

THE CORPORATION OF THE CITY OF BELLEVILLE

BY-LAW NUMBER: 2014-120

BEING A BY-LAW TO PROVIDE FOR THE MAINTENANCE OF LAND IN A CLEAN AND CLEAR CONDITION

WHEREAS Section 127 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, provides that a municipality may require the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from land, not including buildings, regulate when and how these matters shall be done, prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land, and define “refuse”;

AND WHEREAS Section 131 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, 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 the sale or other disposition;

AND WHEREAS Section 425(1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the *Municipal Act, 2001, S.O. 2001, c, 25*, is guilty of an offence;

AND WHEREAS Section 429 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that a municipality may establish a system of fines for offences under a by-law;

AND WHEREAS Section 446 of the *Municipal Act, 2001, S.O. 2001, c 25*, as amended, provides that a municipality may direct or require a person to do a matter or thing, and that in default of it being done by the person directed or required to do it, the municipality may have the matter or thing done at the person’s expense and add the costs of doing so to the tax roll and collect them in the same manner as property taxes;

NOW THEREFORE the Council of The Corporation of the City of Belleville hereby ENACTS the following:

1. DEFINITIONS

In this By-law:

“**Clean**” shall mean the removal and proper disposal of *refuse* and waste material of any kind from any land within the boundaries of the City of Belleville;

“**Costs**” shall mean all monetary expenses incurred by the Municipality

throughout the process of *remedial action*, plus an administration fee of \$150.00 and \$50.00 for each inspection that is conducted by the Municipality after the compliance date in the order, and all other fees as prescribed in the Fees and Charges Bylaw 2010-10 as amended from time to time and the Municipal Act;

“Derelict Motor Vehicle” shall mean a *motor vehicle* that is disassembled, dismantled or in an inoperable condition and includes a *motor vehicle* that does not have a valid plates and permits in accordance with the *Highway Traffic Act*;

“Domestic Waste” shall include waste belonging to or associated with a house or household or concerning or relating to the home or family; and for greater certainty, but not so as to restrict the generality of the forgoing terms of this section, domestic waste includes waste consisting of:

(i) accumulations, deposits, litter, remains, *refuse*, garbage, rubbish, trash;

(ii) refrigerators, freezers, or other appliances, any attached hinges or latching, locking or other closing mechanism or device, or any part thereof;

(iii) paper, cartons;

(iv) furniture;

(v) crockery;

(vi) sewage;

(vii) salvage materials;

“Grass” shall mean all forms, types and species of grasses;

“Industrial waste” shall include waste belonging to, relating to or associated with industry, commerce, manufacturing, trade, business, calling or occupation; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, industrial waste includes waste consisting of:

(i) articles, things, matter, effluent which in whole or in part or fragments thereof, are derived from or are constituted from or consist of: agricultural, animal, vegetable, paper, lumber, or wood products; or mineral, metal, steel, aluminum, or other ferrous or non-ferrous material or alloy or

chemical products, whether or not the products are manufactured otherwise processed, or are products or by-products, products manufactured or otherwise processed;

(ii) automotive parts, inoperative *motor vehicles*, batteries, vehicle parts, mechanical equipment, mechanical parts, accessories or adjuncts to vehicles and mechanical equipment, or any part thereof;

(iii) piping, tubing, conduits, cable and fittings or other accessories, or adjuncts to the piping, tubing, conduits or cable;

(iv) containers of any size, any type or any composition;

(v) material resulting from, or as part of, construction or demolition projects; or

(vi) rubble, inert fill, bones, feathers, hides, sewage, salvage material.

“Infestation” shall mean the overrunning of land by vermin, rodents and insects;

“Motor Vehicle” shall include an automobile, truck, motorcycle, snowmobile, trailer, motorhome, ATV, recreational vehicle and any other vehicle propelled or driven otherwise than by muscular power, including motor vehicles running solely upon rails, or a traction engine, farm tractor, self-propelled implements of husbandry or road building machine;

“Municipality” shall mean the Corporation of the City of Belleville;

“Municipal Law Enforcement Officer” shall mean a Municipal Law Enforcement Officer as appointed by Council of the City of Belleville from time to time for the enforcement of City By-Laws;

“Occupant” shall mean any person over the age of 18 years who is in possession of all or part of land;

“Overgrown” shall mean an uncut, unkempt or unsightly state or a potential health risk;

