

THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW NO. 2020 – 51

A By-law to prohibit the throwing, placing or depositing of refuse or debris on private property, or property of the Corporation without authority from the owner or occupant of such property.

WHEREAS pursuant to Sections 11(2) clauses 5 and 6 of the *Municipal Act* 2001, S.O. 2001 c.25 as amended, lower tier municipalities may pass By-laws respecting economic, social and environmental well-being of the municipality, in addition to By-laws respecting health, safety and well-being of persons; and

WHEREAS section 127 of the *Municipal Act* authorizes local municipalities to prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land and regulate when and how matters shall be done; and

WHEREAS Council of the Corporation of the Township of Essa deems it desirable and expedient to prohibit the unauthorized throwing, placing or depositing of refuse or debris on property within the Township of Essa;

NOW THEREFORE BE IT RESOLVED THAT Council of the Corporation of the Township of Essa hereby enacts as follows:

1. DEFINITIONS

- 1.1 *Agricultural Waste* means waste, other than sewage and organic waste, resulting from farm operations, including animal husbandry and where a farm operation is carried on in respect of food packing, food preserving, animal slaughtering or meat packing, includes the waste from farm operations.
- 1.2 *Corporation* means the Corporation of the Township of Essa;
- 1.3 *Industrial Waste* means:
Solid Industrial Waste – waste from an enterprise or activity involving warehousing, storage or industrial manufacturing or commercial processes or operations; or research or an experimental enterprise or activity; or clinics that provide medical diagnosis or treatment; or schools, laboratories or hospitals.
Liquid Industrial Waste – waste that results from industrial processes or manufacturing or commercial operations
- 1.2 *Municipal Law Enforcement Officer* means an officer appointed by By-law under the authority of a statute to administer and enforce By-laws within the Township of Essa;
- 1.3 *Municipal Property* means real property owned or leased by the Corporation of the Township of Essa.
- 1.4 *Owner* means the registered owner of the property and, for the purpose of this By-law, includes any lessee or tenant, occupant or any person having an interest whether equitable or legal in the real property;

- 1.5 *Person* includes an individual, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau and agency or director, officer, manager or person in charge of such entity or the collecting of rent of any property, or any other person who is the occupier of the property;
- 1.6 *Private Property* means real property owned by a person or corporation other than a municipal corporation and within the Township of Essa as defined herein;
- 1.7 *Refuse or Debris* includes but is not limited to:
- a) Ashes, garbage, clothing, rubbish, discarded building or construction materials, furniture and household effects, kitchen waste, used vehicle parts, tires, junk, or waste matter of any kind;
 - b) Tin cans, bottles, cartons, boxes or other containers;
 - c) Derelict, abandoned or inoperable vehicles, machinery, appliances, furnishings (household, industrial or commercial);
 - d) Yard waste including brush, branches, dirt, grass clippings, etc.;
 - e) Solid industrial waste, liquid industrial waste, agricultural waste or sewage;
- 1.8 *Sewage* means any liquid or solid waste containing animal, vegetable or mineral matter in suspension or a solution.
- 1.9 *Township* means the Township of Essa.

2. OFFENCES

It is an offence to:

- 2.1 Throw, place, deposit, permit, or aid in the depositing of refuse or debris on any highway, bridge or road allowance within the Township of Essa.
- 2.2 Throw, place, deposit, permit or aid in the depositing of refuse or debris on private property within the Township of Essa.
- 2.3 Throw, place, deposit, permit, or aid in the depositing of refuse or debris on Township property.
- 2.4 Allow refuse or debris, including refuse or debris scattered about by animals, birds, wind, or other means placed upon municipal and private highways for municipal pickup, to remain after the weekly appointed pickup day.

3. EXEMPTIONS

- 3.1 It shall not be considered an offence under Section 2 where:
- a) The material is being stored within a shed, garage, or other building in a condition suitable for safe storage of the materials and in accordance with all other By-laws of the Township;
 - b) The storage of the waste material is a necessary or normal accessory use to another lawful use actually being carried out on the property;
 - c) The material is being stored by an owner approved by the Township to carry on a business upon the subject yards, vacant lots, grounds or buildings and/or such use is permitted under the Zoning By-law;
 - d) Storage of such items is necessary or normal accessory use thereto and the yards, vacant lots, grounds or buildings; the owner is the subject of a certificate of approval, or exemption for the purpose of same which

certificate is issued for such purposes under the Environmental Assessment Act, RSO 1990 c.E. 18, or the Environmental Protection Act, RSO 1990 c.E. 19, and such approval or exemption is currently in force.

- 3.2 It shall not be considered an offence under Section 2 where:
- a) In the normal course of garbage collection, a person deposits refuse or debris on a highway or on land owned by the municipality or any local board thereof, in compliance with provisions of the following County of Simcoe's Waste Management Programs: Waste, Compost and Recycling Collections, Bulky Item Pickup, Christmas Tree Pickup, Leaf and Yard Waste Pickup.
 - b) In the course of engaging in home composting, a person deposits grass, tree trimmings and pruning's, garden waste and other vegetable matter in a home composter.
 - c) During the course of construction on a property, construction materials are stored neatly on that property.
 - d) Where permission has been granted by the owner of the property.

