

THE CORPORATION OF THE MUNICIPALITY OF NEEBING

BY-LAW NUMBER 2018-008

Being a by-law prohibiting littering in Neebing

Recitals:

The *Municipal Act, 2001* authorizes municipalities to prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land, and to define "refuse" for that purpose.

Members of Council have received complaints relating to debris being placed on land without the consent of the owner.

Members of Council have witnessed debris placed on Municipal Property without the consent of the Corporation.

Council considers it necessary to prohibit these activities in order to provide for the prosecution of offenders in the interest of the general public and the environment.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF NEEBING ENACTS AS FOLLOWS:

Section One: Definitions and Interpretation

- 1.01 **Definitions:** Wherever a term set out in the lettered paragraphs of this Section appears in the text of this By-law with its initial letter capitalized, the term is intended to have the meaning set out for it in this Section 1.01. Wherever a term below appears in the text of this By-law in regular case, it is intended to have the meaning ordinarily attributed to it in the English language.
- (a) **"Acceptable Item"** means Refuse that would be accepted for deposit at a Landfill Site in accordance with the approval of the Ministry of Environment and Climate Change for that Landfill Site. This includes deposit into the waste cell, or into one of the bins or areas set apart for items that may be reused or recycled.
- (b) **"Act of Nature"** means any one or more of the following:
- i) Floods or other extraordinary movements or accumulations of water;
 - ii) Winds in excess of those experienced on an ordinary basis, such as hurricanes, tornados or down-drafts;

- iii) Extraordinary movements of earth, including: earthquakes, fissures, or sinkholes.
 - iv) Extraordinary events of human nature, including: wars, insurrections, terrorist attacks, invasions, or riots;
- (c) **“By-law”** means this By-law, as it may be amended from time to time, unless another by-law is expressly referenced by name or number. The Recitals to, and any Schedules attached to, this By-law are considered integral parts of it.
- (d) **“Corporation”** means The Corporation of the Municipality of Neebing.
- (e) **“Council”** means the elected municipal council for the Corporation.
- (f) **“Facebook Notification Page”** means the Corporation’s Facebook page set aside for notifications to the general public.
- (g) **“Includes”**: The use of the word “includes” in any tense (for example, “including”, “included”, or “include”) is not intended to restrict or limit any of the words or phrases either preceding or following it.
- (h) **“Landfill Site”** means Municipal Property which has been authorized by the Ontario Ministry of the Environment and Climate Change for use as a municipal landfill site.
- (i) **“Municipal Law Enforcement Officer”** means a Police Officer, a law enforcement officer, the Manager, a person in the employ of the Thunder Bay District Humane Society or other organization associated with the Society for the Prevention of Cruelty to Animals, or another person duly appointed to enforce the by-laws of the Corporation.
- (j) **“Municipal Property”** means any and all property owned or occupied by the Corporation. The term includes property of every kind, including: parks, fire halls, boat launch areas, passive property, road allowances, highways, parking lots, gravel pits, and property occupied by buildings owned or occupied by the Corporation.
- (k) **“Neebing”** means the geographic area under the jurisdiction of the Corporation.
- (l) **“Occupant”** when used in reference to property, means a person who is in possession of that property, but is not the Owner. The term includes a tenant, a manager, a person receiving the rent for the property, whether on his or her own behalf or on behalf of someone

else, a receiver, or mortgagee in possession.

