

**THE CORPORATION OF THE TOWNSHIP OF ESSA  
BY-LAW 2006 -50**

A By-law to require and regulate the filling up, draining, cleaning and clearing of any grounds, yards or vacant lots within the Township of Essa and being a By-law requiring properties to be kept in a safe and clean condition; and to Repeal By-law 97-64.

WHEREAS the *Municipal Act*, 2001, S.O. 2001, C.25, provides municipalities with the capacity, rights, powers and privileges to enable them to govern their affairs and to enhance their ability to respond to municipal issues; and

WHEREAS the Corporation of the Township of Essa deems it necessary to pass a by-law to prevent the accumulation of rubbish, refuse, garbage, litter, junk, vehicles, equipment, machinery and any waste material within the Township, and to have fire and health hazards removed;

NOW THEREFORE the Council of the Corporation of the Township of Essa enacts as follows:

**TITLE AND SCOPE**

This By-law shall be known as a By-law to regulate the filling up, draining, cleaning and clearing of any grounds, yards or vacant lots within the Township of Essa and requiring buildings and yards to be kept in a safe and clean condition.

**DEFINITIONS**

“Derelict automobile” means a motor vehicle that is inoperable, has no market value as a means of transportation, or has a market value as a means of transportation that is less than the cost of repairs required to put it into operable condition, is unlicensed for the current year, and is not properly enclosed and protected;

“Occupant” means any person or persons over the age of eighteen years, but not necessarily the owner of the property, who is apparently in possession of the property;

“Officer” shall include a Municipal Law Enforcement Officer of the Corporation of the Township of Essa, Building Inspectors or any Inspector or Assistant Inspector appointed by by-law of the Corporation of the Township of Essa, the Fire Chief or designate, or officers of the Simcoe Muskoka District Health Unit, or an officer of the Ontario Provincial Police;

“Owner” means the registered owner of the property and, for the purpose of this By-law, includes any registered lessee or tenant;

*"Restoration" means a vehicle of at least 20 years of age that is actively being restored or repaired for use as an antique vehicle or display vehicle with the intention to be operational, and which the progress of such restoration work will be evident;*

"Sewage" means any liquid or solid and liquid waste, containing animal, vegetable or mineral matter in suspension or a solution, but does not include roof drainage or storm water runoff unless the property is serviced by storm sewers;

*"Township" means The Corporation of The Township of Essa.*

"Unsafe condition" shall include flammable refuse, long grass or untrimmed underbrush, timber, lumber and other wood products; an unfenced or unprotected pit, excavation, hole, or other cavity which creates a safety hazard; any materials considered hazardous waste or products within a hazardous waste category; a building, part or all of which is liable to collapse from snow, wind, human occupancy or other causes; machinery, automotive equipment, building material or the like in disuse which is not properly enclosed and protected; any other circumstances whatever that creates, or is likely to create an unsafe or hazardous condition from fire or other dangerous accident;

"Vacant lot" means any parcel of land capable of being conveyed and on which there is no structure or building being used or occupied;

"Vehicle" includes any motor vehicle, within the meaning of the *Highway Traffic Act* of Ontario, trailer, commercial motor vehicle, an automobile, motorcycle, motor assisted bicycle, a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry, road building machine and any other vehicle propelled or driven otherwise than by muscular power;

"Waste material" shall include garbage, rubbish, recyclable materials, discarded building materials, refuse or junk, tin cans, bottles, boxes or other containers, machinery, derelict automobiles as herein defined, and any material in excess to the needs of the owner;

*"Weeds" means a plant that is deemed to be a Noxious Weed under subsection 10 (2), or designated as a noxious weed under clause 24 (a) of the Weed Control Act, R.S.O. 1990.*

"Yard" means an open, uncovered space on a lot appurtenant to an occupied building or structure.

## **GENERAL PROVISIONS**

### **1. TIDY PROPERTIES**

- a. No owner shall cause any grounds, yard or vacant lot to remain in anything other than an orderly, tidy and litter-free manner.

**2. UNSAFE CONDITIONS**

- a. No owner shall allow or permit the creation, presence or existence of any waste material or unsafe condition in or upon any yard, lot, ground or buildings which he/she owns, rents occupies, or has an interest in, whether equitable or legal.

**3. WEEDS**

- a. An owner or occupant shall keep all grass and herbage sufficiently cut and trimmed in the following preventative manner:
  - i not to allow the harbouring of mosquitoes and other annoying insects;
  - ii to prevent the ripening and dispersal of weeds and other noxious plants;
  - iii to present a reasonably neat appearance to the public;
  - iv to prevent herbage from growing to an extent of more than 8" in height.
- b. In the event that the owner of a property has failed to take action to eliminate and destroy noxious weeds or long grass, the Township may do such work or cause it to be done, and the cost thereof may be recovered from the said owner in like manner as municipal taxes.

