

**CORPORATION OF THE MUNICIPALITY OF SOUTHWEST MIDDLESEX**

**BY-LAW NO. 2016/040**

**YARD MAINTENANCE BY-LAW**

Being a by-law for the clearing of land of waste and requiring and regulating the filling up, draining, cleaning and maintenance of land in the Municipality of Southwest Middlesex

**WHEREAS** Section 127 of the Municipal Act, 2001 provides that a 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 matters required above 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” for the purpose of this By-law.

**AND WHEREAS** Section 11 of the Municipal Act, 2001, permits a lower tier municipality to pass by-laws respecting the economic, social, and environmental well-being of the municipality and matters within its sphere of jurisdiction including parking, except on highways; and drainage and flood control, except storm sewers;

**AND WHEREAS** this By-law does not apply to the use of any land, buildings or structures by the Municipality;

**AND WHEREAS** the Corporation of the Municipality of Southwest Middlesex has a zoning by-law in effect which regulates the use of land and the erection, location and use of buildings and structures in the Municipality;

**AND WHEREAS** the Corporation of the Municipality of Southwest Middlesex has a Property Maintenance and Occupancy Standards By-law in effect which prescribes minimum standards for the maintenance of property (which includes buildings and structures) and occupancy and which prohibits the occupancy or use of such property that does not conform with the standards;

**NOW THEREFORE** the Council of the Corporation of the Municipality of Southwest Middlesex enacts as follows:

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## 1.0 ADMINISTRATION & INTERPRETATION

### 1.1 Short Title

This By-law may be cited as the “Yard Maintenance By-law”.

### 1.2 Existing Untidy Yard By-law

By-law No. 41-2002, being a by-law requiring and regulating the filling up, draining, and cleaning of land and the clearing of land of waste in the Municipality of Southwest Middlesex, is hereby repealed.

## 2.0 DEFINITIONS

### 2.1 By-law Enforcement Officer

shall mean the person or his/her designate appointed by by-law, by the Municipality, for the purposes of administering and enforcing the provisions of this By-law.

### 2.2 Cleared

shall mean free of weeds or grass more than 20 centimetres in height and free of stockpiles of soil or other earthen material not required for garden or lawn related purposes or to complete the grading of land on which the stockpile is located and when used as a verb “to clear” or in the expression “clearing” shall include the draining, treatment and/or the disposing of water on any land where there is a swimming pool which is a health or safety hazard, or is malodorous or is a breeding place for mosquitoes.

### 2.3 Commercial Motor Vehicle

shall mean a “commercial motor vehicle” as defined in the Highway Traffic Act, as amended or revised from time to time.

### 2.4 Derelict Motor Vehicle

shall mean a motor vehicle that is in an abandoned, discarded, dismantled, inoperative, wrecked or unused condition.

### 2.5 Domestic Waste

shall mean any article, thing, matter or effluent belonging to or associated with a residence, household, or dwelling unit that appears to be waste material, and includes but is not limited to the following classes of waste material:

- a) grass clippings, tree cuttings, brush, leaves and garden refuse;
- b) paper, cardboard, clothing;
- c) kitchen and table waste, of animal or vegetable origin resulting from the preparation or consumption of foods;
- d) cans, glass, plastic containers, dishes;

- e) new or used material resulting from or for the purpose of construction, alteration, repair or demolition of any building or structure;
- f) refrigerators, stoves, dishwashers, freezers or other appliances and furniture;
- g) bathroom fixtures and plumbing parts and materials;
- h) furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks; derelict motor vehicles, motor vehicle parts and accessories, tires; derelict machinery and equipment;
- i) rubble, inert fill, fencing materials;
- j) sewage.

**2.6 Driveway**

shall mean a private passageway for a motor vehicle, having at least one end thereof connected to a public road, and providing the principal means of vehicular access to lands.

**2.7 Excavation**

shall mean any man-made opening or depression in the ground, but shall not include a pit licensed under the Aggregate Resources Act, as amended or revised from time to time, an abandoned pit, a farm or irrigation pond, a fish pond or a water garden.

**2.8 Exterior Side Yard**

shall mean a side yard immediately adjoining a street.

**2.9 Farm or Irrigation Pond**

shall mean a body of water located outdoors, contained by natural or artificial means and designed, used or intended for agricultural purposes including irrigation and watering for livestock but not for recreational purposes.

