



Corporation of the Town of Newmarket

By-law 2017-63

OFFICE CONSOLIDATION

This is a consolidation of the Town's By-law to provide for maintaining land in a clean and clear condition in the Town of Newmarket, being By-law 2017-63, as amended by the below listed by-laws and is prepared for reference and information purposes only. The following consolidation is an electronic reproduction made available for information only. It is not an official version of By-law 2017-63. Official versions of all by-laws can be obtained from Legislative Services by calling 905-953-5300. If there are any discrepancies between this consolidation and By-law 2017-63 and listed amending by-laws the official by-laws shall prevail.

2020-22 April 27, 2020	Adds provisions for AMPS

A By-law to provide for maintaining land in a clean and clear condition

Whereas Sections 8, 9 and 11 of the *Municipal Act, 2001*, c.25 as amended (the "Act") permits a municipality 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* permits a municipality to pass By-laws requiring an **Owner** or occupant of land to clean and clear the land, not including buildings; to clear refuse or **Debris** from the land, not including buildings; for regulating when and how such matters shall be done; for prohibiting the disposal of refuse or **Debris** on land without the consent of the **Owner** or occupant of the land; and for defining "refuse";

And whereas Section 129 of the *Municipal Act, 2001* permits a municipality to pass By-laws to prohibit and regulate with respect to **Odour**, dust, and outdoor illumination including indoor lighting that can be seen outdoors;

And whereas the **Council** of the Town of Newmarket deems it advisable to pass such a by-law;

Therefore be it enacted by the Municipal **Council** of the Corporation of the Town of Newmarket as follows:

1.0 DEFINITIONS:

"**Boulevard**" means that portion of every road allowance within the limits of the **Town** which is not used as a **Sidewalk**, driveway access, traveled roadway or shoulder.

"**Costs**" means all monetary expenses incurred by the **Town** during and throughout the process of any **Remedial Work**, including interest

and may include an administrative surcharge amount as determined by the *Towns Fees and Charges By-law*.

“**Council**” The elected municipal officials of the Town of Newmarket.

“**Composting**” means the biological degradation or breakdown of organic material into a dark soil-like material called humus.

“**Debris**” means any **Waste** material of any kind whatsoever and without limiting the generality of the foregoing includes: inoperative or unlicensed vehicles or boats and mechanical equipment, automobile and mechanical parts, tires, furnaces, water and fuel tanks, furniture, glassware, plastic, cans, garden refuse, grass clippings, trees, tree branches, earth or **Fill**, animal feces, materials from construction or demolition projects, old clothing and bedding, refrigerators, freezers, or similar appliances, whether operable or inoperable, containers of any kind and un-maintained garden fixtures and any objects or conditions that might create a health, fire or accident hazard.

“**Director**” means the **Director**, *Legislative Services* of the **Town** and his/her designate.

“**Dwelling**” means a house, apartment, or other place of residence.

“**Fill**” means any type of material capable of being removed from or deposited on lands, such as soil, stone, sod, turf, concrete, and asphalt either singly or in combination.

“**Graffiti**” means one or more letters, symbols, figures, etchings, scratches, inscriptions, stains or other markings that disfigure or deface or object, howsoever made or otherwise affixed on the structure or object.

“**Ground Cover**” means material organic or non-organic and includes concrete, flagstone, gravel, asphalt, grass or other form of landscaping.

“**Invasive**” means a **Invasive** plant designated by or under the **Invasive Species Act, S.O. 2001, c. 22**, including any *weed* designated as a local or noxious *weed* under a *By-law*.

“**Medical Officer of Health**” refers to the **Medical Officer of Health** for the Region of York.

“**Motor Vehicle**” means an automobile, truck, motorcycle, snowmobile, **Utility Trailer**, **Recreational Vehicle** and any other vehicle propelled or driven by other than muscular power.

Natural Body of Water means a creek, stream, bog, marsh, fenn, river, pond or lake created by the forces of nature and which contains water.

“**Natural Garden**” means a defined area of vegetation that has been deliberately planted or cultivated with species of wildflowers, shrubs,

perennials, ornamental grasses or combinations of them, consistent with a managed and natural landscape.

"**Noxious Weeds**" means a noxious *weed* designated by or under the *Weed Control Act, R.S.O. 1990, c. W.5*, including any *weed* designated as a local or noxious *weed* under a *By-law*.

"**Odour**" mean any **Odour** which may be detected at a **Point Of Reception** and has an adverse effect.

"**Officer**" means a Police **Officer** as defined under the *Police Services Act, R.S.O. 1990, c. P15*, as amended, an individual appointed by the **Town** as a Municipal Law Enforcement **Officer** pursuant to section 15 of the *Police Services Act*, as amended, or any other individual designated by the **Town** to enforce this *By-law*.

