

# Corporation of the City of Clarence-Rockland

## By-law 2022-65

A by-law to regulate clean-yards within the City of Clarence-Rockland and to amend by-law 2022-33, being a by-law to establish an Administrative Monetary Penalty System.

Whereas subsection 11(2) of the Municipal Act, 2001, provides, *inter alia*, that a municipality may pass by-laws respecting the environmental 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 Municipal Act, 2001 provides that a local municipality may require the owner or occupant of land to clean and clear land, not including buildings, or to clear refuse or debris from the land, not including buildings; regulate when and how cleaning and clearing is to be done; and prohibit the depositing of refuse or debris without the consent of the owner or occupant of land; and

Whereas section 128 of the Municipal Act, 2001 provides that a 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

Whereas section 131 of the Municipal Act, 2001 provides that a local municipality may prohibit and regulate the use of any land for the storage of used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts from them for sale or other disposition; and

Therefore, the Council of the City of Clarence-Rockland enacts as follows:

### 1. Definitions

- 1.1 *Costs* means all monetary expenses incurred by the Municipality during and throughout the process of any remedial work, including interest at a rate of 15% per annum or such lower rate as determined by the Municipality commencing on the day the Municipality incurs the costs and ending on the day the costs, including interest, are paid in full, and may include an administrative surcharge amount as determined by the Municipality.
- 1.2 *Composting* means the biological degradation or breakdown of organic material into a dark soil-like material called humus;
- 1.3 *Containers for composting* means a container designed, constructed and maintained for the specific use of composting;
- 1.4 *Council* means the Council of the City of Clarence-Rockland.
- 1.5 *Derelict motor vehicle* means a vehicle having missing bodywork components or parts, including tires or damaged components, parts, bodywork, glass or deteriorated or removed adjuncts, which prevent its mechanical function, and includes a motor vehicle that is not licensed for the current year.
- 1.6 *Domestic waste* means any debris, rubbish, refuse, sewage, effluent, discard or garbage of any type arising from a residence, belonging to or associated with a dwelling unit or use of a dwelling

unit or residential property, including, but not limited to, garbage, discarded material or things, broken or dismantled things, and materials or things exposed to the elements deteriorating or decaying on a property due to exposure to the weather.

- 1.7 *Dwelling unit* means a room or rooms in which a kitchen, living quarters and sanitary conveniences are provided for exclusive use of the residents and with a private entrance from the outside of the building or from a common hallway or stairway inside.
- 1.8 *Industrial waste* means any debris, refuse, sewage, effluent, discard or garbage of a type arising from industrial or commercial operation, or belonging to or associated with industry or commerce or industrial or commercial property including, but not limited to, garbage, discarded material or things, broken or dismantled things, materials or things exposed to the elements, and deteriorating or decaying on a property due to exposure to the weather.
- 1.9 *Infestation* means the overrunning of a property by vermin, rodents and insects.
- 1.10 *Manager* means the City of Clarence-Rockland's Manager, Municipal Law Enforcement or designate;
- 1.11 *Motor vehicle* means an automobile, truck, motorcycle, snowmobile, trailer, recreational vehicle and any other vehicle propelled or driven by other than muscular power, but does not include the cars of electric or steam railways, or other motor vehicles running solely upon rails, or a traction engine, farm tractor, self-propelled implement of husbandry or road building machine within the meaning of the Highway Traffic Act.
- 1.12 *Municipality* means The Corporation of The City of Clarence-Rockland.
- 1.13 *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);
- 1.14 *Owner* means the registered owner of land or the occupant, tenant, lesaser, or the person for the time being managing or receiving the rent of the property, whether on its own account or on account of an agent or trustee of any other person or any one of the aforesaid.
- 1.15 *Person* means an individual human being, a corporation, firm, partnership, unincorporated association or organization, their heirs, executors, assigns, administrators, agents, trustees or other legal representatives of a person with or without share capital, any association, firm, partnership or private club of a person to whom context can apply accordingly.
- 1.16 *Property* means any and all land within the Municipality including buildings and structures, yards and vacant lots.
- 1.16 *Refuse* or *Debris* means any waste material of any kind whatsoever and without limiting the generality of the foregoing includes rubbish, inoperative or unlicensed vehicles or boats and mechanical equipment, automobile and mechanical parts, tires, furnaces, water and fuel tanks, furniture, glassware, plastic, cans, garden refuse, grass clippings, trees, tree branches, earth or rock fill, animal feces, materials from construction or demolition projects, old clothing and bedding, refrigerators, freezers, or similar appliances, whether operable or inoperable, containers of any kind and un-maintained garden fixtures and any objects or conditions that

might create a health, fire or accident hazard.

