

**The CORPORATION OF THE VILLAGE OF NEWBURY**

**BY-LAW No. 125-13**

**CLEANING & CLEARING OF LAND**



**Being a By-Law for requiring and regulating the  
Cleaning and Clearing of Land,  
the Clearing of Refuse or Debris from Lands and  
Prohibiting the Depositing of Refuse or Debris on Land  
Situated Within the Village of Newbury.**

**WHEREAS** under Section 127 of the Municipal Act S.O., 2001 as amended, a local municipality may:

- i. Require the 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;*
- ii. Regulate when and how matters required under clause i. shall be done;*
- iii. Prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land; and*
- iv. Define “refuse” for the purpose of this section.*

**AND WHEREAS** under Section 130 of the Municipal Act S.O., 2001 as amended, a municipality may regulate matters not specifically provided for by this Act or any other Act for purposes related to the health, safety and well-being of the inhabitants of the municipality;

**AND WHEREAS** zoning by-laws are in effect in the Village of Newbury applying to lands in the Village of Newbury to regulate the use of land and the erection, location and use of buildings and structures;

**NOW THEREFORE** the Council of the Village of Newbury enacts as follows:

**1. Short Title**

This by-law may be cited as the *Cleaning and Clearing of Land By-law*.

**2. Definitions**

- 2.1 Built-Up Area** shall mean lands zoned Residential, Commercial and Agricultural in the Village of Newbury Zoning By-law No. 692, as amended from time to time.
- 2.2 By-law Enforcement Officer**, shall mean the person appointed, by by-law, by the Municipality for the purposes of administering and enforcing the provisions of this By-law.
- 2.3 Cleared**, shall mean the removal of weeds or grass more than 20 centimeters in height and the removal of stockpiles of soil or other earthen material not required for lawn or garden-related purposes or to complete the grading of the lot on which the stockpile is located.

**2.4 “Derelict vehicle”** means a motor vehicle, tractor, trailer, truck, camper, boat, motorcycle, demolition endurance vehicle, motorized snow vehicle, mechanical equipment, machinery or parts thereof, or any vehicle drawn, propelled or driven by any kind of power or any part thereof, but does not include agricultural equipment, that

(i) is not in an operating condition and is discarded, rusted, deflated tires, wrecked or partly wrecked, or is dismantled or partly dismantled;

**2.5 Domestic Refuse**, shall mean any article, thing, matter or effluent belonging to or associated with a place of residence that appears to be waste material, and includes, but is not limited to:

- i. grass clippings, tree cuttings, brush, leaves and garden refuse;
- ii. paper, cardboard packaging and wrapping;
- iii. kitchen and table waste, of animal or vegetable origin resulting from the preparation or consumption of foods;
- iv. cans, glass, plastic containers, dishes;
- v. new or used material resulting from or for the purpose of construction, alteration, repair or demolition of any building or structure.
- vi. refrigerators, stoves, dishwashers, freezers or other appliances and furniture;
- vii. bathroom fixtures and plumbing parts and materials
- viii. furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks;
- ix. derelict or abandoned motor vehicles; motor vehicle parts and accessories;
- x. tires;
- xi. derelict machinery and equipment;
- xii. rubble and inert fill;
- xiii. sewage.

**2.6 Excavation**, shall mean any man-made opening or depression in the ground, but shall not include a pit licensed under the Aggregate Resources Act, an abandoned pit, an irrigation pond, a fish pond or a water garden.

**2.7 Irrigation Pond** shall mean a body of water situated outdoors, contained by natural or artificial means and designed, used or intended for irrigation purposes and not for recreational purposes.

**2.8 Fence**, shall mean a wall (other than the wall of a building), gate or other barrier constructed of wood, masonry, metal, vinyl, plastic or other manufactured material, or combination thereof, which is continuous throughout its entire length where required, save and except where access areas and lines of sight are required for safety purposes.