**2.10 Fence**

shall mean a wall (other than the wall of a building), gate or other barrier constructed of wood, masonry, metal, or combination thereof, which is continuous throughout its entire length where required, save and except for access areas and where lines of sight are required for safety purposes.

**2.11 Front Yard**

shall mean a yard extending across the full width of the lot between the front lot line of the lot and the nearest main wall of any main building or structure on the lot.

**2.12 Industrial Waste**

shall mean any article, thing, matter or effluent belonging to or associated with industry or commerce or concerning or relating to the manufacture or concerning or relating to any trade,

business, calling or occupation that appears to be waste material and includes, but is not limited to, the following classes of waste material:

- a) piping, tubing, conduits, cable, fittings or other accessories, or adjuncts to these items;
- b) containers of any size, type or composition;
- c) broken concrete, bricks, broken asphalt, patio or sidewalk slabs or combination thereof, inert fill;
- d) derelict motor vehicles and parts, mechanical equipment and parts, accessories or adjuncts to vehicle and mechanical equipment;
- e) articles, things, matter, effluent which is whole or in part or fragments thereof are derived from or are constituted from or consist of agricultural, animal, vegetable, papers, lumber or wood products; or mineral, metal or chemical products whether or not the products are manufactured or otherwise processed;
- f) bones, feathers, furs, hides or other animal parts or by-products;
- g) paper or cardboard packaging or wrapping;
- h) new or used material resulting from or for the purpose of construction, alteration, repair or demolition of any building or structure;
- i) sewage.

**2.13 Interior Side Yard**

shall mean a side yard other than an exterior side yard.

**2.14 Land**

shall mean grounds, property, yards, or vacant lots or any part of a lot which is not beneath a building and which is not being used for agricultural purposes.

**2.15 Landscaped Open Space**

shall mean the use of land for the growth and maintenance of grass, flowers, shrubbery and other landscaping materials, both natural and artificial, accessory to a building or structure, and includes any surfaced walk, patio, or similar area, but does not include any access driveway or ramp, parking lot, deck or any open space beneath or land within any building or structure.

**2.16 Motor Home**

shall mean a motor vehicle chassis designed to provide temporary living quarters for recreation, camping or travel purposes.

**2.17 Motor Vehicle**

shall mean a wheeled self-propelling vehicle for the transportation of passengers and goods and without limiting the generality of the foregoing, includes automobiles, trucks, buses, ambulances, hearses, motor homes and tractors.

**2.18 Municipality**

shall mean the Corporation of the Municipality of Southwest Middlesex.

**2.19 Owner**

shall mean the owner, occupant, lessee, tenant and mortgagee of land and includes any other person in charge of land.

**2.20 Parking Pad**

shall mean a hard and durable surface constructed of concrete, asphalt, interlocking brick or similar material designed and constructed to ensure a stable surface for the parking of motor vehicles, recreational vehicles and similar items.

**2.21 Recreational Vehicle**

shall mean a motor vehicle, or a device attached to a motor vehicle, designed, redesigned, constructed or reconstructed to provide temporary living quarters for recreational, camping or travel purposes, and without limiting the generality of the forgoing may include a motor home, a travel trailer, a truck camper, a 5<sup>th</sup> wheel, or a tent trailer.

**2.22 Refuse**

shall mean domestic waste and industrial waste and includes material or effluent that, in the opinion of the By-law Enforcement Officer, appears to have been cast aside or discarded or abandoned; or appears to be worthless or useless or of no practical value; or appears to be used up, depleted, in whole or in part, expended or worn out in whole or in part.

**2.23 Salvage Yard**

shall mean the use of land, buildings or structures or combination thereof, where motor vehicles, merchandise, articles, goods or things are stored for the purpose of salvage, kept for sale and/or processed and/or re-cycled for further use and, without limiting the generality of the foregoing, may include a junk yard, a scrap metal yard, and a motor vehicle wrecking yard.

**2.24 Sewage**

shall mean any liquid waste containing human, vegetable or mineral matter, waste that is in suspension whether domestic or industrial or any other waste whether in suspension or precipitated, but does not include roof water or stormwater run-off.