- (m) **“Ordinary Waste”** means Refuse that a reasonable person would expect to be deposited in a Receptacle located on Municipal Property. The term includes: beverage containers, food wrappings, and any Acceptable Item which is less than one half cubic foot in size. The term expressly excludes any material or substance that would not be permitted to be placed at a Landfill Site (either at all, or without paying a fee) and/or any Rejected Item.
- (n) **“Owner”** when used in reference to property, means a person with legal title to that property.
- (o) **“Place”** is a verb which includes: bury, scatter, set, pitch, abandon, toss, drop, throw, dump, discard, leak, or otherwise move from one location to another.
- (p) **“Private Property”** means property owned by any person other than the Corporation, including any other orders of government.
- (q) **“Receptacle”** is a container, owned by the Corporation, and placed on Municipal Property for the express purpose of accepting deposits of Refuse. Receptacles are clearly marked as to whether they are intended to receive recyclable material or non-recyclable material.
- (r) **“Refuse”** is a noun which means any chattel or substance that is not wanted by the person in possession of that chattel or substance. The term includes: debris, litter, rubbish, garbage, fecal matter, ashes, bottles, cans, cartons, construction materials (new or used), containers, wrappings, plastics, cardboards, appliances, vehicles, vehicle parts, packing material, organic waste, kitchen waste, garden waste, stumps, branches, clothing, furniture and household waste and animal carcasses or portions of animal carcasses. Whether or not the chattel or substance is “recyclable” or “biodegradable” is immaterial to it meeting the definition of “Refuse” for the purposes of this By-law.
- (s) **“Rejected Item”** means any item that would not be accepted for deposit in a Landfill Site in accordance with the approval of the Ministry of Environment and Climate Change for that Landfill Site.
- (t) **“Website”** means www.neebing.org.

- 1.02 **Gender/Plurals:** Terms expressed in a masculine gender may be interpreted in the feminine gender, and vice-versa, whenever the context requires it. Terms expressed in plural may be interpreted in the singular, and vice-versa, whenever the context requires it.
- 1.03 **Citing Legislation and by-laws:** When provincial legislation is cited in this By-law using a date within the title to the legislation, the reference is to the Statutes of Ontario for that particular year. Where the title does not have a date in it, the reference is to the Revised Statutes of Ontario, 1990. In both cases, the term refers to the legislation as amended from time to time, and includes successor legislation. Where another by-law is cited by number in this By-law, the reference is to the by-law of the Corporation which has that number. The reference includes that by-law, as amended from time to time, including any successor by-laws.
- 1.04 **Text Organization:** The organization of this By-law into sections or paragraphs, and the use of headings, is intended to assist readers, and is not intended to imply any particular interpretation.
- 1.05 **Changes over Time:** If a person is referred to in this By-law by virtue of an office held, or an organization is referred to in this By-law by a name, and the title of the office or the name of the organization changes, the By-law text is deemed to continue to refer to the holder of the title (as changed) or the particular organization (as re-named)
- 1.06 **Acting Directly or Indirectly:** Where this By-law prohibits an action, the prohibition applies both directly and indirectly. This means that a person prohibited from doing something is also prohibited from causing, allowing or permitting that action to be done by another person, by an animal or bird, by a robot or machine, or by the forces of nature.
- Where this By-law requires an action, the requirement applies both directly and indirectly. This means that a person required to do something may fulfill that requirement by causing, allowing or permitting another person to do that thing.
- 1.07 **Nouns:** Reference to any noun is considered to be a reference to all or any part of that item. For example, reference to “a park” should be interpreted as reference to “all or any portion of a park”.
- 1.08 **Severability:** If any portion of this By-law is considered by a court or tribunal of competent jurisdiction to be unenforceable or void, that ruling will not apply to the balance of the By-law, which shall be considered to remain in full force and effect.

- 1.09 **Conflicts with other By-laws:** In the event of any conflict between this By-Law and any other by-law passed by the Corporation, the more restrictive provision prevails unless applicable law requires otherwise.