**2.9 Industrial Refuse**, shall mean any article, thing, matter or effluent belonging to, or associated with, industry or commerce or concerning or relating to any manufacturing process or concerning or relating to any trade, business, calling or occupation that appears to be waste material and includes, but is not limited to:

- i. Pipes, tubes, conduits, cable, fittings or adjuncts thereof;
- ii. Containers of any size, type or composition;
- iii. Rubble and inert fill;

- iv. Derelict or abandoned motor vehicles, motor vehicle parts and accessories including tires;
- v. Derelict machinery and equipment;
- vi. Articles, things, matter or effluent which is whole or in part or fragments thereof, and derived from or are constituted from or consists of agricultural, animal, vegetable, papers, lumber or wood products; or mineral, metal or chemical products, whether or not the products are manufactured or otherwise processed;
- vii. Bones, feathers, furs, hides;
- viii. Paper, cardboard packaging and wrapping;
- ix. Material resulting from, or as part of, construction or demolition;
- x. Sewage.

**2.10 Land** shall mean grounds, property, yards or vacant lots or any part of a lot which is not beneath a building.

**2.11 Landscaped Open Space** shall mean the area of a lot which is used for the growth and maintenance of grass, flowers, shrubbery and other landscaping materials, both natural and artificial, and includes any surfaced walk, patio, or similar area, but does not include any access driveway or ramp, parking lot, deck or any space beneath or within any building or structure.

**2.12 Motor Vehicle**, shall mean an automobile, motorcycle, motor assisted bicycle and any other vehicle propelled or driven other than by muscular power.

**2.13 Motor Vehicle, Derelict or Abandoned**, shall mean a motor vehicle that is in a state of advance disrepair having missing or damaged parts or deteriorated body conditions which render it inoperative, and may include a motor vehicle that has been evidently abandoned by its owner and left in a place or state of apparent disuse or disinterest by the owner, regardless of whether it is either operable or inoperable or licensed or unlicensed for operations.

**2.14 Motor Vehicle, Restorable**, shall mean a motor vehicle of such an age or other unique quality or category that the owner thereof can demonstrate and has demonstrated a credible intention to restore same to its original or comparable condition, and the said motor vehicle is being stored in a manner in keeping with the said intention to restore same.

**2.15 Municipality** shall mean the Corporation of the Village of Newbury.

**2.16 Owner**, shall mean the person or legal entity who or which holds legal title to land.

**2.17 Rubble**, shall mean broken concrete, bricks, broken asphalt, patio or sidewalk slabs or combination thereof.

**2.18 Sewage**, shall mean any waste containing animal, human, vegetable or mineral matter, waste that is in suspension whether domestic or industrial or any other waste whether in suspension or precipitated, but does not include roof water or storm water run-off.

**2.19 Sight triangle**, shall mean the triangular space formed by the street lines of a corner lot where such lot is located at the intersection of two or more streets and a line drawn from a point in one street line to a point in the other street line, each such point being nine (9.0) meters from the point of intersection of the street lines measured along the said street lines, and where the two streets lines intersect at a point, the point of intersection of the street line shall be deemed to extremities of the interior lot lines.

**2.20** **Yard** shall mean the land around and appurtenant to the whole or any part of a building, and used or intended to be used or capable of being used in connection with that building and, notwithstanding the foregoing, shall mean land as defined herein.

**2.21** **“Unlicensed vehicle”** means a motor vehicle, tractor, trailer, truck camper, boat, motorcycle, demolition endurance vehicle, motorized snow vehicle, or any vehicle drawn, propelled or driven by any kind of power or any part thereof, that

(i) is not insured and registered in accordance with The Highway Traffic Act and does not have a current, valid license plate attached to it, but does not include a derelict vehicle;

### **3. Prohibited Matters**

**3.1** No owner shall, unless otherwise exempted by this By-law, fail to clear land of domestic refuse and or industrial refuse.

**3.2** No owner shall, unless otherwise exempted by this By-Law, fail to enclose an excavation in accordance with Section 4.