**2.25 Settlement Area**

shall mean the settlement areas of Glencoe, Wardsville, Appin, Melbourne, Middlemiss and Pratt Siding as established by the Official Plan of the Municipality of Southwest Middlesex delineated on Schedule "A" through Schedule "F" attached hereto and forming part of this By-law.

**2.26 Sight Triangle**

shall mean the triangular space formed by the street lines of a corner lot where such lot is located at the intersection of two or more streets and a line drawn from a point in one street line to a point in the other street line, each such point being nine (9.0) metres from the point of intersection of the street lines measured along the said street lines, and where the two street lines do not intersect at a point, the point of intersection of the street lines shall be deemed to be the intersection of the projected tangents of the said street lines.

## **2.27 Waste Disposal Site**

shall mean any land, or land covered by water, licensed under the Environmental Protection Act, as amended or revised from time to time, upon, into, or through which, or building or structure in which, waste is deposited or processed, and any machinery and equipment or operation required for the treatment or disposal of waste.

## **2.28 Yard**

shall mean a space, appurtenant to a building or structure, located on the same land as the main building or structure, and which space is open, structurally uncovered and unoccupied from the ground to the sky except for such accessory buildings, structures or uses as are specifically permitted by the Municipality of Southwest Middlesex Zoning By-law.

## **2.29 Zoning By-law**

shall mean the Zoning By-law of the Municipality adopted and in effect pursuant to the Planning Act as amended or revised from time to time.

# **3.0 GENERAL REGULATIONS**

## **3.1 Owner's Obligations**

- 3.1.1** Every owner within the Municipality shall, unless otherwise exempted by this By-law, keep his land cleared.
- 3.1.2** No owner within the Municipality shall, unless otherwise exempted by this By-law, fail to clear land of domestic waste and/or industrial waste and/or refuse.
- 3.1.3** No owner within the Municipality shall, unless otherwise exempted by this By-law, fail to enclose an excavation on land in accordance with Section 3.2.
- 3.1.4** No owner within the Municipality shall, unless otherwise exempted by this By-law, fail to drain an accumulation of water exceeding 30 centimetres in depth on land in accordance with Section 3.2.2.
- 3.1.5** No owner within the Municipality shall, unless otherwise exempted by this By-law, deposit domestic waste and/or industrial waste and/or refuse on private and/or municipal land without lawful written authority.

### **3.2 Ponds and Excavations**

**3.2.1** Every owner of land shall fill in any excavation on the land to adjacent grade with non-contaminated fill unless:

- a) the excavation is enclosed completely by a fence having a minimum height of one and one-half (1.5) metres, or;
- b) construction is proceeding in accordance with a valid building permit.

**3.2.2** Every owner of land shall drain land of accumulations of water that exceed 30 centimetres in depth unless the water:

- a) is completely enclosed by a barrier of at least one(1.0) metre in height, or;
- b) constitutes a storm water management pond approved by the Municipality, or;
- c) constitutes a natural body of water or results from the periodic flooding of a natural watercourse, or;
- d) constitutes a farm pond or irrigation pond, or;
- e) constitutes a water garden or fish pond, or;
- f) constitutes a private drain or a municipal drain, or;
- g) constitutes a lawfully maintained swimming pool.

Every owner shall keep or maintain the water in a swimming pool in a condition which is not a health or safety hazard, or is malodorous, or is a breeding place for mosquitoes.

### **3.3 Drainage**

**3.3.1** Stormwater runoff from any downspout or any impervious surface shall be directed away from neighbouring properties. Every residential property shall be graded and maintained to prevent ponding or the entry of water into a basement or cellar.

**3.3.2** Ditches, private drains, swales and watercourses shall be maintained to facilitate the unimpeded flow of water and prevent ponding.

**3.3.3** No stormwater or roof water shall be discharged onto a sidewalk, walkway, steps, porch or other pedestrian access to a land, which may be hazardous or result in a potential safety risk.

**3.3.4** No weeping tile, foundation drain, roof drain, or land drain shall be connected or

discharged into any sanitary sewage system or public storm drainage system.

