.6** Pursuant to the Municipal Act, S.O. 2001, c.25 as amended, the cost of removal of posters by the Municipality is collectable against the owner of the advertising device under the terms of the Municipal Act, notwithstanding the content of this By-Law.

## **2.4 Garbage and Waste Disposal**

- 2.4.1** No owner shall fail to keep the property free and clear of domestic waste or industrial waste, or any thing in their possession that may constitute a health, fire or safety hazard to the yard or vacant lands of another person or to any Municipally owned lands.
- 2.4.2** No person shall use any land or structure within the Municipality for dumping or disposing of domestic waste or industrial waste, or any other thing in their possession that may constitute a health, fire or safety hazard to the yard or vacant lands of another person or to any Municipally owned lands.
- 2.4.3** The owner or occupant of land used contrary to or on which there is a contravention of articles 2.4.1 and 2.4.2 regardless of whether the use or contravention occurred prior to the enactment of this By-Law, shall at the persons own expense clean, clear and cease using such land or structure for such a prohibited purposes.
- 2.4.4** Articles 2.4.1 and 2.4.2 do not apply to land or structures used by the Municipality, or land or structures designated by By-Law of the Municipality for the purpose of dumping or disposing of waste.
- 2.4.5** Despite any other section, this By-law shall not apply to the storage of used lumber, used building materials, inoperative vehicles, machinery, or vehicle parts on a property used for agriculture provided that:
- i) such property is zoned in an Agricultural or Rural Zone as set out the Municipality's Comprehensive Zoning By-law;
  - ii) such material is screened from view from any residential parcel or public highway within 150 metres (492 feet); and
  - iii) the material is required for use as replacement parts, vehicles or materials as a required part of the agricultural operation.
- 2.4.6** The owner or occupant of a residential property may provide for a compost heap or bin provided that:
- i) any compost is confined to an area larger than 1.0 square metre in area and 1.5 metres in height and is enclosed on all sides by concrete block or lumber or contained within a container designed for composting; and
  - ii) any compost heaps or bins shall be constructed to prevent the entry of animals and shall be provided with a secure fitting cover.

## **2.5 Motor Vehicle Salvage**

- 2.5.1** No owner or occupant of land shall fail to keep a yard free from wrecked, dismantled, inoperative or unlicensed vehicles, trailers or other machinery or any part thereof and waste and refuse of any kind.
- 2.5.2** Article 2.5.1 does not apply if the Comprehensive Zoning By-Law permits the land to be used for such purposes and the owner or occupant of the land holds any required valid license or permits issued by the Municipality or the body holding jurisdiction.

### **Section 3: Administration and Enforcement**

#### **3.1 Enforcement**

- 3.1.1** A By-Law Enforcement Officer may inspect the land or structures, for the purpose of determining whether:
- i) properties are being maintained in accordance with this By-Law;
  - ii) the land or structure is used for dumping or disposing of garbage, refuse, fill, domestic waste, or industrial waste of any kind;
  - iii) the land or structure is used for the storage of used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or disposal;
  - iv) the owner or occupant has complied with any Order sent by the By-Law Enforcement Officer, or an Officer; or
  - v) there is compliance or non-compliance with any other provision of this By-Law.
- 3.1.2** Every owner or occupant shall permit a By-Law Enforcement Officer, upon production of identification and for the purpose of the inspection by the Municipality, to inspect the land or structure for the purpose of article 3.1.1.
- 3.1.3** When any lands and buildings are not maintained pursuant to the provisions of this by-law, a By-Law Enforcement Officer may issue an order and may send such order by registered mail or delivered by hand to the owner or occupant's last known address requiring them to make the lands and buildings comply with the requirements of this by-law. Such order shall specify the time allowed for compliance.
- 3.1.4** In the event a By-Law Enforcement Officer is unable to serve the order by registered mail or personally, the order may be posted in a conspicuous place on the property, and the placing of the order shall be deemed to be sufficient service of the order on the property owner.
- 3.1.5** Where the owner or occupant fails to comply with an order issued under this By-Law within the time specified for compliance, the Municipality in addition to all other remedies:
- i. Shall have the right to enter in and upon the lands and to restore the lands and carry out remedial action specified in the order at the owner's expense; and
  - ii. Shall not be liable to compensate such owner or occupant or any other persons having and interest in the property by reason of anything done by or on behalf of the Municipality under the provisions of this section;
  - iii. May recover the costs of any remedial action undertaken by the Municipality by adding the costs to the tax roll and collecting them in the same manner as property taxes.
- 3.1.6** Where any of the materials or things are removed in accordance with article 3.1.5, the materials or things may be disposed of immediately by the Municipality, and any recovered salvage value or other actual recovery of money made upon such disposal shall be credited first against costs, the balance shall be refunded to the person who was in possession of the materials or things prior to their removal from the land.

**3.1.8** No person shall hinder or obstruct a By-Law Enforcement Officer employed to enforce this By-Law, from carrying out an inspection of lands, nor shall any person obstruct any employee or agent authorized to carry out work for the Municipality under the authority of this By-Law.

### **3.2 Offences**

**3.2.1** Any person who violates any provisions of this By-law is, upon conviction, guilty of an offence and shall be liable to such penalties prescribed by the Provincial Offences Act, R.S.O., 1990, c.P.33. Each day that such offence is committed, or permitted to continue, shall constitute a separate offence and may be punishable as such.

**3.2.2** Where this By-Law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this By-Law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, pursuant to Section 431 of the Municipal Act, S.O. 2001, c.M.25

### **3.3 Validity**

**3.3.1** Should a Court of competent jurisdiction declare a part or whole of any provision of this By-Law to be invalid or of no force and effect, the provision or part is deemed severable from this By-Law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under the law so as to protect the public by ensuring a minimum standard for maintenance and occupancy is maintained.

**3.3.2** Where a provision of this By-Law conflicts with the provision of another By-Law, Act, or Regulation in force within the Municipality of Brighton, the provisions that establish the higher standards to protect the health and safety of persons shall prevail.

## **Section 5: Enactment**

### **5.1 Date of Enactment**

**5.1.1** This By-Law shall come into force and take effect on the day it is passed.

Read a first, second and third time and finally passed by council this seventh day of May 2012.

(Sgd.) Mark Walas, Mayor

(Sgd.) Gayle Frost, C.A.O./Clerk

**Schedule A**  
**Short Form Wording and Set Fines**  
**The Corporation of The Municipality of Brighton**  
**Part 1 - Provincial Offences Act**  
**By-Law No. 029-2012**

Item	Short Form Wording	Offence Creating Provision or Defining Offence	Set Fine
1	Fail to keep land clear of garbage and domestic /industrial waste.	Section 2.4.1	\$200.00
2	Excessive growth of grass / weeds	Section 2.1.2 (2)	\$100.00
3	Use of land for storing motor vehicles and / or parts thereof	Section 2.5.1	\$250.00
4	Fail to remove noxious weeds	Section 2.1.2 (1)	\$100.00
5	Littering - Private Property	Section 2.3.1	\$50.00
6	Littering - Public Property	Section 2.3.2	\$50.00
7	Permit Standing Water	Section 2.2.2	\$100.00

Note: The penalty provision(s) for offences indicated above is contained in Section 3.3.1 of By-law 029-2012, a certified copy of which has been filed.