**3.3** No owner shall, unless otherwise exempted by this By-Law, fail to drain an accumulation of water exceeding 30 centimeters in depth.

**3.4** No owner shall, unless otherwise exempted by this By-law, deposit domestic waste or industrial waste on land without consent of the owner.

### **4. Ponds and Excavations**

**4.1** Every owner shall fill in any excavation to adjacent grade with non-contaminated fill unless:

- i. The excavation is enclosed completely by a fence a minimum height of four (4) feet, and;
- ii. Construction is proceeding for which a valid building permit has been issued.

**4.2** Every owner shall drain land of accumulations of water that exceed 2 feet in depth unless the water:

- i. Is completely enclosed by a barrier of at least 4 feet in height; or
- ii. Constitutes a storm water management pond approved by the Municipality;
- iii. Constitutes a natural body of water or results from the periodic flooding of a natural watercourse; or
- iv. Constitutes an irrigation pond; or
- v. Constitutes a water garden or fish pond; or
- vi. Constitutes a private drain or a municipal drain; or
- vii. Constitutes a legally maintained swimming pool provided that such pool is completely enclosed by a barrier of least 1 meter in height.

## **5. Drainage**

- 5.1** Storm water runoff from any downspout or any impervious surface shall be directed away from neighbouring lands. Lands shall be graded and maintained to prevent pooling/ponding or the entry of water into a basement or cellar.
- 5.2** Ditches, private drains, swales and watercourses shall be maintained to facilitate the unimpeded flow of water and prevent pooling/ponding.
- 5.3** No storm water or roof water shall be discharged onto a sidewalk, walkway, steps, porch or other pedestrian access which may be hazardous or result in a potential safety risk.
- 5.4.1** No weeping tile, foundation drain, roof drain, or land drain shall be connected or discharged into any sanitary sewage system.
- 5.4.2** Only Indirect connections of weeping tile, foundation drains, roof drains or land drains shall be made to storm drainage system.

## **6. Waste On Land**

- 6.1** Every owner shall keep his land cleaned, cleared and free from domestic refuse and industrial refuse, unless:
  - i. The land is zoned for the purpose of outdoor storage of domestic refuse and industrial refuse unless;
  - ii. The land is owned, licensed and used by the Municipality for the purposes of dumping or disposing domestic refuse and/or industrial refuse.
- 6.2** Notwithstanding Section 6.1 to the contrary, land may be used for the sales and display of household goods, furnishings apparel and similar articles provided such sale and display is limited to not more than three days in any calendar year with the exception of homemade articles, crafts, things or goods made by those residing on the premises, provided the sale and display does not exceed 35% of the front yard or exterior side yard.
- 6.2** Leaves, twigs, branches, grass clippings, plants and other biodegradable matter may be composted on land provided such composting is confined to a rear yard, is situated at least one (1.0) meter from a property line and is undertaken in a manner which prevents any noxious odour emitting there from or is otherwise disposed of in accordance with the standards and regulations of the Municipality.

## **7. Derelict or Abandoned Motor Vehicle and Similar Items**

**7.1** Every owner shall keep his land free and clear of derelict or abandoned motor vehicles, railway cars, trailers, boats and street car bodies unless such land;

- (i) is licensed as a salvage yard by the Municipality; or
- (ii) constitutes a waste disposal site for which a Certificate of Approval or a provisional Certificate of Approval has been issued under the Environmental Protection Act; or
- (iii) constitutes a permitted use and is in conformity with the Zoning By-Law, or otherwise constitutes a legal non-conforming use under the Planning Act.

### **7.2 Storing Derelict Vehicles**

7.2.1 No person shall park, store or leave a derelict vehicle(s) on private property, except as provided in Section 7.2.4.

7.2.2 No owner or occupant of private property shall permit a derelict vehicle(s) to be parked, stored or left on his or her private property, except as provided in Section 7.2.4.