**4. VEHICLES**

*No vehicle, including a trailer or any part of such vehicle or trailer which is in a wrecked, discarded, dismantled, inoperative or abandoned condition shall be parked, stored or left outdoors on any property in The Township with the following exceptions:*

- a. *where it is part of an automotive repair establishment use, an automotive or auto body establishment use, or a permitted Industrial use zoned in accordance with the Township of Essa Zoning By-law;*
- b. *where it is part of any legal non-conforming automotive use or licensed salvage yard use;*
- c. *where the vehicle is at least 20 years of age and is being or has been actively restored as an antique vehicle, display vehicle or operational vehicle;*
- d. *where the vehicle is operative and has a license plate that has been registered for that vehicle, and said license is valid and up-to-date that has been issued or attached to that vehicle which has not expired for more than one year.*
- e. *No person shall allow the piling or stacking of vehicles on any property unless the property is licensed by the Municipality as a salvage yard.*

**5. EXCEPTIONS**

No owner or occupant shall permit or allow automobiles, trucks, boats or other derelict motor vehicles or parts thereof or any discarded building material or any machinery or machinery parts of any kind or description to be stored upon any grounds, yard, or vacant lot, with the following exceptions:

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- a. where the items set out in Section 4 above are properly enclosed within a shed or garage or suitable building;
- b. where the items set out in Section 4 above are being stored by an owner licensed by the Corporation of the Township to carry on a business upon that ground, yard, or vacant lot, and storage of such items is a necessary or normal accessory use thereto;
- c. land which is a waste disposal site which has a Certificate of Approval for such purposes under the *Environmental Assessment Act*, R.S.O. 1990, Chapter E.18.

## 6. DRAINAGE

- a. No owner or occupant shall discharge sewage onto the surface of the ground nor allow a sump pump or roof run off to enter a neighbouring property and shall ensure proper drainage swails are installed to direct drainage for proper dispersal.

## 7. EXCAVATION

- a. No owner or occupant shall cause or allow holes or excavations in any ground, yard or vacant lot that may create an accident or health hazard to any member of the public.
- b. Section (a) does not apply to any hole or excavation for the purposes of constructing a building or structure, septic bed, pipeline or similar activity, provided that the activity is carried on in an expeditious manner in accordance with all other applicable laws, and provided all reasonable steps are taken to protect the public from such hole or excavation.

## 8. INSPECTION

- a. An Officer of the Corporation of the Township of Essa has the power to enter upon and examine any grounds, yard, vacant lot or building at any reasonable time or times.
- b. An Officer may be accompanied by such other person or persons as deemed necessary to properly carry out their duties under this By-law.

## 9. OBSTRUCTION

- a. Every person who hinders, disturbs or obstructs any Officer in the carrying out of their duties, or contravenes any provision of this By-law unless otherwise provided herein is guilty of an offence and, upon conviction, is liable to a fine pursuant to the *Provincial Offences Act*.

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**10. COMPLIANCE**

- a. In addition to the remedies set out in Section 11 b herein, an Officer of the Corporation of the Township of Essa may give the owner of any grounds, yard, vacant lots or building that fails to meet the standards as set out by this By-law, a notice in writing delivered or sent by mail to the said owner directing the owner to eliminate, demolish or dispose of any waste material or unsafe condition existing on the lands within the time stipulated in the notice and notifying the owner that in default of compliance with the notice, the Township shall perform the work at the owner's expense.
- b. In the event that the owner does not comply with the direction of the said notice, the Corporation of the Township of Essa may do such work or cause it to be done and the cost thereof may be recovered from the said owner by court action or the same may be recovered in like manner as municipal taxes.
- c. The notice referred to in Section 11 herein may be dispensed with if the Officer deems that an unsafe or hazardous condition within the meaning of the By-law exists.
- d. Where any grounds, yard, vacant lots or buildings fail to meet the standards as set out by the By-law, the owner of the said grounds, yard, vacant lot or building shall eliminate, repair, clean up, fill up, otherwise remove or dispose of any waste material or unsafe condition existing on the said land.

**11. PENALTIES AND ENFORCEMENT**

- a. Any person who contravenes any provision of this By-law, unless otherwise provided herein, is guilty of an offence and, upon conviction, is liable to a fine of not more than \$5,000.00.
- b. Each day that a breach of this By-law continues shall constitute a separate offence.
- c. This By-law shall be enforced by the Officer(s) of the Corporation of the Township of Essa.

