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The Corporation of the Municipality of Clarington

By-law 2019-047

Being a By-law to keep land clean and clear in the Municipality of Clarington

WHEREAS Subsection 11(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the “Act”) provides that the Municipality may pass by-laws respecting the health, safety and well-being of persons;

AND WHEREAS Section 127 of the Act provides that the Municipality may require the owner or occupant of land to keep their land clean and clear of refuse and debris;

AND WHEREAS Section 128 of the Act provides that the 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 pursuant to Section 425 of the Act, the Municipality may pass by-laws providing that a person who contravenes a by-law of the Municipality passed under the Act is guilty of an offence;

NOW THEREFORE, the Council of The Corporation of the Municipality of Clarington hereby enacts as follows:

DEFINITIONS

1. In this by-law,

“**Debris**” means refuse, rubbish, or material of any kind and without limiting the generality of the foregoing includes garbage, litter, disused furniture, garden waste, earth or rock fill, old or decayed lumber, inoperative mechanical equipment, automotive or mechanical parts, a vehicle that by its condition or lack of current licence plates appears to be inoperative, and materials from construction or demolition projects;

“**Enforcement Officer**” means a Provincial Offences Officer as defined under the *Provincial Offences Act*, R.S.O. 1990, c. P.33;

“**Municipality**” means The Corporation of the Municipality of Clarington, or its geographical area as the context requires; and

“**Owner**” means an owner or occupant of land in the Municipality.

PROHIBITIONS

2. No Owner shall permit the accumulation of any debris on their land.
3. No Owner shall permit grass or weeds on their property to grow to a height that exceeds 20 centimetres.
4. No Owner shall permit the accumulation of stagnant or standing water on their land.

EXEMPTIONS

5. That portion of any lands zoned for environmental protection is exempted from section 3 of this By-law.

ENFORCEMENT

6. Where any Owner contravenes any provision of this By-law, an Enforcement Officer may direct such Owner to comply with this By-law. Every Owner so directed shall comply with such direction without delay.
7.
 - (1) If an Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Enforcement Officer may make an order requiring the Owner of the land on which the contravention occurred to do work to correct the contravention.
 - (2) Any Owner who fails to comply with an order under this section is guilty of an offence.
 - (3) If an Owner is in default of any work required by an order under this section, the work may be done by the Municipality at the Owner's expense, and in addition to the costs to do the work, the Municipality will impose an administrative fee of \$50 on the Owner.
 - (4) The Municipality or a person acting on its behalf is not liable to compensate the Owner, or any other person by reason of anything done by or on behalf of the Municipality in the reasonable exercise of its powers under this By-law.

POWERS OF ENTRY

8. An Enforcement Officer, whether alone or accompanied by an individual possessing special or expert knowledge or skills, may enter on any land within the Municipality at any reasonable time for any purpose in relation to the enforcement of this By-law including for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - (a) this By-law;
 - (b) a direction or order of the Municipality made under the Municipal Act, 2001, S.O. 2001, c. 25 or this By-law; or
 - (c) an order made under section 431 of the Municipal Act, 2001, S.O. 2001, c. 25.
9. For the purposes of an inspection under this By-law, an Enforcement Officer may:
 - (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information from any person concerning a matter related to the inspection; and
 - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
10. In addition to any other provision of this By-law, and subject to the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, a provincial judge or justice of the peace may issue an order authorizing the Municipality to enter on land, including a room or place actually being used as a dwelling, for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - (a) this By-law;
 - (b) a direction or order of the Municipality made under the Municipal Act, 2001, S.O. 2001, c. 25 or this By-law; or
 - (c) an order made under section 431 of the Municipal Act, 2001, S.O. 2001, c. 25.