7.2.3 No person shall park, store or leave a derelict vehicle (s) on vacant property, except as provided in Section 7.2.4.

7.2.4 There is no limit to the number of derelict vehicles that may be parked or stored in a building on private property.

### **7.3 Storing Unlicensed Vehicles**

7.3.1 No person shall park, store or leave an unlicensed vehicle(s) on private property, except as provided in Section 7.3.4.

7.3.2 No owner or occupant of private property shall permit an unlicensed vehicle(s) to be parked, stored or left on his or her private property, except as provided in Section 7.3.4.

7.3.3 No person shall park, store or leave an unlicensed vehicle (s) on vacant property, except as provided in Section 7.3.4.

7.3.4 There is no limit to the number of unlicensed vehicles that may be parked or stored in a building on private property.

### **7.4 Notice To Comply**

7.4.1 A Property Standards Officer who finds a contravention of this by-law shall give written notice to the owner or occupant of the property requiring compliance with this by-law within fourteen (14) days after the notice is given.

7.4.2 The notice may be served personally on the person to whom it is directed or by registered mail to the last known address of that person, in which case the notice shall be deemed to have been given on the third day after it is mailed.

7.4.3 If there is evidence that the person in possession of the property is not the registered

property owner, the notice shall be served on both the registered property owner and the person in possession of the property.

- 7.4.4 If there is evidence that the owner of the derelict or unlicensed vehicle(s) is not the registered property owner or occupant of the property, the notice shall be served on the registered property owner, the person in possession of the property and the owner of the derelict or unlicensed vehicle(s). In the case of the owner of the derelict or unlicensed vehicle(s), the notice shall be forwarded to the last address registered for that vehicle at the Motor Vehicle Branch.
- 7.4.5 If the address of the owner is unknown or the Municipality is unable to effect service on the owner or occupant under subsection 6.3, a placard stating the terms of the notice and placed in a conspicuous place upon land on or near the property shall be deemed to be sufficient notice to the owner.

## **7.5 Failure To Comply**

- 7.5.1 If an owner or occupant fails to comply with a notice given under Section 6.0, the Municipality may enter upon the owner's property or occupant's property at any reasonable time for the purpose of removing the derelict or unlicensed vehicle(s).
- 7.5.2 Costs incurred by the Municipality in removing the derelict or unlicensed vehicle(s) will be recovered through means as provided for in Section 446 of the Municipal Act as amended.

## **7.6 Notice of Removal**

- 7.6.1 Within 72 hours after removing the derelict or unlicensed vehicle(s), the Property Standards Officer or designate shall notify in writing
- (i) the owner of the derelict or unlicensed vehicle(s), if known, and
  - (ii) the owner or occupant of the private property on which the derelict or unlicensed vehicle(s) was situated of the removal. Notification will be delivered in person or by registered mail or delivery to the last known address.
- 7.6.2 The notice of the removal of the derelict or unlicensed vehicle(s) shall
- (i) describe the derelict or unlicensed vehicle(s) and the location from which it was removed;
  - (ii) identify the location to which it has been removed

## **7.7 Redemption of Derelict or Unlicensed Vehicle(s)**

- 7.7.1 The owner of the derelict or unlicensed vehicle(s) may redeem it by providing proof of ownership to the location to which it has been removed.
- 7.7.2 The owner of the derelict or unlicensed vehicle(s) is responsible for any fees owing for the storing of such vehicle(s).