**12. INTERPRETATION**

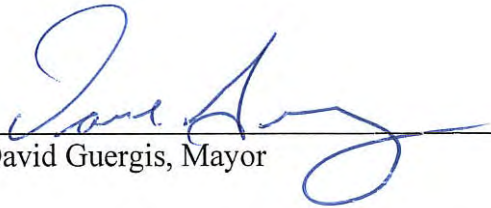
- a. For the purposes of this by-law:
  - i. Words used in the singular form shall have corresponding meanings when used in the plural form.
  - ii. The word "may" shall be construed to be permissive.
  - iii. The word "shall" shall be construed as imperative.

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- b. Should any section, sub-section, clause, paragraph or provision of this by-law be declared by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability or any other provision of this by-law or the by-law as a whole.
- c. The short title of this by-law shall be "**The Untidy Lot By-law**" of the Township of Essa.
- d. This by-law shall come into force and have effect upon the date it is finally passed.

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY PASSED this Twenty First day of June, 2006.

  
\_\_\_\_\_  
David Guergis, Mayor

  
\_\_\_\_\_  
Carol O. Trainor, Clerk/Deputy Treasurer

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**TOWNSHIP OF ESSA**  
**By-law 2006 - 50**  
**Untidy Lot By-law**  
**Part I Provincial Offences Act**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1.	Permitting a yard, grounds or vacant lot to remain in other than a litter free manner	Sec. 1	\$80.00
2.	Permitting an unsafe condition upon any property	Sec. 2	\$80.00
3.	Permitting waste material accumulation	Sec. 2	\$80.00
4.	Failing to cut grass and herbage to prevent mosquitoes and insects	Sec. 3 a i	\$80.00
5.	Failing to cut grass and herbage to prevent weeds	Sec. 3 a ii	\$80.00
6.	Failing to cut grass and herbage so as to present a neat appearance	Sec. 3 a iii	\$80.00
7.	Failing to cut grass to prevent growth of more than 8 inches in height	Sec 3 a iv	\$80.00
8.	Permitting accumulation of inoperable vehicles, boats, machinery or parts thereof	Sec. 4	\$80.00
9.	Permitting discharge of sewage onto the surface of the ground	Sec. 6 a i	\$80.00
10.	Drain sump pump to another property	Sec. 6 a ii	\$80.00
11.	Drain roof run-off to another property	Sec. 6 a iii	\$80.00
12.	Permitting holes or cavities in any ground which create a health hazard	Sec. 7 a	\$80.00

NOTE: The penalty provision for the offences indicated above is Section 11 of By-law 2006-50, a certified copy of which has been filed.

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REC'D AUG 17 2006

THE HONOURABLE JUSTICE JOHN ANDREW PAYNE  
REGIONAL SENIOR JUSTICE OF THE ONTARIO COURT OF JUSTICE  
CENTRAL EAST REGION



L'HONORABLE JUGE JOHN ANDREW PAYNE  
JUGE PRINCIPAL REGIONAL DE LA COUR DE L'ONTARIO  
RÉGION DUCENTRE-EST

50 EAGLE STREET, WEST  
NEWMARKET, ONTARIO L3Y 6B1

TELEPHONE/TELEPHONE (905) 853-4890  
FAX/TELECOPIER (905) 853-4891

August 14, 2006

Ms. Carol O. Trainor  
Clerk/Deputy Treasurer  
5786 Simcoe Cty. Rd. #21  
Utopia, Essa Township, Ont  
L0M 1T0

Dear Ms. Trainor,

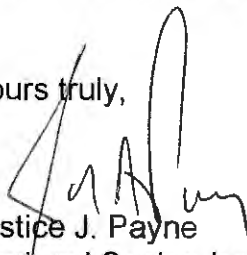
**Re: Set Fines – Part I**  
**The Corporation of the Township of Essa**

Enclosed herewith is a copy of an Order and a copy of a schedule of set fines for the By-Law 2006-50, for the By-law indicated in the schedule.

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 a copy of the Order and the schedule of the set fines to the POA Court in Barrie, together with a certified copy of the By-law.

Yours truly,

  
Justice J. Payne  
Regional Senior Justice  
Central East Region

/bmw  
Enclosures

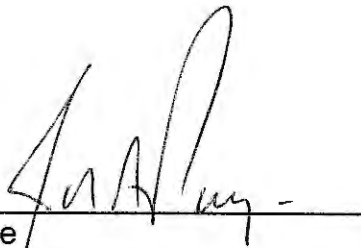


**PROVINCIAL OFFENCES ACT**

**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 No. 2006-50, for the Corporation of the Township of Essa, attached hereto is the set fine, for those offences. This Order is to take effect August 14<sup>th</sup> , 2006.

DATED at Newmarket this 14<sup>th</sup> day of August, 2006.

A handwritten signature in black ink, appearing to read 'John A. Payne', is written over a horizontal line.

John A. Payne  
Regional Senior Justice  
Central East Region

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