

THE CORPORATION OF THE COUNTY OF PRINCE EDWARD

**DRAFT FOR PUBLIC CONSULTATION
BY-LAW NO. XX-2023**

A BY-LAW TO THE OWNERS OR OCCUPANTS OF PRIVATE PROPERTY TO MAINTAIN GRASS AND TO ALLOW FOR NATURALIZATION OF YARDS AND A BY-LAW TO REPEAL BY-LAW 699-2001

WHEREAS Section 8, 9 and 11 of the *Municipal Act, 2001, c. 25* as amended (the "Act") permits a municipality to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6 and 8 of Subsection 11 (2), authorize by-laws respecting the economic, social and environment well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property;

AND WHEREAS Section 127 of the *Act* permit a municipality to pass by-laws requiring an 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 building; for regulating when and how such matters shall be done; for prohibiting the disposal of refuse or debris on land without the consent of the owner or occupant of the land; and to define refuse;

AND WHEREAS section 435 and 436 of *Act* establishes the conditions under which an employee, officer or agent of the municipality may enter onto private property for the purpose of carrying out an inspection to determine whether a by-law is being complied with;

AND WHEREAS sections 441 and 441.1 of *Act* state that a municipality can add unpaid fines to the tax roll of the property of the person who owes them;

AND WHEREAS sections 444 and 445 of *Act* state that a municipality can order someone in contravention of a by-law to discontinue the contravening activity or to order this person, a property owner or occupant, or someone who caused or permitted the contravening activity to correct the contravention;

AND WHEREAS section 13 of the Noxious Weeds Act allows for an inspector who finds noxious weeds or weed seeds on land in the area within their jurisdiction may order the person in possession of the land to destroy the noxious weeds or weed seeds.

AND WHEREAS section 10 of the Noxious Weeds Act permits that single tier municipalities or a Council of a local municipality that has an appointed municipal weed inspector may by by-law designate as a local weed any plant that is not a noxious weed.

AND WHEREAS the Council of The Corporation of the County of Prince Edward deemed it necessary to pass By-Law 699-2001 to require owners or occupants of private property to cut grass and weeds on their lands and remove the cuttings.

AND WHEREAS Section 446 of the Municipal Act, 2001, S.O. 2001, c.25 as amended states 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. 2006, c. 32, Sched. A, s. 184.

AND WHEREAS Section 11 (1) of the Municipal Act, 2001, S.O. 2001, c.25 as amended, provides that Councils of municipalities may pass by-laws respecting property standards;

AND WHEREAS on DATE Committee approved motion XXX to permit naturalization areas.

NOW THEREFORE the Council of The Corporation of the County of Prince Edward enacts as follows:

1. Definitions.

A. Director means The Director of Corporate and Legislative Services, or his or her designate.

B. Lawn Area means ground, yards, or vacant lots.

C. Lot means a parcel of land in a Prince Edward County settlement area as defined by the Official Plan.

D. Naturalized Areas are portions of a lot where the lawn of an owner or occupant has re-established a reproducing population of native species, through a combination of natural regeneration and deliberate plantings of native species not including Noxious Weeds.

E. No-Mow-May means a period of time between May 1 and May 31 where turfgrass is not cut in an effort to provide habitat and a food source for pollinating insects.

F. Officer means an employee of Prince Edward County whose duties include the enforcement of this by-law or a member of the Ontario Provincial Police.

G. Owner or Occupant includes:

1. The person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the person's own account or as agent or trustee of any other person, or who would receive the rent if the land and premises were let; and

2. A lessee or occupant of the land who, under the terms of a lease, is required to repair and maintain the land.

H. Person means an individual, association, firm, partnership, corporation, trust, organization, trustee, agent or legal representative of an individual.

I. The County means The Corporation of the County of Prince Edward

J. Turfgrass means any of the various grass species typically grown for lawns; of a type that forms a dense, even turf when mown (including but not limited to Kentucky Bluegrass, Perennial Ryegrass, Fine Fescue).

K. Noxious Weeds means any of the species designated in the Weed Control Act, R.S.O. 1990, c. W.5, R.R.O. 1990, Regulation 1096, and/or any of the species designated as Local Weeds by The County as outlined in Schedule A to this By-law.

L. Local Weeds means any of the species designated as Local Weeds by the County and included in Schedule A to this By-law.