“Owner” shall mean any person who is the registered owner of land according to the records at the applicable Land Registry Office or as shown on the last revised assessment roll of the Municipality;

- “Person”** in addition to its regular meaning, includes a business, corporation, partnership, joint venture or any director, officer or manager of a business, corporation, partnership or joint venture;
- “Property”** shall mean a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings erected thereon and includes vacant property;
- “Refuse”** shall mean material that is left, thrown away, or unfit for use and includes, but is not limited to, all materials described in Appendix “A” to this By-law and all similar or like materials; said Appendix attached to and forming part of this By-law;
- “Remedial Action”** shall mean any action taken by the Municipality to achieve compliance with an Order issued under this By-Law, and shall include the pick-up, removal, storage and/or disposal of *refuse, domestic waste, industrial waste, grass, weeds* and/or *infestation* from any land within the boundaries of the City of Belleville;
- “Weeds”** shall mean noxious weeds designated by or under the *Weed Control Act, R.S.O. 1990. W. 5*, as amended.

2. LAND MAINTENANCE

- 2.1** Every *Owner or Occupant* of land shall keep his/her/its land free and clear of all *refuse, domestic waste or industrial waste* of any kind.
- 2.2** Every *Owner or Occupant* of land shall keep his/her/its land free and clear of *infestation* and of any conditions that might create a health, fire or accident hazard.
- 2.3** Every *Owner or Occupant* of land shall trim or cut *weeds* or *grass*, whether dead or alive, that are more than 15cm in height.
- 2.4** Every *Owner or Occupant* of land shall keep vegetation (other than *weeds* and *grass*) trimmed and kept from becoming unreasonably overgrown, supporting *infestation*, undergrown causing erosion or in a fashion that may affect safety, visibility, or the passage of the general public.
- 2.5** If a building permit has been issued for the construction of a building or structure on land, construction materials and equipment and other related items to be used in the construction, may, subject to Section 2.1 of this By-law, be stored in the yard for as long as the building permit remains in effect provided that it is kept in a contained and orderly manner.

- 2.6** Every *Owner* or *Occupant* shall remove a plant, tree, limb, branch or portion of it that is dead, diseased, decayed or damaged so as to prevent: (i) an unsafe condition, or (ii) damage to any building.
- 2.7** The *Owner* or *Occupant* of any building or land may provide for the composting of plant matter on the land provided that the composting material is kept in a container satisfactory to the *Municipal Law Enforcement Officer* and provided that the container is no larger than 1.82 m in height, and 1 m from the property line, and provided that the container is secured on all sides as to prevent 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 to the satisfaction of the *Municipal Law Enforcement Officer*.

3. DERELICT MOTOR VEHICLES

- 3.1** No *Owner* or *Occupant* of land shall use his/her/its land for the parking and/or storage of *derelict motor vehicles* or for the storage of *motor vehicle* parts or components.
- 3.2** An *Owner* or *Occupant* of land who is operating a salvage yard pursuant to the Zoning By-Law and any other applicable By-Laws is exempt from Section 3.1 of this By-law.
- 3.3** Despite Section 3.1 of this By-law, the *Owner* or *Occupant* of land may park, place or store one (1) *derelict motor vehicle* on the land for the purpose of repairing it for his/her own use, but not for commercial purposes, provided such repair is completed with thirty (30) days from the date on which the *derelict motor vehicle* is first parked, placed or stored on the land.

4. ENFORCEMENT

- 4.1** A *Municipal Law Enforcement Officer* may enter upon any land at any reasonable time to determine whether the land conforms with this By-Law or to determine whether a direction, requirement or Order made under this By-law or an order under Section 431 of the *Municipal Act, 2001* is being complied with.
- 4.2** For the purposes of an inspection under Section 4.1 of this By-law, a *Municipal Law Enforcement Officer* may:
- a)** require the production for inspection of documents or things that may be relevant to the land or any part thereof;
 - b)** inspect and remove documents or things relevant to the land or part thereof for the purpose of making copies or extracts;
 - c)** require information from any person concerning a matter related to the land or part thereof;