### **3.4 Waste On Land**

- 3.4.1** Every owner of land shall keep his land clean, clear and free from domestic waste and/or industrial waste and/or refuse, unless:
- a) The land is zoned for the purpose of outdoor storage of domestic waste and/or industrial waste and/or refuse;
  - b) The land is owned, licensed and used by the Municipality or the County of Middlesex for the purposes of a waste disposal site.
- 3.4.2** No person shall throw, place, dump or deposit domestic waste, industrial waste or refuse on land without the lawful written authority of the owner.
- 3.4.3** No land shall be used as a place to store, keep, display, pile or accumulate in the open any waste, scrap iron or other scrap metals, used building materials, clothing or household goods, furnishings, fixtures, appliances, or any parts or portions thereof unless such lot is specifically zoned for the purposes of a salvage yard.
- 3.4.4** Notwithstanding Section 3.4 and Section 3.5 to the contrary, lands may be used for the sale and display of household goods, furnishings, apparel and similar articles (commonly referred to as yard sales or garage sales) provided such sale and display is limited to not more than three days in any calendar year with the exception of homemade articles, crafts, things or goods made by those residing on the premises provided the sale and display does not exceed 35% of the front yard or exterior side yard as defined by the Zoning By-law.
- 3.4.5** Waste shall be placed for collection in accordance with the standards and regulations of the Municipality.
- 3.4.6** Yard debris including leaves, twigs, branches and other organic wastes shall be composted on the land or disposed in accordance with the standards and regulations of the Municipality.
- 3.4.7** All recyclable materials shall be placed in approved containers and disposed in accordance with the standards and regulations of the Municipality.
- 3.4.8** This section shall not apply in the case where:
- a) the lands are lawfully used for outdoor storage of materials in compliance with the applicable zoning and licensing by-laws and regulations of the Municipality;

- b) the lands are designated by or operated by the Municipality or the County of Middlesex for the purpose of a waste disposal site.

### **3.5 Outside Storage**

- 3.5.1** Where outside storage is permitted by the Zoning By-law, the owner shall maintain such storage in a safe condition, located, parked or stacked in a neat and orderly fashion or in bins, containers, structures or enclosures appropriate to the nature, composition, chemical or other characteristic properties or distinctive attributes of the substance stored.
- 3.5.2** Where outside storage is permitted by the Zoning By-law, the owner shall completely enclose such outside storage areas with fencing at least 1.5 metres in height, which fencing shall be constructed in such a fashion as to block the view of items stored. Such fenced enclosure shall be located at least 6.0 metres from any street and the area exterior thereto shall be landscaped, save and except any adjoining building, driveway, or parking or loading area.

### **3.6 Derelict Motor Vehicles and Similar Items, Machinery and Equipment**

- 3.6.1** Lands shall be kept free and clear of derelict motor vehicles and all other dismantled, discarded, wrecked or abandoned vehicles, farm machinery and equipment, construction machinery and equipment, mobile homes, railway cars, trailers, trucks, buses, coaches, shipping containers, boats and street car bodies unless such land:
  - a) is licensed as a salvage yard pursuant to the Municipality's Salvage Yard By-law; or
  - b) constitutes a waste disposal site for which a Certificate of Approval or a provisional Certificate of Approval has been issued under the Environmental Protection Act, as amended or revised from time to time; or,
  - c) is enclosed in a building; and
  - d) constitutes a permitted use and is in conformity with the Zoning By-law, or otherwise constitutes a legal non-conforming use under the Planning Act as amended or revised from time to time.

### **3.7 Settlement Areas**

In addition to all other requirements of this By-law, the following regulations shall apply to lands within settlement areas as shown on Schedule "A" through Schedule "F" inclusive to this By-law.

- 3.7.1** Weeds and grass shall not be permitted to grow or stand greater than 15 centimetres (6 inches) in height.
- 3.7.2** Hedges and trees adjacent to a public sidewalk or road shall be cut and trimmed so as to permit the safe and unhindered passage of pedestrians.