Section Two: Prohibitions

- 2.01 **Placing Refuse on Municipal Property:** It is an offence for a person to Place Refuse on Municipal Property.
- 2.02 **Exemption for Landfills:** Section 2.01 does not apply to prohibit the deposit of municipal household waste, recyclable items, and other Refuse that is authorized to be deposited there, to be placed at a Landfill Site.
- 2.03 **Exemption for Receptacles:** Section 2.01 does not apply to prevent the deposit of Ordinary Waste in Receptacles.
- 2.04 **Placing Refuse on Private Property:** It is an offence for a person to Place Refuse on Private Property without the consent of the Owner of the Private Property.
- 2.05 **Occupant's Consent is Immaterial:** The consent of the Occupant of the Private Property is not an exemption to the prohibition in Section 2.04 of this By-law.
- 2.06 **Act of Nature:** This By-law will be deemed not to have been contravened where Refuse and/or other items are scattered over Municipal Property or Private Property by an Act of Nature.

Section Three: Enforcement & Penalties

- 3.01 **Enforcement:** This by-law may be enforced by the Municipal Law Enforcement Officer, or by way of private information sworn in accordance with the *Provincial Offences Act*.
- 3.02 **Authorization to Enter Property:** The Clerk, a Municipal Law Enforcement Officer, or any person acting under those persons, may at reasonable times, enter onto Private Property that is not a building used for human habitation. The person so authorized shall, upon request, produce identification of him- or her-self as authorized to carry out enforcement of this By-law. Entry into a residence is permitted only with consent of the Occupant of the dwelling, after that person has been provided with identification of the authorized person, and advised of the purpose for the entry. Occupants are not required to consent to entry to building used for a residential dwelling.
- 3.03 **Obstructing Enforcement:** It is an offence for any person to hinder or

obstruct, or to attempt to hinder or obstruct, any person exercising any power authorized by Section 3.02.

- 3.04 **Penalties:** Every person who commits an offence pursuant to this By-law is liable, upon conviction, to the penalties prescribed in the *Provincial Offences Act*.

Section Four: Action by Corporation

- 4.01 **Non-Compulsion:** Nothing in this By-law compels the Corporation to take action under this Section. Whether or not the Corporation takes action is at the sole option of the Council.
- 4.02 **Order to Comply:** Where the requirements of this By-law have not been met, the Corporation may issue an order to the person who is alleged to have committed an offence under this By-law to remove any Refuse placed on Municipal Property or Private Property in non-compliance. The order shall provide for a minimum of thirty (30) days for the recipient of the order to comply or to otherwise respond.
- 4.03 **Service of the Order to Comply:** An order issued under Section 4.02 shall be served on the person to whom it applies by personal delivery to the address on record with the Corporation for the recipient. If the Corporation does not have an address on record for the recipient, the order may be served on the person to whom it applies by publication on the Corporation's Facebook Notification Page and Website.
- 4.04 **Offence for Failure to Comply:** It is an offence for a person to fail to comply with an order to comply duly issued and served in accordance with Section 4.03 of this By-law.
- 4.05 **Failure to Comply with Order or to Respond:** If there is no response to the Order to Comply issued and served in accordance with Sections 4.02 and 4.03 of this By-law, the Corporation may choose to undertake the work to remove any Refuse placed on Municipal Property or Private Property in non-compliance. All of the Corporation's costs associated with such work is a debt owed to the Corporation by the person to whom the Order to Comply was issued and served.
- 4.06 **Invoice & Collection:** The Corporation may invoice the person to whom the Order to Comply was issued for any costs associated with work undertaken in accordance with Section 4.05 of this By-law. If the person to whom the Order to Comply was issued fails to pay the invoice, the Corporation has every option available to it at law to collect that debt, including adding the debt to the municipal tax roll of any property owned by the offender, and to collect it

in like manner as municipal taxes.

Section Five: General Provisions

5.01 **Effective Date:** This By-law shall come into force and take effect upon the date that it is passed.

ENACTED AND PASSED IN COUNCIL this 9th day of May, 2018 as witnessed by the corporate seal of the Corporation and the hands of its proper Officers duly authorized in that behalf.

**THE CORPORATION OF THE
MUNICIPALITY OF NEEBING**

L. Polkowski
Mayor

Rosalie Evans
Solicitor-Clerk

