

**BY-LAW 11-44**

**OF**

**THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW**

**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 the land, not including buildings;

**AND WHEREAS** Section 128 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, 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, 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, as amended, is guilty of an offence;

**AND WHEREAS** Section 429(1) 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 passed under the Municipal Act, 2001, S.O. 2001, c.25, as amended;

**AND WHEREAS** Section 446 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality may direct that where an owner has defaulted, the municipality may have the default remedied at the owner's expense and add the cost to the tax roll in the same manner as municipal taxes.

**AND WHEREAS** Section 391 of the Municipal Act 2001, S.O, c.25 authorizes a municipality to impose fees or charges for services or activities provided or done by or on behalf of it; for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and for the use of its property including property under its control.

**AND WHEREAS** the Council of The Corporation of the Township of Clearview deems it necessary and expedient to pass a by-law to regulate the disposal or depositing of waste in the Township of Clearview.

**NOW THEREFORE** be it resolved that the Council of the Corporation of the Township of Clearview enacts as follows:

## **1.0 INTRODUCTION**

### **1.1 Title and Scope**

1.1.1 This is a By-law to regulate the deposit of refuse or debris on any grounds, yards or vacant lands, whether public or private within the Township and to the owners, occupants, or persons in control of such properties to remove and properly dispose of refuse or debris stored or deposited on same and to prevent the unauthorized deposit of refuse or debris within the Township. This by-law shall be known as the **“Clean and Clear Property By-law”** of the Township of Clearview.

### **1.2 Validity and Severability**

1.2.1 Should any section, sub-section, clause, paragraph, or provision of this By-law be declared by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability or any other provisions of this By-law or the By-law as a whole.

### **1.3 Interpretation**

1.3.1 Words used in the singular shall have corresponding meanings when used in the plural.

1.3.2 “May” shall be construed as permissive.

1.3.3 “Shall” shall be construed as imperative.

### **1.4 Force and Effect**

1.4.1 This By-law shall come into force and take effect on the day that it receives the approval of the Council of the Township of Clearview.

## **2.0 DEFINITIONS**

For the purposes of this By-law, the following words shall have the meaning ascribed herein:

2.1 **“Agriculture Refuse”** means: refuse, other than properly stored sewage and organic refuse, resulting from farm operations, including animal husbandry and where a farm operation is carried on in respect to food packing, food preserving, animal slaughtering or meat packing, includes the refuse from farm operations.

2.2 **“Council”** means the Council of the Corporation of the Township of Clearview.

- 2.3 **"Derelict Vehicle"** means a vehicle that:
- a) Is inoperable; or
  - b) Has no market value as a means of transportation; or
  - c) Has a market value as a means of transportation that is less than the cost of repairs required to put it in operable condition; or
  - d) Is unlicensed for the current year, and includes parts thereof. (This does not apply to unlicensed vehicles that are being kept for sale as part of a bona fide business registered with the Ministry of Corporate and Consumer Affairs or Revenue Canada in an area zoned for such business).
- 2.4 **"Liquid Industrial Refuse"** means liquid refuse that results from industrial processes or manufacturing or commercial operations.
- 2.5 **"Lot"** shall mean a parcel of land to which title is capable of being legally conveyed, subject to the provisions of the Planning Act, as amended, and includes any of its parts, which are subject to a right-of-way or easement.
- 2.6 **"Owner"** includes: a listed owner under the Registry Act and Land Titles Act, a municipally assessed owner, tenant, occupant or any person having an interest, whether equitable or legal, in the land.
- 2.7 **"Person"** means any human being, association, firm partnership, private club, incorporated company, corporation, agent or trustee and the heirs, executors, or other legal representative of a person to whom the context can apply according to the By-law.
- 2.8 **"Recreational Vehicle"** means a licensed motor home, travel trailers, boat trailers including a boat, a trailer containing snowmobiles, motorcycles or All-Terrain Vehicles.
- 2.9 **"Sewage"** means any liquid or solid and liquid refuse, containing animal, vegetable or mineral matter in suspension or as solution.
- 2.10 **"Solid Industrial Refuse"** means refuse from:
- a) An enterprise or activity involving warehousing, storage or industrial, manufacturing or commercial processes or operations; or
  - b) Research or an experimental enterprise or activity; or
  - c) Clinics that provide medical diagnosis or treatment; or
  - d) Schools, laboratories or hospitals.
- 2.10 **"Township"** means the Corporation of the Township of Clearview.
- 2.11 **"Unsafe Conditions"** includes:
- a) Flammable refuse material, long grass or untrimmed underbrush; or