"**Owner**" means the **Owner**, authorized agent, leasee or the occupier of the premises.

"**Person**" includes an individual, association, firm, partnership, corporation, trust, organization, trustee, agent or legal representative of an individual.

"**Point Of Reception**" means any point on the premises of any **Person** where **Odour**, originating from premises other than those premises, is detected.

"**Pool**" means any body of water, which is located outdoors on private **Property**; wholly or partially contained by artificial means; capable of holding water in excess of 0.61m (2 feet) in depth at any point; an open exposed water surface of at least 1m² (10.7ft²) and includes a hot tub or landscape/decorative pond meeting the above criteria.

"**Property**" means a building or structure or part of a building or structure and includes the lands and premises appurtenant thereto and all mobile structures, outbuildings, fences and erections thereon, whether heretofore or hereafter erected, and includes vacant **Property**.

"**Recreational Vehicle**" means a vehicle or trailer which may provide short term occupancy that is intended and used exclusively for travel, recreation and vacationing, designed to be towed or propelled by a **Motor Vehicle** or self-propelled, and includes such vehicles commonly known as travel trailers, camper trailers, truck campers, motor homes or other similar travel vehicles but does not include a *mobile home*; and/or boats, **Personal** watercraft, all-terrain vehicles and other similar vehicles used for recreational pursuits; and a trailer designed to carry any of the items listed above.

"**Remedial Work**" means all work necessary for the correction or elimination of a contravention of this *By-law* as cited in any order issued under this *By-law*, including any such condition or health hazard, actual or potential, that the contravention may pose.

“**Sidewalk**” means a municipal or regional **Sidewalk** located on a **Boulevard**.

“**Sight Triangle**” means in the case of a corner lot, the triangular space formed by the street lines and a line drawn from a point in one street line to a point in the other street line, measured 5m along the street from the point of intersection of the street lines.

“**Standing Water**” means any water, other than a **Natural Body of Water** that exists on a permanent basis or contained within a municipality owned storm water management facility, that is found either on the ground, on a structure, in a **Pool** or in **Debris** as defined in this by-law.

“**Utility Trailer**” means a vehicle so constructed that it is suitable for being attached to a **Motor Vehicle** for the purpose of being drawn or propelled by the **Motor Vehicle** and is capable of being used for the transport of goods, materials, equipment or livestock notwithstanding that such vehicle is jacked up or that its running gear is removed.

“**Town**” means The Corporation of the **Town** of Newmarket.

“**Waste**” means any **Waste** of any kind whatsoever and without limiting the generality of the forgoing includes; **Debris**, sewage, effluent, garbage, or litter of any type including household **Waste**.

“**Yard**” means an open, uncovered space on a *lot* appurtenant to a *building* and unoccupied by *buildings* or *structures* except as may be expressly permitted by this By-Law but does not include a court **Yard**. In determining **Yard** measurements the minimum horizontal distance from the respective *lot line(s)* shall be used.

“**Zoning By-Law**” means the **Zoning By-law** of the **Town** of Newmarket passed under the Planning Act, as amended, from time to time.

2.0 PROPERTY MAINTENANCE

- 2.1 Every **Owner** of **Property** shall keep the **Property** maintained free of, **Debris**, discarded objects, and shall also keep their **Property** free from conditions such as holes or excavations that might create a health, safety, or accident hazard.
- 2.2 Every **Owner** shall ensure suitable **Ground Cover** be provided to prevent erosion of the soil and where grass forms part of the **Ground Cover**, it shall be sodded or seeded as often as required to maintain the grass in a living condition and cut so as not to be unreasonably overgrown in relation to the neighbouring environment.
- 2.3 Notwithstanding section 2.2 where a **Natural Garden** forms part of the **Ground Cover**, it shall be maintained in a living condition.

- 2.4 Every **Owner** shall ensure that vegetation on the **Property** be kept trimmed and from becoming unreasonably overgrown in a fashion that may affect safety, visibility, or the passage of the general public.
- 2.5 Every **Owner** shall maintain the **Property** clean and free from Heavy undergrowth and **Noxious Weeds**.
- 2.6 Every **Owner** shall maintain weeds and grass on the **Property** so that it does not exceed 20 centimetres (8 inches) in height and remove and dispose of the cuttings in an appropriate manner.
- 2.7 Every **Owner** shall maintain the **Property** free from dead, decayed or damaged trees, shrubs, and all trees on the **Property** shall be pruned so as to be free from dead or decayed or damaged branches.
- 2.8 Every **Owner** shall maintain his/her **Property** in a manner to prevent dust or dirt from spreading to neighbouring properties.
- 2.9 Every **Owner** of **Property** containing a **Pool**, hot tub, wading pool or artificial pond shall maintain such **Pool**, hot tub, wading pool or artificial pond in good repair and working condition.