- 1.17 *Remedial work* means all work necessary for the correction or elimination of a contravention of this By-law as cited in any order issued under this By-law, including any such condition or health hazard, actual or potential, that the contravention may pose.
- 1.18 *Structure* means any building or accessory building or any property, or any part thereof, or any part of whole or any structure of building not actually used as a dwelling house.
- 1.19 *Turf grass* means ground cover comprised of one or more species of growing grass, with or without trees, shrubbery or maintained planting beds or other vegetation.
- 1.20 *Weed* means a noxious weed designated by or under the *Weed Control Act*, R.S.O. 1990, c. W.5, including any weed designated as a local or noxious weed under a by-law of the Municipality for that purpose.

## 2 Property Maintenance

- 2.1 Every owner shall maintain a clear and clean yard and shall also:
  - (a) keep his or her land free and clear of all garbage, refuse, debris, domestic waste or industrial waste of any kind, and from any objects or conditions that may create a health, fire or accident hazard;
  - (b) ensure that his or her land is free and clear of infestation;
  - (c) trim or cut weeds or turf grass on his or her land, whether dead or alive, that are more than 20 cm (7.8 inches) in height;
  - (d) ensure that vegetation on his or her lands, other than weeds and turf grass shall be kept trimmed and kept from becoming unreasonably overgrown in a fashion that may affect safety, visibility, or the passage of the general public;
  - (e) keep his or her land free of holes or excavations which may create health or accident hazards.
- 2.2. No person shall cause or permit unsafe or hazardous conditions and also shall not:
  - (a) cause or permit an unfenced or unprotected pit, excavation or other declivity which causes a safety hazard on their property;
  - (b) permit any well which is unprotected or the presence of which creates risk, accident or injury to the general public;
  - (c) keep a swimming pool, hot tub, wading pool or artificial pond unless it is maintained in good repair and working;
  - (d) throw, place or deposit refuse, debris, or waste material on any Municipal or public property.

## 3. Composting

- 3.1. No person shall permit composting of any kind other than in accordance with Section 3.2 of this By-law.
- 3.2. Composting shall only be permitted as follows:
  - (a) only in the rear of a dwelling unit;
  - (b) only in a container, pile or digester and only on land on which a dwelling unit is located;containers for composting shall be designed, constructed so as to prevent the entry of rodents or other animals the entry of rodents or other animals, and shall be provided with a tight-fitting cover which shall be kept closed at all times except when material is being placed therein, and shall be

- maintained in a clean and sanitary condition.
- (c) in a such a manner so as to preclude infestation;
  - (d) in a pile no larger than 1 square metre and 1.2 metres in height which shall be enclosed on all sides by concrete block, or lumber, or in a forty-five gallon container, a metal frame building with concrete floor, or a commercial plastic enclosed container designed for composting;
  - (e) in no more than two (2) compost containers, piles or digesters used for composting on each parcel of land on which a dwelling unit is located, for a total composting capacity on the land of not more than two (2) cubic metres;
  - (f) no feces shall be placed in a compost container, pile or digester used for composting;
  - (g) no offensive odour shall be permitted to emanate from the compost container, pile or digester used for composting;
  - (h) organic materials placed in a compost container shall be kept covered with yard waste, soil or humus;
  - (i) any compost container, pile or digester used for composting shall be set back at least 0.6 metres (1.97 feet) from any lot line.
- 3.3 Section 3.1 of this By-law does not apply to any agricultural and rural zones as designated within the Municipality's Consolidated Zoning By-law.

#### 4. Derelict motor vehicles

- 4.1. No person shall use any property for the parking, storage or placement of the following:
- (a) derelict motor vehicles or motor vehicles that are unfit to be operated on a highway due to damage or poor repair;
  - (b) motor vehicles that are not currently licensed for operation pursuant to the provisions of the *Highway Traffic Act*;
  - (c) motor vehicle parts or components unless otherwise expressly permitted;
  - (d) wrecked, dismantled, discarded, inoperative, or abandoned motor vehicles, machinery, trailers or boats.
- 4.2. Section 4.1 of this By-law does not apply to lands that comply with all applicable land use criteria which permits the retail, wholesale, repair or wrecking of motor vehicles or a competition; or hobby vehicle located in a fully enclosed building; or recreation vehicle parking in compliance with the Municipality's Consolidated Zoning By-law.