- b) An unfenced or unprotected pit, excavation, hole or other activity, or
- c) Any other circumstances, other than buildings that create or are likely to create an unsafe or hazardous condition from fire or other dangerous accident.
- d) Any fenced excavation or hole left unfilled for more than six (6) months.

2.12 **"Vehicle"** includes: any motor vehicle within the meaning of the Highway Traffic Act R.S.O. 1990 C H.8 of Ontario, trailer, commercial motor vehicle, motorized snow vehicles, all-terrain vehicle, an automobile, traction engine, farm tractor, self-propelled implement of husbandry, road building machine and any other vehicle propelled or driven otherwise than by muscular power and also includes parts thereof.

2.13 **"Refuse Material"** includes:

- a) Garbage, brush, stumps, rubber tires, rubbish, discarded building materials, waste or junk;
- b) Tin cans, bottles, boxes or other containers;
- c) Derelict vehicles as herein defined;
- d) Derelict, abandoned or inoperable machinery, boats or vessels, vehicles, appliances and furnishings, both household and commercial;
- e) Solid industrial refuse, liquid industrial refuse, agricultural refuse or sewage;
- f) Dead, decayed or damaged trees that present an unsightly condition or create an unsafe condition;
- g) Animal feces that create an unsightly condition or nuisance odour within a residential area.

2.14 **"Zoning By-law"** the prevailing Zoning By-law(s) in force and effect in the Township of Clearview.

2.15 **"Residential Area"** means a property that is zoned residential according to the Township's prevailing Zoning By-law.

2.16 **"Graffiti"** includes one or more letters, symbols, figures, etchings, scratches, inscriptions, stains or other markings that disfigure or deface a structure or thing.

### **3.0 OFFENCES**

3.1 No owner shall create or permit the creation, presence or existence of any refuse, debris or unsafe condition in or upon any yards, vacant lots or grounds, which such owner owns, rents, occupies or has an interest in, whether such interest is legal or equitable.

- 3.2 No owner shall permits termites, rodents, vermin or other pests or any condition which might result in the harbouring of such pests on any yard, vacant lot or grounds, which such owner owns, rents, occupies or has an interest in, whether such interest is legal or equitable.
- 3.3 No person shall allow, permit or aid in the discharge or discarding of any refuse or debris onto any lands or highways whether public or private within the Township.
- 3.4 No owner shall allow his/her sump or roof runoff, swimming pool drainage, and pond exhaust or from any other contained water supply to enter a neighbouring property and shall ensure proper drainage swales are installed to direct drainage for dispersal. This section does not apply where:
- a) There has been a historical agreement, tacit or otherwise, by property owners to allow the runoff to enter neighbouring property;
  - b) There is a joint or common swale in place for purposes of drainage; or
  - c) There is a registered easement or other legal document allowing the runoff to enter neighbouring property.
- 3.5 No owner shall permit grass or other herbage to become insufficiently cut or trimmed so as:
- a) To exceed 30 cm (12 inches) in height whether dead or alive; or
  - b) To allow the harbouring or mosquitoes and other annoying insects; or
  - c) To allow the ripening of weeds and other noxious plants; or
  - d) To present an untidy appearance to the public.
- 3.6 It shall not be an offence under S. 3.1 above, where:
- 3.6.1 The material is being stored within a shed, garage, or other building in a condition suitable for safe storage of the materials and in accordance with all other by-laws of the Township; and
- 3.6.2 The storage of the refuse or debris material is a necessary or normal accessory use to another lawful use actually being carried out on the property; and
- 3.6.3 The storage of the same and owner are subject of a certification of approval, or exemption, for the purposes of same which certificate is issued for such purposes under the Environmental Assessment Act, R.S.O. 1990, c E18 or the Environmental Protection Act, R.S.O. 1990, C. E19 and such approval or exemption is currently in force.