4. PENALTY

- 4.1 Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine and such other penalties as provided for in the Provincial Offences Act.

5. ADDITIONAL REMEDIES

- 5.1 In addition to the penalty set out above, a court may require a person or corporation convicted of an offence under this By-law to pay restitution or compensation to the owner of the land in question, or the Corporation of the Township of Essa, for any costs incurred to clean up and properly dispose of any refuse or debris which was the subject matter of the said conviction.

6. ADMINISTRATION AND ENFORCEMENT

- 6.1 This By-law shall be administered and enforced by the Municipal Law Enforcement Officer of the Corporation or such other person or persons as Council may appoint by By-law.
- 6.2 For the purpose of inspection and/or remedial action, a Municipal Law Enforcement Officer has the power to enter upon and examine any yards, vacant lots, grounds or buildings, other than a dwelling house, at any reasonable time or times, and may be accompanied by such person or persons as he/she deem necessary to properly carry out duties outlined in this By-law.

7. CORPORATIONS

- 7.1 Every person who is an officer, director, employee or agent of a corporation charged with committing an offence under this By-law, is a party to the offence who:
- a) Actually commits it;
 - b) Does or omits to do anything for the purpose of aiding any person to commit it; or
 - c) abets any person in committing it.
- 7.2 Where two or more persons form an intention in common to carry out an unlawful purpose, and to assist each other therein, each of those who knew or

ought to have known that the commission of an offence under this By-law would be a probable consequence of carrying out the common purpose is a party to the offence.

8. VALIDITY AND SEVERABILITY

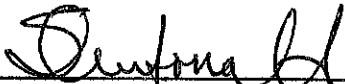
8.1 Should any section, subsection, clause, paragraph or provision of this By-law be declared by a court of competent jurisdiction to be invalid or unenforceable, this same shall not effect the validity or enforceability of any other provisions of this by-law or of the by-law as a whole.

9. The short title of this By-law shall be the "Littering By-law".

10. By-law 2002-35 be and is hereby repealed.

11. This By-law shall come into force and take effect immediately upon the final passing thereof.

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY
PASSED on this the 8th day of July, 2020.



Sandie Macdonald, Mayor



Lisa Lehr, Clerk

THE HONOURABLE ESTHER ROSENBERG
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
CENTRAL EAST REGION

50 EAGLE STREET WEST
NEWMARKET, ONTARIO L3Y 6B1



L'HONORABLE ESTHER ROSENBERG
JUGE PRINCIPAL RÉGIONAL
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU CENTRE-EST

50, RUE EAGLE OUEST
NEWMARKET (ONTARIO) L3Y 6B1

TELEPHONE/TÉLÉPHONE (905) 853-4890
FAX/TÉLÉCOPIEUR (905) 853-4891

July 24, 2020

Ms. Lisa Lehr
Clerk
5786 County Road 21
Utopia, Ontario
L0M 1T0

Dear Ms. Lehr,

Re: Set Fines for the Township of Essa

Enclosed herewith please find the Order and the schedule of set fines.

The setting of the fines does not constitute my approval of the short form of the wording used to describe the offences.

I have forwarded copies of the Orders and the Schedules of the set fines to the POA Court in Barrie.

Yours truly,

A handwritten signature in black ink, appearing to read "Esther Rosenberg".

Esther Rosenberg
Regional Senior Justice
Central East Region

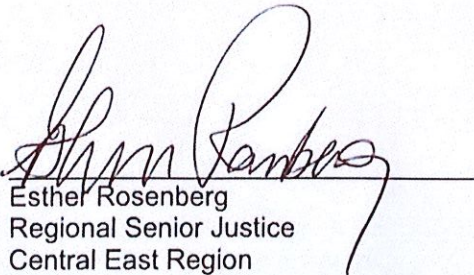
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Enclosures

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the attached schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By Law 2020-51, for the Township of Essa, attached hereto is the set fine for that offence. This Order is to take effect July 24, 2020

DATED at Newmarket this 24th
day of July, 2020



Esther Rosenberg
Regional Senior Justice
Central East Region

**Township of Essa By-law 2020 – 51
Littering By-law**

**Part I Provincial Offences Act
Set Fine Schedule**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1.	Throw, place, deposit, permit, or aid in the depositing of refuse or debris on any highway, bridge or road allowance	2.1	\$500.00 \$300.00
2.	Throw, place, deposit, permit or aid in the depositing of refuse or debris on private property	2.2	\$500.00 \$300.00
3.	Throw, place, deposit, permit or aid in the depositing of refuse or debris on Township property	2.3	\$500.00 \$300.00
4.	Allow refuse or debris to remain on public or private property after the weekly appointed pickup day	2.4	\$100.00

The penalty provision for the offences indicated above is Section 4.1 of By-law 2020-52, a certified copy of which has been filed and Section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33.