

# **The Corporation of the Town of Essex**

## **By-Law Number 1440**

### **Being a by-law to prescribe standards for the maintenance of nuisance weeds and tall grasses on private lands**

Whereas Nuisance Weeds may result in allergic reactions or health problems for individuals and can disrupt ecological systems;

And whereas Nuisance Weeds have an impact on the health, safety and well-being of the inhabitants of the Town of Essex and the natural environment;

And whereas Tall Grass and Nuisance Weeds may pose a risk to safety and fire safety, may impair visual sight lines, may create habitats for mosquitos, rodents or other insects and animals and contributes to neighbourhood blight;

And whereas Council deems Tall Grass and Nuisance Weeds to be a public nuisance;

And whereas Section 9 of the Municipal Act, 2001, S.O. 2001, C. 25, as amended gives municipalities the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

And whereas Section 11 (2) of the Municipal Act, 2001, S.O. 2001, c.25, as amended enables a municipality to pass by-laws respecting the health, safety and well-being of persons;

And whereas Section 127 (a) of the Municipal Act, 2001, S.O. 2001, c.25, as amended enables a municipality to pass by-laws requiring the owner or occupant of lands to clean and clear the land and Section 127 (b) enables a municipality to regulate how matters under Section 127 (a) shall be done;

And whereas Section 128 of the Municipal Act, 2001, S.O. 2001, c.25, as amended enables a municipality to pass by-laws which prohibit and regulate public nuisances, including matters which in the opinion of Council are or could become or cause public nuisances;

And whereas Section 446 (1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended enables a municipality that has the authority 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 (2) of the Municipal Act, 2001, S.O. 2001, c.25, as amended enables that for the purposes of Section 446 (1) the municipality may enter upon Land at any reasonable time;

And whereas Section 446 (3) of the Municipal Act, 2001, S.O. 2001, c.25, as amended enables a municipality to recover the costs of doing a matter or thing under Section 446 (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;

Now therefore the Council of The Corporation of the Town of Essex enacts as follows:

### **Short Title**

1. This by-law may be referred to as the "Nuisance Weed and Tall Grass Control By-Law".

### **Definitions**

2. In this by-law:
  - **"By-Law Enforcement Officer"** means the Chief Building Official or a person appointed by by-law as a Municipal By-Law Enforcement Officer;
  - **"Chief Building Official"** means the By-Law Enforcement Officer or his or her designate;
  - **"Corporation"** means The Corporation of the Town of Essex;
  - **"Council"** means the Council of The Corporation of the Town of Essex;
  - **"Destroy"** includes to pull or remove weeds, cutting the weeds at their roots or stalks before the weed seeds have developed sufficiently to ripen after cutting, or plowing or cultivating the soil in which the plants are growing;
  - **Land"** includes any private property, premises, grounds, yards or vacant lot;
  - **"Nuisance Weed"** means any of the weeds as set out in Schedule "A" attached hereto, or any other plant designated by by-law of the Corporation as a nuisance weed;
  - **"Occupant"** means any person or persons over the age of eighteen years in possession of the Land;
  - **"Owner"** includes the registered owner, person in charge of the Land, or the person for the time being managing or receiving the rent of the Land whether on his or her own account as an agent or trustee of any other person and shall also include an Occupant, tenant, or lessee of the Land;
  - **"Tall Grass"** includes any grasses which exceed 20 centimeters (8 inches) in height.

## **Scope**

3. This by-law shall apply to all Land in the Town of Essex, save and except for any Land owned by The Corporation of the Town of Essex, School Boards or any other government authority or utility corporation.

## **Administration**

4. The Chief Building Official is responsible for the administration and enforcement of this by-law.

## **Requirements**

5. Every Owner of Land shall cut and maintain Tall Grass to a height not exceeding 20 centimeters (8 inches).
6. Every Owner of Land shall destroy and remove all Nuisance Weeds and seeds of Nuisance Weeds on their Lands.
7. Every Owner of Land who is served with a Notice of Contravention pursuant to the provisions of this by-law shall comply with the terms of the Notice within the time set out therein.

## **Enforcement**

8. A By-Law Enforcement Officer who finds Land which does not comply with the requirements of this by-law may order the Owner of the Land, such order to be made by way of issuing a Notice of Contravention, to bring the Land into conformity with the provisions of this by-law within the time set out in the Notice.
9. The Notice of Contravention shall be served upon the Owner by personal service or by mailing a copy of the Notice by prepaid first class mail or registered mail to the last known address noted on the tax assessment roll, or by a Notice published once in a local newspaper of general circulation
10. Where there is more than one Owner of the Land, the Notice shall be served upon every Owner of whom the By-Law Enforcement Officer is aware.
11. Service by prepaid first class mail or registered mail shall be deemed to be effective on the seventh day after the Notice is mailed.
12. Notice published once in a local newspaper of general circulation shall be deemed to be effective service upon every Owner of the Land as of the date of publication.

13. Where an Owner, who has been served with a Notice of Contravention under Section 8 or 12 herein, fails to comply with the Notice, then a By-Law Enforcement Officer or the Corporation's employees or any authorized agent on behalf of the Corporation may enter on the Land at any reasonable time and complete the work required to bring the Lands into compliance with the provisions of this by-law as set out in the Notice.
14. Where the Corporation has performed the work required to bring the Lands into compliance with the by-law, the expenses incurred in doing the work may be collected by action or the costs may be added to the tax roll for the Lands and collected in the same manner as taxes.

### **Offences**

15. Every person who contravenes any of the provisions of this by-law or who obstructs or attempts to obstruct a By-Law Enforcement Officer in carrying out his or her duties under this by-law is guilty of an offence and is liable, upon conviction, to a maximum fine as established pursuant to the Provincial Offences Act, R.S.O. 1990, c.P. 33.

### **Severability**

16. Where a Court of competent jurisdiction declares any section or part of a section of this by-law invalid, the remainder of this by-law shall continue in force unless the Court makes an order to the contrary.

### **Repeal**

17. Except as provided in Section 18 hereof, By-Law Number 1252 is hereby repealed.

### **Transition**

18. Notwithstanding Section hereof, the provisions of the by-laws contained in Section 17 shall continue to apply to any properties or persons in respect of which enforcement action has been commenced under those by-laws until such action has been concluded.

**Read a first, a second and a third time and finally passed on September 8, 2015.**

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Mayor

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Clerk

Schedule "A" to By-Law Number 1440

Table of Nuisance Weeds

The following twelve common names and scientific names are the types of nuisance weeds:

- Buckthorn, European or *Rhamnus cathartica* L.
- Hemlock, poison or *Conium maculatum* L.
- Poison-ivy or *Rhus radicans* L.
- Ragweed spp. Or *Ambrosia* spp.
- Sow-thistle, annual, perennial or *Sonchus* spp.
- Thistle, bull or *Cirsium vulgare* (Savi) Tenore
- Thistle, Canada or *Cirsium arvense* (L.) Scopoli
- Thistle, nodding, spp. Or *Carduus* spp.
- Thistle, Russian or *Salsola pestifer* Aven Nelson
- Thistle, Scotch or *Onopordum acanthium* L.
- Garlic Mustard or *Alliaria petiolata*
- Creeping Charlie or *Clethoma hederalea*