3.0 **DERELICT MOTORVEHICLES**

- 3.1 No **Owner** shall use any **Property** for the parking, storage, keeping or placement of the following:
- a) **Motor Vehicle** having missing bodywork components or parts, including tires or damaged components, parts, bodywork, glass or deteriorated or removed adjuncts, which prevent its mechanical function;
 - b) **Motor Vehicles** that are not currently licensed for operation pursuant to the provisions of the Highway Traffic Act;
 - c) **Motor Vehicles** parts or components unless otherwise expressly permitted;
 - d) wrecked, dismantled, discarded, inoperative, or abandoned **Motor Vehicles** and machinery.

4.0 **COMPOSTING**

- 4.1 No **Owner** shall permit **Composting** of any kind other than in accordance with this *By-law*.
- 4.2 All **Composting** shall be carried out in accordance with the following requirements:
- a) **Composting** is permitted only in a rear yard of a **Property**;
 - b) **Composting** shall take place only in a container, or digester and only on land from which the compost material originated;
 - c) any compost containers or digesters used for **Composting** shall be kept covered tightly at all times, except when being emptied or filled;
 - d) no domesticated animal feces shall be placed in a compost container, or digester used for **Composting**;
 - e) no **Odour** shall be permitted to emanate from the compost container, or digester used for **Composting**;

- f) maintained in such a manner as not to attract animals, rodents or vermin;
 - g) any compost container, pile or digester used for **Composting** shall be set back at least 0.6 meters (2 feet) from any lot line.
- 4.3 Section 4.2 does not apply to a **Property** if **Composting** is necessary for the operation of a permitted 'use' lawfully situated on the **Property** pursuant to the **Zoning By-laws** and/or respective site plan agreements.

5.0 FIREWOOD

- 5.1 No **Owner** shall keep fire wood on the **Property** unless actually used for wood burning on the **Property**.
- 5.2 Firewood shall be kept, stored or placed in a rear or side *yard* provided the following provisions are met:
- a) The firewood is used for wood burning on the **Property** or in the **Dwelling**;
 - b) The area of **Property** occupied by the firewood is not more than the (15%) of the total area of the **Yard** area where it is situated;
 - c) The firewood shall be neatly piled in the rear yard, does not exceed more than 8ft in height and shall have a minimum setback back of 1 meter;
 - d) The firewood shall be neatly piled in the side yard, does not exceed more than 6ft in height and shall have a minimum setback back of 0.6 meter (2 feet); and
 - e) The firewood shall not be piled along a fence which might facilitate climbing where a **Pool** is located on an adjacent **Property**.
- 5.3 Section 5.1 does not apply to a **Property** if the storage of firewood is necessary for the operation of a permitted 'use' lawfully situated on the **Property** pursuant to the **Zoning By-laws**.

6.0 GRAFFITI

- 6.1 No **Person** shall place, cause or permit **Graffiti** to be placed on any **Property** within the **Town**.
- 6.2 Every **Owner** shall at all times maintain *property* free of **Graffiti**.

7.0 STANDING WATER

- 7.1 No **Owner** shall permit **Standing Water** on a **Property** for a period in excess of three (3) days when the outside temperature remains above 10 Celsius (50 Fahrenheit), including but not limited to on the ground, in **Waste, Debris, Pools**, accessory structures or **Property**.
- 7.2 Any **Person** owning a **Property** in the **Town** where a **Natural Body of Water** exists, shall when ordered by the **Medical Officer of Health** that significant medical hazard exists, shall take the steps outlined by the **Medical Officer of Health** to remedy the situation. Not limiting the

foregoing, it may include the filling or draining of the body of water or the treatment of the same with a larvicide.

8.0 BOULEVARD MAINTENANCE

- 8.1 Every **Owner** of a **Property** shall maintain the **Boulevard** free of long grass and *weeds, materials, Debris* and maintain the **Boulevard** to be free and clear from damage, holes and ruts.
- 8.2 All permitted **Boulevard** gardens shall be limited to perennial or annual plant material up to 0.6m (2ft) in height. On any **Property** located adjacent to an intersection and which may have a wide side yard, the **Owner** shall ensure that there are no plantings within the 5.0 metres (16.4 feet) **Sight Triangle**. **Property** owners are not permitted to plant trees, **Noxious Weeds** and **Invasive** species on the Boulevard;
- 8.3 All plantings shall be kept trimmed so that they do not encroach on any **Sidewalks**, curbs or driveway edges.
- 8.4 **Property** owners shall maintain the municipal **Sidewalk** free and clear of **Debris**.
- 8.5 The **Property** owner shall not place any plantings other than **Ground Cover** having a maximum height of 152 millimetres (6 inches) within a 1.5 metre (4.9 feet) radius of any fire hydrant and other utility infrastructure.

