

Corporation of the City of Clarence-Rockland

By-law 2022-50

A by-law to provide to regulate public nuisances in the City of Clarence-Rockland

Whereas section 8 of the Municipal Act, 2001 provides that the powers of a Municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues; and

Whereas section 9 of the Municipal Act, 2001 provides that a Municipality has 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 (1) of the Municipal Act, 2001 provides that a lower-tier municipality may pass by-laws respecting: Economic, social, and environmental well-being of the municipality; Health, safety, and well-being of persons; Protection of persons and property; Structures, including fences and signs; and

Whereas section 128 of the Municipal Act, 2001 provides that, without limiting sections 9 and 11, a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances, and the opinion of Council under this section, if arrived at in good faith, is not subject to review by any court; and

Whereas, in the opinion of Council, nuisance parties, public urination and defecation, knocking over objects on the Highway, unnecessary interference with use and enjoyment of public places, and nuisance feeding of wildlife are or could become or cause public nuisances; and

Whereas section 425 of the Municipal Act, 2001 establishes that any person who contravenes any by-law of the municipality is guilty of an offence; and

Whereas section 435 of the Municipal Act, 2001 and By-law A-30 provide for the exercise of powers of entry by municipal law enforcement officers and police officers; and

Whereas section 444 of the Municipal Act, 2001 provides that a municipality may make an order requiring a person who contravened a by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity.

Now therefore the Council of The Corporation of the City of Clarence-Rockland enacts as follows:

1. Definitions

In this By-law,

- 1.1. **Building** means any permanent structure consisting of a roof supported by walls or columns that is used or intended to be used for the shelter, accommodation or enclosure of persons, animals, goods, chattels, or equipment;
- 1.2. **City** means The Corporation of the City of Clarence-Rockland;

- 1.3. **Dwelling** means a Building containing one or more dwelling units;
- 1.4. **Feed and Feeding** includes the regular or intermittent supply of food;
- 1.5. **Food** means anything that can be consumed by an animal for sustenance, but does not include:
 - a. composting materials kept in accordance with all applicable laws, regulations, and by-laws;
 - b. landscaping materials or plants, trees, or shrubs (including shrubs, berries on shrubs, trees, herbs, vegetables on vegetable plants, fruit on trees);
- 1.6. **Highway** includes a common and public highway, highway, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles or persons, and includes the area between the lateral property lines thereof, including sidewalks and boulevards, and Highways shall have a corresponding meaning;
- 1.7. **Manager** means the City of Clarence-Rockland's Manager, Municipal Law Enforcement or designate;
- 1.8. **Officer** means a Municipal Law Enforcement Officer or other person appointed by or under the authority of a City by-law and a police officer employed by the Ontario Provincial Police (OPP);
- 1.9. **Municipality** means the land within the geographic limit of the City of Clarence-Rockland;
- 1.10. **Nuisance Feeding of Wildlife** means feeding or permitting the feeding of wildlife, or leaving food that is accessible by wildlife, which results in one or more of the following occurring so as to constitute a public nuisance whether occurring on public or private property:
 - a. excessive accumulation of food;
 - b. excessive accumulation of wildlife feces;
 - c. unreasonable interference with the normal use and enjoyment of nearby premises;
 - d. excessive attraction of rodents (including mice or rats) or predatory wildlife (including coyotes) to the premises;
- 1.11. **Nuisance Party** means a social gathering on Premises within the Municipality and which, by reason of the conduct of the persons in attendance, results in any one or more of the following activities occurring so as to constitute a public nuisance whether occurring on neighboring public or private property:
 - a. disorderly conduct;
 - b. public drunkenness or public intoxication;
 - c. the unlawful sale, furnishing, or distribution of alcoholic beverages or controlled substances;
 - d. the deposit of refuse on public or private property;
 - e. damage to or destruction of public or private property;
 - f. pedestrian traffic, vehicular traffic, or illegal parking that obstructs the free flow of traffic or could interfere with the ability to provide emergency services;
 - g. unreasonable noise, including loud music or shouting;

- h. unlawful open burning or fireworks;
- i. public disturbances, including public brawls or public fights;
- j. outdoor public urination or defecation;
- k. use of or entry upon a roof not intended for such occupancy;

1.12. **Premises** means any public or private place in the Municipality, including but not limited to Highways, parks, parking lots, yards appurtenant to a Building or Dwelling or vacant lands, but does not mean a Building or Dwelling.

1.13. **Wildlife** means an animal that belongs to a species that is wild by nature.

2. Public urination / public defecation

2.1. In Section 2 only, **Public Place** includes a Highway, public park, parking lot or other lands to which the public has access as of right or by invitation and includes private property that is exposed to public view but does not include an enclosed washroom facility.

2.2. No person shall urinate or defecate in a Public Place.

3. Mailboxes etc. on highway

3.1. No person shall knock over or attempt to knock over a Canada Post mailbox, Canada Post relay box, newspaper box, Blue Box, or garbage container, lawfully located on a Highway. This section shall not apply to City employees, or any person under contract with the City, acting under the City's Waste Management By-law.