- d) be accompanied by a person who has special or expert knowledge in relation to the land or part thereof;
 - e) alone or in conjunction with any person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 4.3** The *Municipal Law Enforcement Officer* may, by Order served personally, by registered or regular mail, or by posting upon the land by placing a placard containing the terms of the Order in a conspicuous place on the land, require the *Owner* and/or *Occupant* within the time specified in the Order:
- a) to *clean*, clear or remove from the land, *refuse* and/or waste material of any kind;
 - b) to cease using the land for the dumping or disposing of, *refuse* and/or waste material of any kind;
 - c) to cover over, screen, shield or enclose the *refuse* and/or waste material of any kind in the manner prescribed by the *Municipal Law Enforcement Officer*;
 - d) to remove any compost container, or compost, that is infested with rodents or which is otherwise found to be not maintained in a clean and sanitary condition to the satisfaction of the *Municipal Law Enforcement Officer*; and
 - e) to otherwise correct a contravention of this By-Law.
- 4.4.** Every Order shall identify the lands subject to the Order.
- 4.5** Every Order sent via registered or regular mail shall be deemed to have been served on the third day after mailing.
- 4.6** No person shall hinder or obstruct the *Municipal Law Enforcement Officer* who is carrying out an inspection of the land for the purpose of enforcing this By-law, nor shall any person hinder or obstruct any employee or agent of the Municipality directed to carry out work to bring the land into compliance with any section of this By-law.
- 4.7** If any *Owner* or *Occupant* fails to carry out the requirements of an Order under this By-Law, the Municipality 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.
- 4.8** Having removed items from the land in accordance with this By-law, the Municipality may, in its absolute discretion, elect to store, or cause to be stored, any or all such items for a maximum of thirty (30) days in order to permit the owner of such items to recover and personally dispose of them and the costs of such storage shall form a lien on the items in accordance with the *Repair and Storage Liens Act*.

5. ADMINISTRATION

- 5.1** The Municipal *Law Enforcement Officer* shall be responsible for the administration and enforcement of this By-Law.
- 5.2** 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.
- 5.3** The Municipality shall not be liable to the Owner or any other person by reason of any work conducted, the storage of any item or any other loss during the exercise of the powers contained within this By-Law.

6. PENALTIES

- 6.1** Any person who contravenes any provision of this By-Law is guilty of an offence and, upon conviction, is liable on a first conviction to a fine of not more than \$5,000.00 and on a subsequent conviction to a fine of not more than \$10,000.00.
- 6.2** Every person who fails to comply with an Order issued by the *Municipal Law Enforcement Officer* under this By-law is guilty of an offence and on conviction, in addition to the penalties in Subsection 6.1 of this Bylaw, is liable to a fine of not more than \$10,000 per day for every day the offence continues after the time given for complying with the Order has expired.
- 6.3** If this By-law is contravened and a conviction entered, the Court in which the conviction was entered or any Court of competent jurisdiction may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

7. REPEAL

- 7.1** By-Law 2014-83 being a By-Law for “Cleaning and Clearing of Yards” is hereby repealed.

8. TITLE OF BY-LAW

- 8.1** This By-Law may be cited as the “Clean and Clear Yards By-Law”.

APPENDIX 'A'

In this By-Law, Refuse includes but is not limited to the following:

- Household appliances such as stoves, refrigerators, freezers, washers, dryers, air conditioners and dishwashers, and television sets and their component parts
- Household furniture such as beds, bed springs, mattresses, tables, chairs and their component parts.
- Barrels, boxes, water and fuel **tanks** (empty only)
- Motor vehicles, motorcycles, snowmobiles, bicycles, trailers, go-carts, boats, or vessels, all-terrain vehicles which are in a wrecked, discarded, inoperative or dismantled condition, in whole or in part, and their component parts
- Boulders, **bricks**, concrete, asphalt, glass, scrap wood, scrap metal, scrap wire, paint cans, cardboard, paper, plastics, **styrofoam**, roofing shingles (scrap), discarded clothes or cloth and canvas
- Fallen trees, tree stumps, branches, brush, leaves, bagged or piled grass and weeds, hedge cuttings, open compost piles and garden waste, snow and ice
- Household garbage, (bagged or not) not set out for collection, scrap construction materials, dead animal carcasses, animal feces
- Tires, wrecked, dismantled, discarded playground equipment, beverage containers, fast food bags, containers and wrappings
- Industrial, commercial or any other hazardous liquid waste including but not limited to motor oil and gasoline
- Waste from demolished buildings, discarded signs and placards
- Straw, hay and manure
- Excavated materials (i.e. earth, gravel)