9.0 ORDER

- 9.1 Where the **Town** is satisfied that a contravention of this by-law has occurred, the **Town** may make an order requiring the **Person** who contravened this by-law, or who caused or permitted the contravention, or the **Owner** or occupier of the land on which the contravention occurred, to do work to correct the contravention.

- 9.2 An order under Section.9.1 of this by-law shall set out:

- a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred;
- b) and the work to be done and the date by which the work must be done.

- 9.3 An order under Section 9.1 may require work to be done even though the facts which constitute the contravention of this by-law were present before this by-law came into force.

- 9.4 Any **Person** who contravenes an order under Section 9.1 of this by-law is guilty of an offence.

- 9.5 The order may be served **Personally** on the **Person** to whom it is directed or by registered mail to the last known address of the **Person**, in which case it shall be deemed to have been given on the 5th day after it is mailed.

10.0 FAILURE TO COMPLY WITH ORDER

- 10.1 Where an **Owner** contravenes an Order issued under section 9.1, the **Officer** may, without notice to any **Owner**, cause the work to correct

the contravention to be done at each **Owner's** expense. Without limitation, the **Officer** may retain such **Persons** to assist in completing the work as the **Officer** determines appropriate.

- 10.2 Upon completion of the work to correct the contravention by or on behalf of the **Town**, the municipality shall have a lien on the land for the amount spent on the work to correct the contravention, plus administration fee and the amount shall be deemed to be municipal **Property** taxes and may be added to the tax roll and collected in the same manner and with the same priority as municipal **Property** taxes as provided for by statute.
- 10.3 Each **Owner** is jointly and severally liable to the **Town** for all **Costs** incurred in any way related to work done to correct the contravention for the purpose of section 10.2 including, without limitation, interest as per **Town** policy.

11.0 POWERS OF ENTRY

- 11.1 The **Town** may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- a) the provisions of this By-law;
 - (b) an Order issued under this By-law; or
 - (c) an Order made under Section 431 of *the Act*.
- 11.2 Where an inspection is conducted by the **Town**, the **Person** conducting the inspection may:
- (a) require the production of documents or relevant items for inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies and extracts;
 - (c) require information from any **Person** concerning a matter related to the inspection including their name, address, phone number and identification; 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 purpose of inspection.
- 11.3 The **Town** may undertake an inspection pursuant to an Order issued under Section 438 of the *Act*.
- 11.4 The **Town's** power of entry may be exercised by an employee, *inspector* or agent of the *Town* or by a member of a police force with jurisdiction, as well by any **Person** under his or her direction.
- 11.5 No **Person** shall hinder or obstruct, or attempt to hinder or obstruct, a *Municipal Law Enforcement Officer*, or a *Police Officer* from carrying out inspections of land to ensure compliance with this By-law.

12.0 PENALTY PROVISION

- 12.1 Every **Person** who contravenes a provision of this By-law, including an order issued under this By-law, is guilty of an offence.

- 12.2 Any **Person** who is in contravention of any provision of this By-law, or who fails to comply with an order issued under this By-law shall be deemed to be committing a continuing offence for each day or part of a day that the contravention remains uncorrected.
- 12.3 If an Order has been issued under this By-law, and the order has not been complied with, the contravention of the order shall be deemed to be a continuing offence for each day or part of a day that the order is not complied with.
- 12.4 Any **Person** who is guilty of an offence under this By-law shall be subject to the following penalties:
- a) Upon a first conviction, the minimum fine shall be \$350.00 and the maximum fine shall be \$100,000.00;
 - b) Upon a second or subsequent conviction for the same offence, a fine shall be a minimum of \$500.00 and the maximum fine shall be \$100,000.00;
 - c) Upon conviction for a continuing offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00 for each day or part of a day that the offence continues; and
 - d) Upon conviction of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00.
- 12.5 For the purposes of this By-law, “multiple offences” means an offence in respect of two (2) or more acts or omissions each of which separately constitutes an offence and is a contravention of a provision of this By-law.
- 12.6 For the purposes of this By-law, an offence is a “second or subsequent offence” if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.
- 12.7 Where a **Person** is convicted of an offence under 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.
- 12.8 Every Person who contravenes any provision of this By-law is liable to the fines and administrative fees set out under the Administrative Monetary Penalty System By-law 2019-62, as amended, and each day shall constitute a new and separate offence.
- 12.9 Every Person who is in contravention of the provisions of this By-law may request a review of the matter in accordance with the Administrative Monetary Penalty System By-law 2019-62, as amended.

13.0 SEVERABILITY

- 13.1 Where a Court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of this By-law shall continue in force unless the Court makes an order to the contrary.

14.0 SHORT TITLE

14.1
referred to as the “Clean Yards By-law”;

This By-law shall be

Enacted this 13th day of November, 2017.

Tony Van Bynen, Mayor

Lisa Lyons, Town Clerk