## **8. General**

In addition to all other requirements of this By-Law, all land owners shall comply with the following regulations:

- 8.1** Weeds and grass shall not be permitted to grow or stand greater than 20 centimeters in height.
- 8.2** Hedges and trees adjacent to a public sidewalk or road shall be cut and trimmed so as to permit safe and unhindered passage.
- 8.3** Yards shall be kept free from undergrowth or underbrush, and from dead, decayed or damaged trees, and branches and limbs which may create an unkept or unsafe condition, including a potential fire hazard, or harbor pests or vermin.
- 8.4** Yards shall be maintained as landscaped open space except where otherwise occupied by buildings and structures, driveways, fences, and/or patios or decks.
- 8.5** Within a sight triangle, no shrubs or foliage shall be planted or maintained and no fence, other than a chain link or similar type fence shall be erected or maintained greater than 0.6 meters in height above the centerline grade of the intersecting streets.
- 8.6** All sidewalks, driveways, parking areas and loading areas shall be maintained in good condition, so as to afford safe passage under normal use and weather conditions.
- 8.7** All fences shall be maintained in a safe and structurally sound condition and reasonable plumb unless specifically designed to be other than vertical. Wood fences shall be protected by preservative, paint or other weather resistant material unless constructed from pressure treated lumber.
- 8.8** All lands shall be kept free of rodents, vermin, termites and other injurious insects and pests.

## **9. Inspections and Notice**

- 9.1** The By-Law Enforcement Officer may enter onto land and/or inspect any land for the purpose of determining whether the land complies with the provisions of this By-Law.
- 9.2** The By-Law Enforcement Officer may, by prepaid first class mail send to an owner, requiring that the owner, with the time specified by the notice, take such actions that may be necessary to bring such lands into compliance with the terms, conditions and requirements of this By-Law. Every notice given by the By-Law Enforcement Officer shall identify the land and describe the conditions which contravene the provisions of this By-Law.
- 9.3** Every notice given by the By-Law Enforcement Officer to an owner shall be sent by registered mail, to the address shown on the last revised assessment roll or to the last known address.

**9.4** The By-Law Enforcement Officer may, upon such further notice as he deems appropriate, undertake such measures or actions as may be necessary to ensure compliance with the By-Law at the expense of the owner of the lands affected and, where the expenses incurred by the Municipality are not paid within a reasonable period of time, the Municipality may recover same in like manner as taxes in accordance with the provisions of the Municipal Act, including all costs associated with By-law Enforcement.

**10. Default**

**10.1** Where the owner is in default of doing a matter or thing required to be done under this By-Law, the By-Law Enforcement Officer may, upon such notice as the By-Law Enforcement Officer deems suitable, take such actions and complete such works as may be necessary to remedy the owner's default and bring the land into compliance with the terms and requirements of this By-Law.

**10.2** Where any of the matters of things so removed are removed in accordance with Section 10.1, the matter or things may be immediately disposed of by the Municipality.

**10.3** The Municipality shall recover all expenses incurred in undertaking any removal referred to in Section 10.1 herein by action in a court of competent jurisdiction or, otherwise in like means as municipal taxes.

**11. Offence**

**11.1** Every person who contravenes any provision of this By-Law is guilty of an offence and upon conviction is liable to a penalty in accordance with Schedule "B" attached hereto and pursuant to the Provincial Offences Act, R.S.O. c.P.33, as amended.

**11.2** Upon conviction, 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, and such order shall be in addition to any other penalty imposed on the person convicted.

**12. Gender**

**12.1** All references to the masculine gender shall, where appropriate, include references to the feminine gender, and all references to the singular shall, where appropriate, include references to the plural.

**13. Severability**

**13.1** If any section or sections of this By-Law or parts thereof be found by any court to be illegal or beyond the power of the Municipality to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections continue in full force and effect unless and until similarly found and this By-Law shall be enacted as such.

