



THE CORPORATION OF THE TOWN OF ESPANOLA

Bylaw No.3085/22

BEING AN AMENDMENT to Prohibit the Dumping of Waste on Private or Other Property in the Town of Espanola

Whereas, the Municipal Act, S.O. 2001, C.25, section 8 provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance a municipality's ability to respond to municipal issues;

and Whereas, Section 74, Section 425(1), Section 426 and Section 429 of the Municipal Act 2001, S.O. 2001, c.25, as amended authorizes that a municipality may, in a by-law prohibiting or regulating any matter passed under the "waste management" sphere of jurisdiction, provide that a person who contravenes the by-law is guilty of an offence and is liable to a fine;

and Whereas, Section 127 of the Municipal Act, S.O. 2001, c. 25, as amended, permits councils of local municipalities to pass by-laws for requiring 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, to regulate when and how such matters shall be done, 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";

and Whereas, Section 446 (1) of the Municipal Act 2001, S.O. 2001, c.25, as amended authorizes that If a municipality has the authority under this or any other Act or under a by-law under this or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

and whereas Section 446 (3) of the Municipal Act 2001, S.O. 2001, c.25, The municipality may recover the costs of doing a matter or thing under subsection (1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

and Whereas, Section 180 of the Highway Traffic Act R.S.O. 1990, c. H.8, s. 180. Every person who throws or deposits or causes to be deposited any glass, nails, tacks or scraps of metal or any rubbish, refuse, waste or litter upon, along or adjacent to a highway, except in receptacles provided for the purpose, is guilty of the offence of littering the highway;

Now Therefore the Council of the Town of Espanola hereby enacts as follows:

1.0 Short Title

That this Bylaw shall be known and shall be cited as the "Illegal Dumping Bylaw".

2.0 Scope

2.1 No person shall dump, drop, sweep, throw, cast or otherwise deposit; or permit his/her contractor, agent, employee, minor child under his/her care or control or animal under his/her care or control to dump, drop, sweep, throw, cast or otherwise deposit any material whatsoever on or in any road, road allowance or public property, or at the entrance to or around the perimeter of a Waste Disposal Site.

2.2 No person shall dump or deposit, or permit his/her contractor, agent, employee, minor child under his/her care or control or animal under his/her care or control to dump or deposit any material generated on a premises owned or occupied by that person into litter bins on any road, road allowance, or public property.

2.3 The provisions of this By-law shall apply to all persons and lands within the Town of Espanola.

3.0 Definitions

3.1 "ANIMAL" shall mean any live animals or birds and carcasses or parts thereof of any animal or other creature.

3.2 "BY-LAW/MUNCIPAL ENFORCEMENT OFFICER" shall mean the person or persons appointed to that position by the Council of the Corporation of The Town of Espanola or any other person appointed by the Municipality from time to time for purposes of enforcement of this By-law.

3.3 "HIGHWAY" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, road allowance, viaduct, or trestle, designed or intended for, or used by, the general public for the passage of vehicles or persons, whether under the jurisdiction of the Town of Espanola and including any surface, grassed area, boulevard, ditch, curb, gutter and sidewalk.

3.4 "LITTER" means trash, such as paper, cans, and bottles, that is left lying in an open or public place.

3.5 "OCCUPANT" means any owner, occupant, lessee, tenant or any person having use, occupation and/or charge of any dwelling, apartment, house, townhouse, or any portion thereof of any other premises.

3.6 "OWNER" shall include the occupant of property and also includes any person, managing or receiving from land or premises either acting as a proprietor by way of legal title or by right of possession or by acting as an agent or trustee. Owner shall also include a lessee of property who under the terms of the lease is required to repair and maintain the property.

3.7 "PERSON" includes an individual, owner or owners, lessees or occupants, firm, corporation, association, partnership, and includes the owner of a vehicle, including Commercial Vehicles, as defined in the Highway Traffic Act of Ontario, R.S.O. 1990, c.H.8, as amended.

3.8 "PROPERTY" means any grounds, yard or vacant lot.

3.9 "REFUSE" means waste, rubbish, junk or disused material of any kind whatsoever and, without limiting the generality of the foregoing, includes septic tank liquor, wet and dry sewage disposal sludge, contents of privy vaults, cesspools and holding tanks for human excrement, paper, handbills, an inoperative motor vehicle, appliances, carcass of any dead animal, disused furniture, old clothing, garden refuse, earth or rock fill, old or decayed lumber, material from construction or demolition projects and other vehicles, machinery, equipment, materials or structures apparently disused in their existing location.

3.10 "WASTE" includes refuse, rubbish, junk or disused material of any kind whatsoever and, without limiting the generality of the foregoing, includes septic tank liquor, wet and dry sewage disposal sludge, contents of privy vaults, cesspools and holding tanks for human excrement, paper, handbills, an inoperative motor vehicle, appliances, carcass of any dead animal, disused furniture, old clothing, garden refuse, earth or rock fill, old or decayed lumber, material from construction or demolition projects and other vehicles, machinery, equipment, materials or structures apparently disused in their existing location.

4.0 General Provisions

4.1 The provisions of this By-law shall apply to all persons and lands within the Town of Espanola.

4.2 No person shall throw, place, dump or deposit any waste on private or the property of the Town of Espanola without authority from the owner or occupants of such property.

4.3 No person shall throw, place, dump or deposit waste on a highway within the Town of Espanola except when placed out in accordance with the By-laws.

4.4 The owner or occupant of property used contrary to or on which there is a contravention of subsection (4.2) above, regardless of whether the use or contravention occurred prior to the enactment of this by-law, shall at the person's own expense clean, clear and cease using such land or structure for such prohibited purposes.

5.0 Penalties and Enforcement

5.1 The Municipal By-law Enforcement Officer is hereby authorized and empowered to enforce the provisions of this By-law.

5.2 Every person who contravenes any provision of this By-law is guilty of an offence and is liable, upon conviction, to a fine as provided for in the Provincial Offences Act R.S.O. 1990, c.P. 33, as amended.

5.3 In the event that any person fails to comply with an order to comply issued pursuant to this By-law is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the Provincial Offences Act.

5.4 In the event that any person fails to comply with an Order to comply issued pursuant to this By-law, the Township may cause the required work to be done. The cost of such work may be recovered by invoice, action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

5.5 If, for any reason, any section, clause or provision of this by-law is deemed by a Court or competent jurisdiction to be invalid, the same shall not affect the validity of this by-law as a whole or any part thereof other than the part which was declared to be invalid.

Read a first, second and third time in open Council on this 26th day of April 2022.



Jill Beer
Mayor



Joseph Burke
Clerk

Town of Espanola
PART I Provincial Offences Act
By-law 3085/22, Illegal Dumping

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Illegal Dumping on Private or Municipal Property	4.2	\$300.00
2	Illegal Dumping on Highway	4.3	\$300.00
3	Failure to clean, clear or cease using land or structure for prohibited purposes.	4.4	\$300.00
4	Failure to comply with an Order.	5.3	\$300.00

NOTE: the general penalty provision for the offences listed above is section 5.2 of the By-law 3085/22 a certified copy of which has been filed.