4. Nuisance parties

4.1. No person shall sponsor, conduct, continue, host, create, attend, allow, cause, or permit a Nuisance Party.

4.2. No person who, individually or jointly with others, is an owner, occupant, tenant, or who otherwise has rightful possession of or possessory control of any Premises, shall allow, cause, or permit a Nuisance Party on said Premises under their possession or control.

4.3. Every person who sponsors, conducts, continues, hosts, creates, or causes a Nuisance Party shall take all reasonable and lawful actions to end a Nuisance Party.

4.4. Where anything required to be done in accordance with subsection 4.3 is not done, the City may do such thing at the expense of the person required to do it, and such expense may be recovered by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes. For the purposes of this subsection, the City may enter upon land at any reasonable time.

4.5. In addition to any remedial costs incurred as per Section 4.4, Administrative Monetary Penalties, other fees, or charges may be imposed as per the current User fee By-law.

5. Unnecessary Interference with Use and Enjoyment of Public Place

5.1. In section 5 only, **Public Place** includes a Highway, public park,

or other lands to which the public has access as of right or by invitation and includes private property that is exposed to public view.

- 5.2. No person shall, in a Public Place, unnecessarily interfere with another person's use and enjoyment of the Public Place by using abusive or insulting language as a personal invective.

6. Nuisance feeding of wildlife

- 6.1. No person shall engage in or permit Nuisance Feeding of Wildlife.

- 6.2. Subsection 6.1. shall not apply to:

- a. land zoned for agricultural uses;
- b. a person leaving food for an ear-tipped cap or a feral cat colony for the purposes of a trap, neuter or spay and release program approved by the City; and
- c. a person leaving food as bait in a trap to capture wildlife if they have the legal authority to do so.

- 6.3. Every person who engages in or permits Nuisance Feeding of Wildlife shall immediately remove such food when directed to do so by the City, and if the person fails to do so, the City may enter upon the Premises at any reasonable time to remove the food at the person's expense. The City may recover the costs (plus interest) of removing the food from the person 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. The amount of costs including interest constitutes a lien on the land upon the registration in the proper land registry office of the notice of lien.

7. Order to discontinue activity

- 7.1. Upon the order of the Manager, Municipal Law Enforcement or their designate, a Nuisance Party shall cease and all persons not residing on the Premises shall leave the Premises where it is occurring.

- 7.2. An order under this section shall identify:

- a. the location of the land on which the contravention occurred;
- b. the reasonable particulars of the contravention of the By-law; and
- c. the date and time by which there must be compliance with the order.

- 7.3. An order under this section may be given verbally or may be served personally on the person to whom it is directed. If the order is given by regular mail to the last known address of that person, and if given by registered mail, it shall be deemed to have been given on the third day after it is mailed. Service on a corporation can be effected by registered mail to the corporate mailing address.

- 7.4. No person shall fail to leave the Premises after having been directed to leave the Premises by an order to discontinue activity under this By-law.

8. Close public highway

- 8.1. A Municipal Law Enforcement officer may temporarily close any Highway or portion thereof to public travel under this By-law where a Nuisance Party is occurring or a Nuisance Party is planned to occur on or adjacent to the Highway, by placing a notice on the Highway to be closed in accordance with the Municipal Act, 2001.
- 8.2. Where a Highway or portion of a Highway has been closed under this By-law, the common law right of passage by the public over the Highway and the common law right of access to the Highway by an owner of land abutting the Highway are restricted, as directed by the Municipal Law Enforcement Officer.
- 8.3. No person shall use a Highway, or portion of a Highway that has been closed under this By-law except with lawful authority or in accordance with the direction of an Officer pursuant to this section.
- 8.4. No person shall, without lawful authority, remove or deface any barricade, device, detour sign or notice placed on a Highway pursuant to this By-law.

9. Enforcement

- 9.1. The provisions of this By-law shall be enforced by a Municipal Law Enforcement Officer, or other individual duly appointed for the purpose of enforcing this By-law.
- 9.2. Every Municipal Law Enforcement Officer may carry out an inspection to determine if the provisions of this Bylaw are being complied and shall have the right to enter lands pursuant to the Municipal Act, 2001.

10. Offence and penalties

- 10.1. Any person who contravenes any provision of this By-law shall be liable to pay the City an Administrative Monetary Penalty, upon issuance of a penalty notice in accordance with the City of Clarence-Rockland Administrative Monetary Penalties System (AMPS) By-law, as may be amended from time to time.
- 10.2. Any person who contravenes any provisions of this by-law is guilty of an offence and upon conviction shall forfeit and pay a penalty as provided for in the Provincial Offences Act, R.S.O. 1990, Chapter P.33 and amendments thereto;
- 10.3. Each day that a person contravenes with the provisions of this By-law, may constitute a separate offence.

11. Severability

- 11.1. If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal, inoperative, or ultra vires, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

12. Order Prohibiting

12.1. When a person has been convicted of an offence under the provisions of this By-law, any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act by person convicted directed towards the continuation or repetition of the offence.

13. Short Title

13.1. This By-law may be referred to as the "Public Nuisance By-law".

14. Effective Date

14.1. This By-law shall come into force and effect on May 24, 2022.

Read, passed, and adopted in open council this 16th day of May 2022.

Mario Zanth, Mayor

Monique Ouellet, Clerk