- 3.7 No person shall transport along any street, roadway, or highway any refuse or debris material unless such material is properly enclosed or covered with canvas, tarpaulin, or net fastened down around the edges, or some other suitable arrangement is in place to prevent the contents from falling onto the street, roadway or highway.
- 3.8 Any person who wishes to file a complaint against any other person or property alleging an offence under Section 3.1 of this By-law shall make such complaint in writing.
- 3.9 Section 3.1 does not apply to:
- a) Farm implements or machinery that is currently being used for agricultural purposes when situated in an area that is zones Agricultural or Rural in accordance with the Zoning By-laws or that is actively used for agricultural purposes.
  - b) Motor vehicles, vehicles or vessels for which a permit has been obtained as set out in Schedule "A" of this by-law.
  - c) Farm implements or machinery that are more than 150 feet from a public road in an area zoned Agricultural or Rural in accordance with the Zoning By-laws.
  - d) Antique equipment or implements that are being used for ornamental purposes providing that the equipment or implement is maintained in rust free condition and free from growth of weeds or grass.
- 3.10 No owner shall permit the existence of graffiti on any structure or thing. Appropriate measures shall be taken to remove any objectionable markings, stains or other defacement occurring on all property and where necessary, to restore the surface to as near as possible, to its original condition.

#### **4.0 ADMINISTRATION, ENFORCEMENT AND INSPECTION**

- 4.1 This By-law shall be administered and enforced by the Municipal Law Enforcement Officer(s) of the Township or such other person or persons as Council may, by by-law appoint and all such persons shall be considered inspectors under the terms of the By-law.
- 4.2 An inspector under this By-law:
- 4.2.1 Has the power to enter upon and examine any yards, vacant lots or grounds, at any reasonable time or times; and
  - 4.2.2 May be accompanied by such other person or person, as the inspector deems necessary

## **5.0 PENALTY**

5.1 Every person who:

- a) Hinders, disturbs or obstructs any inspector in carrying out his/her duties under this By-law, or;
- b) Contravenes any provision of this By-law, is guilty of an offence and, upon conviction, is subject to a penalty as provided under the Provincial Offences Act.

## **6.0 CONTINUING OFFENCE**

6.1 Each day that a situation as described in Sections 3.1 to 3.4 of this By-law is allowed to continue, shall constitute a separate offence under this By-law and any Judge or Justice of the Peace adjudicating on such matter may assess a separate fine for each and every day that such situation has been allowed to continue.

## **7.0 CORPORATIONS**

7.1 Every person and an officer director, employee or agent of a corporation charged with committing an offence under this By-law is a party to the offence who:

- a) Actually commits it; or
- b) Does or omits to do anything for the purposes of aiding any person to commit it, or
- c) Abets any person in committing it. Where two or more persons form an intention in common to carry out an unlawful purpose, and to assist each other therein, each of those who knew or ought to have known that the commission of an offence under this By-law would be a probable consequence of carrying out the common purpose is a party to the offence.

## **8.0 ADDITIONAL REMEDY**

8.1 In addition to the remedies set out in paragraph 5 above, an inspector appointed under this By-law may give the owner and/or occupant of any yards, vacant lots or grounds who contravenes Sections 3.1 to 3.4 of this By-law, a property inspection report in writing either delivered in person or sent to the owner by prepaid registered mail to their last known address directing said owner to dispose of the refuse or debris material within the time stipulated in the report and notifying them that in default of compliance with the report, the Township may perform the work at the owner's expense.