OBSTRUCTION

11. No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty or direction under this By-law.

OFFENCES

12. Every person, other than a corporation who contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every occurrence, day or part thereof upon which such offence occurs or continues, to a fine of not more than \$10,000 for a first offence; and not more than \$25,000 for any subsequent conviction.
13. Every corporation which contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every occurrence, day or part thereof upon which such offence occurs or continues, to a fine of not more than \$50,000 for a first offence, and not more than \$100,000 for any subsequent conviction.
14. Without limiting any other section of this By-law, every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine in accordance with the Provincial Offences Act, R.S.O. 1990, c. P.33.
15. If any person is in contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.
16. Where any person contravenes any provision of this By-law, such person shall be responsible for all costs incurred by the Municipality directly related to the contravention.

SEVERABILITY

17. If any section or sections of this By-law, or parts thereof are found by any court of competent jurisdiction to be illegal or beyond the power of the Municipal Council to enact, such section or sections or parts thereof shall be deemed to be severable from this By-law and all remaining sections or parts of this By-law shall be deemed to be separate and independent therefrom and to be properly enacted and to be of full force and effect.

CONFLICT

18. In the event of a conflict between any provision of this By-law and any applicable Act or regulation, the provision that is the most restrictive prevails.

SCHEDULES

19. The following Schedules are attached to and form an integral part of this by-law:

- Schedule "A" – Set Fines

EFFECTIVE DATE

43. This by-law shall come into force and take effect on the date it is enacted.

44. By-law 2003-046 is repealed on the date this by-law comes into force and effect.

SHORT TITLE

45. This by-law may be referred to as the "Clean and Clear By-law".

By-Law passed in open session this 2nd day of July, 2019.



Adrian Foster, Mayor



C. Anne Greentree, Municipal Clerk

Schedule "A"

MUNICIPALITY OF CLARINGTON

PART I Provincial Offences Act

By-law #2019-047: Clean and Clear By-law

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Failure to remove debris from land	s. 2	\$100.00
2	Failure to cut grass or weeds	s. 3	\$100.00
3	Failure to remove standing water	s. 4	\$100.00
4	Failure to comply with an order	s. 7(2)	\$100.00
5	Obstruction of an Enforcement Officer	s. 11	\$100.00

"NOTE: The penalty provision for the offences indicated above is section 14 of by-law no. 2019-047, a certified copy of which has been filed".

THE HONOURABLE ESTHER ROSENBERG
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
CENTRAL EAST REGION

50 EAGLE STREET WEST
NEWMARKET, ONTARIO L3Y 6B1



L'HONORABLE ESTHER ROSENBERG
JUGE PRINCIPAL RÉGIONAL
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU CENTRE-EST

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RECEIVED

SEP - 9 2019

August 13, 2019

Mr. Robert Maciver
Municipal Solicitor
Corporation of the Municipality of Clarington
40 Temperance Street
Bowmanville, Ontario
L1C 3A6

MUNICIPALITY OF CLARINGTON
Solicitor's Office

Dear Sir:

Re: Set Fines – Part I
The Corporation of the Municipality of Clarington

Enclosed herewith please find a copy of the Order and a copy of the Schedule of Set Fines for the By-law No. 2019-047.

The setting of the fines does not constitute my approval of the short form of the wording used to describe the offences.

I have forwarded a copy of the Order and the Schedule of Set Fines to the POA Court in Whitby, together with a certified copy of the By-law.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Esther Rosenberg', written over the typed name.

Esther Rosenberg
Regional Senior Justice
Central East Region

/bmw

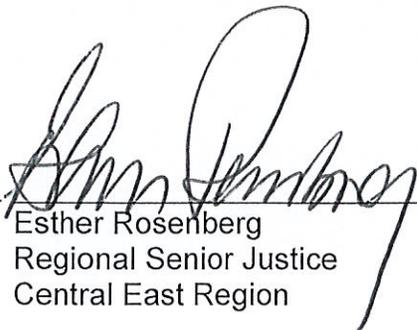
Enclosures

PROVINCIAL OFFENCES ACT

PART I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the attached schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-Law 2019-047, for the Municipality of Clarington, attached hereto is the set fine for that offence. This Order is to take effect August 13, 2019

DATED at Newmarket this 13th
day of August, 2019.



Esther Rosenberg
Regional Senior Justice
Central East Region

Schedule "A"

MUNICIPALITY OF CLARINGTON

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