- 3.7.3 Yards shall be kept free from undergrowth or underbrush, and from dead, decayed or damaged trees, and branches and limbs which may create an unkempt or unsafe condition, including a potential fire hazard, or harbour pests or vermin.
- 3.7.4 Yards shall be maintained as landscaped open space except where otherwise occupied by buildings and structures, driveways, fences, and/or patios or decks.
- 3.7.5 Within a sight triangle, no shrubs or foliage shall be planted or maintained and no fence, other than a chain link or similar type fence, shall be erected or maintained between a height of 0.6 metres and 3.0 metres above the centreline grade of the intersecting streets.
- 3.7.6 All sidewalks, driveways, parking areas and loading areas on a lot shall be maintained in good condition, so as to afford safe passage for pedestrians under normal use and weather conditions.
- 3.7.7 All fences shall be maintained in good repair, in a safe and structurally sound condition and reasonably plumb unless specifically designed to be other than vertical. Wood fences shall be protected by preservative, paint or other weather resistant material unless constructed from pressure treated lumber.
- 3.7.8 All land shall be kept free of rodents, vermin, termites and other injurious insects and pests.
- 3.7.9 A maximum of one recreational vehicle and one commercial motor vehicle and appurtenances thereto may be parked on a lot in a residential zone as established by the Zoning By-law only if located in a driveway, in a garage or on a parking pad.

## **4.0 ENACTMENT**

### **4.1 Inspections and Notice**

- 4.1.1 The By-law Enforcement Officer, by notice posted on the land or by prepaid first class mail sent to the owners of the land or structure, require the owner within the time specified by the notice to take such actions that may be necessary to bring the land into compliance with the terms, conditions and requirements of this By-law.
- 4.1.2 Every notice given by the By-law Enforcement Officer shall identify the land or structure by means of a municipal address where one exists. Where a municipal address does not exist, the land or structure shall be identified by means of the legal description shown on the last revised assessment roll.
- 4.1.3 Every notice to an owner or occupant shall be sent to the address shown on the last revised assessment roll or to the last known address.
- 4.1.4 The By-law Enforcement Officer may enter onto and/or inspect the use of any land for the purpose of determining whether the land complies with the terms, conditions and

requirements of this By-law. All owners shall permit the By-law Enforcement Officer to inspect the land at all reasonable times.

## **4.2 Default**

**4.2.1** Where the owner is in default of doing the matter or thing required to be done under this By-law, the By-law Enforcement Officer may, upon such notice as the By-law Enforcement Officer deems suitable, take such actions and complete such works as may be necessary to remedy the Owner's default and bring the land into compliance with the terms, conditions and requirements of this By-law.

Where one notice has been sent in a calendar year under Section 4.1.1 to enforce the provisions of Section 3.7.1 of this by-law, the By-law Enforcement Officer may proceed to take action under this Section to remedy continued default with no further notice to the owners within the same calendar year.

**4.2.2** Where any of the matters or things are removed in accordance with Section 4.2.1, the matters or things may be immediately disposed of by the Municipality.

**4.2.3** The Municipality shall recover the expense in doing a matter or thing referred to in Section 4.2 by action, or in like manner as municipal taxes.

**4.2.4** This By-law may be enforced by the By-law Enforcement Officer on his own initiative.

## **4.3 Offence**

**4.3.1** Every person who contravenes any provision of this By-law is guilty of an offence and liable upon conviction to a penalty under the Provincial Offences Act.

**4.3.2** The penalty provisions indicated above shall be set out in accordance with Schedule "G" to this By-law.

**4.3.3** Upon conviction, the court in which the conviction has been entered and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted and such order shall be in addition to any other penalty imposed on the person convicted.

## **4.4 Gender and Number**

All references to the masculine gender shall, where appropriate include references to the feminine gender and all references to the singular shall, where appropriate, include references to the plural.

## **4.5 Severability**

If any section or sections of this By-law or parts thereof be found by any court to be illegal or beyond the power of the Municipality to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent and continue in full force and effect unless and until similarly found and this By-law shall be enacted as such.

**4.6 Conflict With Other By-laws**

Where a provision of this By-law conflicts with the provisions of another by-law in force in the Municipality, the provisions that establish the higher standards to protect the health, safety and welfare of the general public shall prevail.

**4.7 Replacing Previous By-laws**

By-law No. 2013/035 is hereby repealed.

**4.8 Effective Date**

This By-law shall come into force on the date of passing thereof.

READ A **FIRST** TIME ON THIS 18<sup>th</sup> DAY OF MAY, 2016.

READ A **SECOND** TIME ON THIS 18<sup>th</sup> DAY OF MAY, 2016.

READ A **THIRD** TIME AND **FINALLY PASSED** ON THIS 18<sup>th</sup> DAY OF MAY, 2016.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CLERK