8.2 The owner of any yards, vacant lots or grounds who contravenes sections 3.1 to 3.10 of this By-law, may be subject to a user fee as may

be established by Council from time to time to offset the costs associated with the administration and enforcement of this By-law and shall upon demand pay such fee to the Township. If the owner fails to pay the fee to the Township within a period of **90** days from the date of such notice or invoice, such fee or charge or outstanding portion thereof, may be added to the tax roll for the subject property and be collected in like manner as municipal taxes. User Fees are contained in Schedule "B".

- 8.3 In the event that the owner and/or occupant fails to comply with the directions in the report set out in Section 8.1, the Township may do or cause to be done the work so specified and the cost thereof may be recovered from the said owner and or occupant by court action or the same may be recovered in like manner as municipal taxes pursuant to Section 326 of the Municipal Act.
- 8.4 In the event that the presence of the refuse or debris material presents, in the opinion of an inspector, an unsafe, hazardous or dangerous condition or to present a danger to public health, the notice referred to in paragraph 8.1 may be dispensed with.

**9.0 EXEMPTION**

- 9.1 Nothing in this By-law applies to the lands or properties owned by the Corporation of the Township of Clearview.

**10.0 CONFLICTS OF BY-LAWS**

- 10.1 Where Sections 3.1 to 3.5 of this By-law is in conflict with any part of any other By-law within the Township, the requirement of this By-law shall prevail.

By-law 11-44 read a first, second and third time and finally passed this 27<sup>th</sup> day of June, 2011.

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MAYOR

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CLERK



## **SCHEDULE "A"**

### **Clean and Clear Property By-law By-law 11-44**

#### **The Corporation of the Township of Clearview**

A permit referred to in Section 3.8 of this By-law may be issued for a vehicle, motor vehicle or vessel under the following circumstances:

- a) The applicant must have a bona fide reason for the vehicle, motor vehicle or vessel to be stored on the property (bona fide reasons include, but are not limited to "keeping for sale" or "restoring").
- b) The permit is valid for a maximum of 60 days.
- c) Each permit must specify the particular vehicle, motor vehicle or vessel.
- d) Only one permit may be issued per lot.
- e) Only one vehicle, motor vehicle or vessel may be named in the permit.
- f) Only one permit may be issued per year to any one lot or vehicle, motor vehicle or vessel.
- g) The vehicle, motor vehicle or vessel must be displayed in an area that is kept free from long grass, weeds or other waste.

A permit issued for a vehicle for sale shall require that:

- a) The motor vehicle or vessel is being kept for sale, must display a "FOR SALE" at all times.
- b) The vehicle, motor vehicle or vessel must be displayed in an unobstructed location free from snow, trees, buildings or other vehicles.
- c) The vehicle, motor vehicle or vessel must be operable and kept in an apparent state of good repair.
- d) The vehicle, motor vehicle or vessel must be displayed on the property for which the permit is issued.

## **SCHEDULE "B"**

### **Clean and Clear Property By-law**

#### **By-law 11-44**

### **The Corporation of the Township of Clearview**

#### **USER FEES**

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- 1.** Upon the issue of a Property Inspection Report, a fee of \$60 (dollars) may be charged to the owner of the property.
- 2.** Upon the Second or subsequent issue of a Property Inspection Report, a fee of \$200 (dollars) may be charged to the owner, providing the first Property Inspection Report was issued to the same owner for the same property.
- 3.** Upon the issue of a summons resulting from an offence under Section 3.1 to 3.4 of this By-law, a fee of \$300 (dollars) may be charged to the owner of the property and such fee is an addition to any penalty that may subsequently be administered by the courts.