2. Regulations:

A. No Owner or Occupant of private land shall have, or be permitted to have, or allow to grow, any noxious weeds designated under the Weed Control Act, R.R.O. 1990, Regulation 1096, and/or any designated Local Weeds by The County on their Lot.

B. No Owner or Occupant of a private Lot on which Turfgrass is grown shall permit Turfgrass to exceed 20 centimeters in height.

C. The Owner or Occupant of a private Lot who wishes to participate in "No-Mow-May" shall be exempt from the Section 2.B from May 1 to May 31. Exemptions in this Section shall not relieve an Owner or Occupant from responsibilities under Section 2A.

D. Residents who wish to create Naturalized Areas not containing turfgrass or noxious weeds within their lot shall be exempt from Section 2B. Exemptions in this Section shall not relieve an Owner or Occupant from responsibilities under Section 2A.

E. No Owner or Occupant shall allow vegetative growth on private land to obstruct sidewalks or roadways;

F. No Owner or Occupant shall allow vegetative growth on private land to restrict driver and pedestrian sight lines at intersections, driveways, sidewalks, walkways, or visibility to all traffic control devices; and

3. Entry to Inspect

A. An Officer may enter onto a property to conduct an inspection where:

1. A complaint has been received about the property in question indicating the property is in contravention of By-Law #####;
2. An Order has been issued against the property owner, and a follow up inspection is required to ensure compliance with the Order or;
3. Reasonable grounds exist indicating a regulation under this by-law has not been met.

B. For the purposes of an inspection under this By-law, an Officer may:

1. Require, for inspection, the production of documents or things relevant to the inspection;
2. Require information from any person concerning a matter related to the inspection;
3. Verify the presence or absence of noxious weeds;
4. Collect measurements to verify that turfgrass is kept at lengths adhering to this by-law;
5. Be accompanied by such Person or Persons as the officer determines is necessary if such Person or Persons possesses special or expert knowledge related to the purpose of the inspection; and
6. Make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

4. Order to comply.

A. An officer who finds private land in contravention of this By-law may give a written Order to the Owner or Occupant of the land requiring compliance with this By-law within the time period specified in the Order but no sooner than 72 hours after the Order is given.

B. An Order pursuant to this by-law 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 it shall be deemed to have been given on the third day after it is mailed.

C. If there is evidence that the person in possession of the land is not the registered property owner, the Order shall be served on both the registered property owner and the person in possession of the land.

D. If the address of the Owner or Occupant is unknown or The County is unable to effect service on the owner or occupant under Subsection B, a placard stating the terms of the Order and placed in a conspicuous place upon the land shall be deemed to be sufficient notice.

5. Failure to comply; removal by The County; costs.

A. If any Owner or Occupant fails to carry out the requirements of an Order under this By-Law, the County may do or cause to be done the remedial action necessary to meet the requirements of the Order and add all costs to the tax roll to be collected in the same manner as property taxes.

6. Offenses

A. Every Person who contravenes a provision of this by-law, including an Order issued under this By-law is guilty of an offense.

B. Any Person who is in contravention of any provision of this By-Law, or who fails to comply with an Order issued under this by-law shall be deemed to be committing a

continuing offence for each day or part of a day that the contravention remains uncorrected.

7. Severability

If any provision of this By-law or the application thereof to any person shall to any extent be held to be invalid or unenforceable, the remainder of this By-law or the application of such provision or requirement to all persons other than those to which it is held to be invalid or unenforceable, shall not be affected thereby and each provision and requirement of this By-law shall be separately valid and enforceable to the fullest extent permitted by law.

8. THAT By-law 699-2001 a By-law to the owners or occupants of private property to cut grass and weeds on their lands and remove the cuttings be hereby repealed in its entirety.

9. THAT this By-law shall come into force and take effect on the date of its passing.

Read a first, second, and third time and finally passed this DAY day of MONTH, 2022

Catalina Blumenberg, **CLERK**

Steve Ferguson, **MAYOR**

Schedule A
Prohibited Local Weeds and Invasive Plants:

The following plants are deemed by Prince Edward County to be noxious plants for the purposes of this By-Law:

1. Glossy buckthorn (*Frangula alnus*)
2. Garlic mustard (*Alliaria petiolata*)
3. Himalayan Balsam (*Impatiens glandulifera*)
4. Japanese knotweed (*Reynoutria japonica* var. *japonica*)
5. Phragmites (*Phragmites australis* subsp. *australis*)
6. Purple loosestrife (*Lythrum salicaria*)