#### 5. General provisions

- 5.1. An officer may issue an order upon the owner of a property that is not maintained pursuant to the requirements of this By-law which directs that the owner remedy or rectify the contravention within a specified period of time from the time of the delivery of the order.
- 5.2. Any order given under this By-law may be given by personal delivery or mail and delivery by mail shall be deemed to have been effected five (5) calendar days from the date of mailing.
- 5.3. Every order sent by an officer shall identify the land or structure which is the subject of the order.
- 5.4. Every order to an owner shall be sent to the address shown on the last revised assessment roll or to the last known address of the owner.
- 5.5. The Municipality and any officer and agent shall be entitled to remove any items in order to remedy or rectify any contravention of this By-law and any such items that are removed in accordance

with this section may be disposed of immediately in the sole and absolute discretion of the Municipality, its agents and officers, which decision shall be final.

- 5.6 In the event that the violation set out in the order is not remedied within the specified period of time as set out in the order, the officer may cause the violation to be remedied at the expense of the owner.
- 5.7 The Municipality shall not be liable for any damage to property or personal injury resulting from any remedial work undertaken as a result of a default of the owner or any person in complying with the terms of this By-law.
- 5.8 With the exception of matters which pose an immediate risk to public health and safety, which determination shall be made in the sole and absolute discretion of the officer issuing the order and whose decision is final, an order shall provide for not less than fourteen (14) calendar days from the date of service of the order for the remediation or rectification of the contravention as set out in the order.
- 5.9 Notwithstanding Section 5.8 of this By-law, when there is an immediate risk to public health and safety, which determination shall be made in the sole and absolute discretion of the officer issuing the order and whose decision is final, the order may require immediate action or other remediation or rectification.

## 6. Entry on land & inspections

- 6.1. An officer appointed for the purpose of enforcing this By-law,
  - (a) has the power to enter upon and examine any lands, yards, vacant lots, grounds at any reasonable time or times, and
  - (b) may be accompanied by such other person or persons as they deem necessary to properly carry out their duties under this By-law.
- 6.2 Notwithstanding Section 6.1, no person, including an officer, shall exercise a power of entry under this By-law to enter a place or part of a place that is actually being used as a dwelling unless:
  - (a) the occupier of the dwelling, having been informed that the right of entry may be refused, consents to the entry; or
  - (b) if the occupier refuses to consent, an order is issued pursuant to section 438 of the *Municipal Act, 2001* or a warrant is issued pursuant to section 439 of the *Municipal Act, 2001*, or a warrant is issued under the *Provincial Offences Act, R.S.O. 1990, c. P.33*.
- 6.3 A person exercising a power of entry on behalf of the Municipality, under this By-law must on request, display or produce proper identification.
- 6.4 No person shall hinder, interfere with or otherwise obstruct, either directly or indirectly, any officer appointed for the purpose of enforcing this By-law, including any person who may be accompanying such persons, in the lawful exercise of any powers or duties under this By-law.

## 7. Enforcement

- 7.1. 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.
- 7.2. Every Municipal Law Enforcement Officer may carry out an inspection to determine if the provisions of this By-law are being complied and shall have the right to enter lands pursuant to the *Municipal Act, 2001*.

## 8. Offence and penalties

- 8.1. 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.
- 8.2. 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;
- 8.3. Each day that a person contravenes with the provisions of this By-law, may constitute a separate offence.

## 9. Severability

- 9.1. 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.

## 10. Order Prohibiting

- 10.1. 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.

## 11. Short title

- 11.1. This By-law shall be cited as the *Clean Yards By-Law*.

## 12. Amended

- 12.1. That By-Law No. 2022-33 be amended in order to add Schedule A-6, being the Administrative Monetary Penalty System (AMPS) Penalty Schedule for Clean Yards By-Law.

## 13. Force and Effect

- 13.1. This by-law shall come into effect on July 18, 2022.

Read, passed, and adopted in open council this 6<sup>th</sup> day of July, 2022.

Mario Zanth, Mayor

Maryse St-Pierre, Deputy Clerk