

THE CORPORATION OF THE TOWN OF GREATER NAPANEE

BY-LAW NO. 04-31

A BY-LAW TO PROVIDE FOR YARD MAINTENANCE IN THE  
TOWN OF GREATER NAPANEE

**WHEREAS** Section 127 of the *Municipal Act, 2001*, permits the municipality to pass by-laws requiring owners and occupants of land to clean and clear the land of refuse and debris, to define the meaning of "refuse" for the purpose of the by-law, and to regulate when and how such matters are to be done;

**AND WHEREAS** Section 128 of the *Municipal Act, 2001*, permits the municipality to pass by-laws to prohibit and regulate public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

**AND WHEREAS** Section 130 of the *Municipal Act, 2001*, permits the municipality to pass by-laws to regulate matters for purposes related to the health, safety and well-being of the inhabitants of the municipality;

**AND WHEREAS** Section 131 of the *Municipal Act, 2001*, permits a municipality to pass by-laws to prohibit and regulate the use of any land for the storage of used motor vehicles for the purposes of wrecking or dismantling them or salvaging parts from them, including the power to enter onto the land at any reasonable time to determine if the by-law has been complied with;

**AND WHEREAS** Section 427 of the *Municipal Act, 2001*, permits the municipality to enter upon land at any reasonable time to do such matter or thing that the owner or occupant of the land has failed or refused to do as required by the by-law, and to recover the costs of doing such matter or thing together with interest at the rate of 15% per annum by adding them to the tax roll for the property and -collecting them in the same manner as taxes.

NOW THEREFORE the Council of the Corporation of the Town of Greater Napanee hereby ENACTS the following:

## DEFINITIONS

1. In this by-law:

"inoperative" means not in working condition;

"municipality" means The Corporation of the Town of Greater Napanee;

"occupant" means any person *over* the age of 18 years who is not an owner of the property and is in exclusive possession or all or part of the property;

"owner" means any person who is the registered owner of a property according to the records for the property in the Land Registry Office or as shown on the last revised assessment roll of the municipality;

"property" means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings erected thereon and includes vacant property;

"public nuisance" means any condition that exists on a property that, by reason of being unsafe or so unsightly that it is out of character with the surrounding environment, causes, or might reasonably be expected to cause, interference with or loss of the reasonable use and enjoyment of another property by the owner or occupant of that property;

"refuse" means any discarded or unused material or items, including,

- (i) lumber, plywood, drywall, shingles, insulation, flooring, carpeting, windows, glass, bricks, stone or any other construction material;
- (ii) household furniture, appliances, tools, bicycles, equipment, machinery or any parts thereof; and
- (iii) inoperative vehicles or any parts thereof;

"unlicensed" means, in the case of a vehicle, without current and

valid plates; "unused" means stored or kept for the purpose of scrap or salvage;

"vehicle" means any type of motor vehicle, recreational vehicle, snowmobile, trailer or other type of vehicle or equipment drawn, propelled or driven by any kind of power

"yard" means the land other than publicly owned land, around and appurtenant to any property and used or intended to be used or capable of being used in connection with the property.

## **YARD STANDARDS**

2. Every yard shall, at all times, be kept in a neat, clean and tidy condition, free from any objects or conditions that might create a health, fire or accident hazard, or create a public nuisance.
3. Every yard shall, at all times, be kept free from refuse, rubbish, garbage, brush and other debris.
4. If a building permit has been issued for the construction of a building or structure on a property, construction materials and equipment and other related items to be used in the construction may, subject to section 2 of this by-law, be stored in the yard for as long as the building permit remains in effect.
5. No unlicensed vehicle that is in a wrecked, discarded, dismantled, inoperative, unused or abandoned condition shall be parked, stored, or left in a yard, except on a property that is zoned for use as a salvage yard and only then in such circumstances as to comply with the provisions of section 2 of this by-law and any other applicable law related to such use.
6. Despite section 5, the owner or occupant of a property may park, place or store an inoperative vehicle on the property for the purpose of repairing it for his or her own use, but not for commercial purposes, provided such repair is completed within 30 days from the date on which the vehicle is first parked,

placed or stored on the property in an inoperative condition.

## ENFORCEMENT

7. No person who is an owner or occupant of a property shall use the property, or permit the property to be used, or permit the property to continue to be used in a manner that does not conform to the standards set out in this by-law.
8. Every person who contravenes this by-law is guilty of an offence and, upon conviction, is liable to payment of a fine.
9. If an inspection of the property by the municipality reveals that the property does not conform to the standards prescribed by this by-law, the municipality may give written notice to any owner and occupant of the property containing:
  - (a) the municipal address or legal description of the property;
  - (b) reasonable particulars of the condition of the property that does not conform to the standards prescribed by this by-law;
  - (c) an explanation of the work that must be performed in order to bring the property into conformity with the standards prescribed by this by-law;
  - (d) the time for complying with the requirements contained in the notice;
  - (e) a statement indicating that, if the work necessary to bring the property into conformity with the by-law is not carried out within the prescribed time, the municipality may, without further notice, enter onto the property and do such work as necessary to bring the property into conformity with the by-law;
  - (f) a statement indicating that every owner and occupant of the property will be liable for all costs incurred by the municipality to bring the property into conformity with the by-law and that the municipality may recover such costs together with interest at the rate of 15% per annum

by action or by adding the amount owing to the tax roll for the property and collecting it in the same manner as municipal taxes; and

- (g) such other information as the municipality deems necessary.
10. Any notice given by the municipality in accordance with section 9 may be served personally or by registered mail sent to the last known address of the person to whom the notice is to be given in which event service shall be deemed to have been made on the third day after the day of mailing.
  11. If the owner or occupant of a property to whom notice has been given in accordance with this by-law does not comply with the notice within the time prescribed, the municipality may, in addition to all other remedies, cause the property to be brought into a condition that conforms to this by-law and, for this purpose, its employees or agents may enter onto the property at any reasonable time without further notice to the owner or occupant in order to do such work and rectify any contravention of this by-law.
  12. Having removed items from a property in accordance with this by-law, the municipality may, in its absolute discretion, elect to store, or cause to be stored, any or all such items for a maximum of 30 days in order to permit the owner of such items to recover and personally dispose of them and the costs of such storage shall form a lien on the items in accordance with the *Repair and Storage Liens Act*.
  13. Despite section 12 of this by-law, the municipality shall not be liable to compensate the owner, occupant, or any other person by reason of anything done by or on behalf of the municipality in the reasonable exercise of its powers under this by-law.
  14. Any costs incurred by the municipality to enter onto a property and do such work as necessary make the property conform to this by-law, including any costs of storage, together with interest at the rate of 15% per annum calculated from the date on which the cost is incurred to the date of payment in full shall be added to the tax roll of the property and collected in the same manner as taxes.

**ADMINISTRATION**

- 15. The Chief Building Official of the municipality shall be responsible for the administration and enforcement of this by-law.
- 16. For the purpose of administering and enforcing this by-law, the Chief Building Official may authorize any person who is a provincial offences officer employed by or acting as an agent of the municipality to act on behalf of the Chief Building Official.
- 17. This By-law may be referred to as "The Yard Maintenance By-law".

**COMING INTO FORCE**

- 18. This By-law shall come into force and take effect on the date it is passed.

READ A FIRST AND SECOND TIME this 10<sup>th</sup> day of May, 2004.

FINALLY PASSED on this 14 day of June, 2004.

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Gordon Schermerhorn – Mayor

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Rebecca Murphy - Clerk