**14. Effective Date**

**14.1** This By-Law shall come into force on the date of passing thereof.

**15. Schedules**

**15.1** Schedule “A” (Procedure); Schedule “B” (Set Fine Schedule) attached hereto form part of this By-law.

**16** **By-laws Rescinded**

**16.1** By-laws 132-98 and 118-13 are hereby rescinded.

**Any By-law or sections of By-laws found to be inconsistent with the provisions contained in this By-law shall be and are hereby repealed.**

**READ** a first and second time this 9<sup>th</sup> day of December, 2013.

**READ** a third time and finally passed this 9<sup>th</sup> day of December, 2013.

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REEVE DIANE BREWER

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CLERK TREASURER BETTY D. GORDON

**SCHEDULE “A”**  
**By-law 125-13**

**Clean and Clear Procedures**

1. Written complaint received by municipal office and directed to By Law Enforcement Officer.
2. By-law Enforcement Officer inspects the property
  - (a) Photographs are taken;
  - (b) Complaint Report completed;
3. Order to Comply is sent by registered mail. **NOTE: 7 days notice for grass, 3 weeks for all other matters.**
  - (a) Order advises that if repair or clearance is not done within the time specified in the order, then the municipality may carry out the repair or clearance at the expense of the owner.
  - (b) If the complaint is regarding length of grass, the letter advises the property owner that, in the case of subsequent violations, the municipality may, without further notice, authorize its contractor to undertake subsequent cuttings at the owner’s expense.
4. Inspection on date specified in Order to determine if compliance achieved.
5. If no change in status, a final letter is written to the owner and/or occupant advises that because they have not complied with the Order or submitted request for an extension, then the By-law Enforcement Officer arranges with a contractor to undertake necessary work.
6. Morning of scheduled clean up, the By-law Enforcement Officer inspects the property to verify status. If clean up has occurred, contractor is advised.
7. By-law Enforcement Officer meets contractor on site, photographs existing conditions and provides general instructions to contractor.
8. Police are requested to attend where the By-law Enforcement Officer anticipates a potential problem.
9. A final complaint report is completed by By-law Enforcement Officer and directed to the Clerk.
10. Following clean up, the municipality issues an invoice to the property owner. The invoice includes the contractor’s cost, By-law Enforcement cost and municipal administration fee. The due date is 30 days from date of issuing of invoice.
11. If payment not received by due date, the amount is added to the property owner’s tax bill.

**VILLAGE OF NEWBURY**  
**SCHEDULE "B" to**  
**BY-LAW No.125-13, As Amended**  
**TITLE: CLEAN AND CLEARING OF LAND**  
**PART 1 – Provincial Offences Act**

**SET FINE SCHEDULE**

Item	Column 1	Column 2	Column 3
	<b>Short Form Wording</b>	<b>Provision creating or defining offence</b>	<b>Set Fine</b>
1.	FAILURE TO CLEAR LAND OF DOMESTIC OR INDUSTRIAL WASTE	Sec. 3.1	\$250.00
2.	FAILURE TO ENCLOSE AN EXCAVATION	Sec. 3.2	\$250.00
3.	FAILURE TO DRAIN WATER FROM LAND	Sec. 3.3	\$250.00
4.	DEPOSTING DOMESTIC OR INDUSTRIAL WASTE WITHOUT CONSENT	Sec. 3.4	\$250.00
5.	FAILURE TO KEEP LAND CLEAR AND CLEAN	Sec. 6.1	\$350.00
6.	FAILURE TO REMOVE DERELICT VEHICLE	Sec. 7	\$250.00
7.	FAILURE TO MAINTAIN GRASS AND WEEDS	Sec. 8.1	\$250.00
8.	FAILURE TO TRIM HEDGES, BRUSH AND TREES	Sec. 8.2	\$250.00
9.	FAILURE TO CLEAR LAND OF OVERGROWTH	Sec. 8.3	\$250.00
10.	BLOCKING A SIGHT TRIANGLE CREATING UNSAFE CONDITION	Sec. 8.5	\$350.00
11.	FAILURE TO MAINTAIN SIDEWALKS AND PARKING AREAS	Sec. 8.6	\$250.00
12.	FAILURE TO MAINTAIN A FENCE	Sec. 8.7	\$250.00
13.	FAILURE OF KEEP LAND CLEAR OF VERMIN	Sec. 8.8	\$250.00

**NOTE: The general penalty provision for the offences listed about is Section 11 of By-law125-13, as amended, a certified copy of which has been filed.**