

MUNICIPALITY OF WEST ELGIN

BY-LAW NO. 2004-68

CLEANING & CLEARING OF LAND BY-LAW

AS AMENDED BY:

By-law No. 2015-63

September 10, 2015

MUNICIPALITY OF WEST ELGIN

BY-LAW No. 2004-68

CLEANING & CLEARING OF LAND BY-LAW

being a By-law for requiring and regulating, in the Municipality of West Elgin:

- the cleaning and clearing of land;
- the clearing of refuse or debris from lands;
- prohibiting the depositing of refuse or debris on land.

WHEREAS under Section 127 of the Municipal Act S.O., 2001 as amended, a local municipality may:

- i) 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;
- ii) regulate when and how matters required under clause i) shall be done;
- iii) prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land; and
- iv) define "refuse" for the purpose of this section.

AND WHEREAS under Section 130 of the Municipal Act S.O., 2001 as amended, a municipality may regulate matters not specifically provided for by this Act or any other Act for purposes related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS zoning by-laws are in effect in the Municipality of West Elgin applying to lands formerly in the Township of Aldborough, the Village of West Lorne and the Village of Rodney to regulate the use of land and the erection, location and use of buildings and structures;

NOW THEREFORE the Council of the Corporation of the Municipality of West Elgin enacts as follows:

1. Short Title

This By-law may be cited as the *Cleaning and Clearing of Land By-law*.

2. Definitions

2.1 Built-Up Area, shall mean:

- i) the former Village of Rodney and adjacent lands as shown on Schedule "A" to this By-law;
- ii) the former Village of West Lorne and adjacent lands as shown on Schedule "B" to this By-law;
- iii) lands zoned Hamlet Residential (HR), Lakeshore Residential (LR), Rural Residential (RR) in the Municipality of West Elgin Zoning By-law No. 2015-36. (By-law No. 2015-63)

2.2 By-law Enforcement Officer, shall mean the person appointed, by by-law, by the Municipality for the purposes of administering and enforcing the provisions of this By-law.

2.3 Cleared, shall mean the removal of weeds or grass more than 20 centimetres in height and the removal of stockpiles of soil or other earthen material not required for lawn or garden-related purposes or to complete the grading of the lot on which the stockpile is located.

2.4 Domestic Refuse, shall mean any article, thing, matter or effluent belonging to, or associated with a place of residence that appears to be waste material, and includes, but is not limited to:

- i) grass clippings, tree cuttings, brush, leaves and garden refuse;
- ii) paper, cardboard packaging and wrapping;
- iii) kitchen and table waste, of animal or vegetable origin resulting from the preparation or consumption of foods;
- iv) cans, glass, plastic containers, dishes;

- v) new or used material resulting from or for the purpose of construction, alteration, repair or demolition of any building or structure;
 - vi) refrigerators, stoves, dishwashers, freezers or other appliances and furniture;
 - vii) bathroom fixtures and plumbing parts and materials;
 - viii) furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks;
 - ix) derelict or abandoned motor vehicles; motor vehicle parts and accessories;
 - x) tires;
 - x) derelict machinery and equipment;
 - xi) rubble and inert fill;
 - xii) sewage.
- 2.5 **Excavation**, shall mean any man-made opening or depression in the ground, but shall not include a pit licensed under the Aggregate Resources Act, an abandoned pit, a farm or irrigation pond, a fish pond or a water garden.
- 2.6 **Farm or Irrigation Pond**, shall mean a body of water situated 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.
- 2.7 **Fence**, shall mean a wall (other than the wall of a building), gate or other barrier constructed of wood, masonry, metal, vinyl, plastic or other manufactured material, or combination thereof, which is continuous throughout its entire length where required, save and except where access areas and lines of sight are required for safety purposes.
- 2.8 **Industrial Refuse**, shall mean any article, thing, matter or effluent belonging to, or associated with, industry or commerce or concerning or relating to any manufacturing process or concerning or relating to any trade, business, calling or occupation that appears to be waste material and includes, but is not limited to:
- i) pipes, tubes, conduits, cable, fittings or adjuncts thereof;
 - ii) containers or any size, type or composition;
 - iii) rubble and inert fill;
 - iv) derelict or abandoned motor vehicles, motor vehicle parts and accessories
 - v) tires;
 - vi) derelict machinery and equipment
 - v) 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;
 - vi) bones, feathers, furs, hides;
 - vii) paper, cardboard packaging and wrapping;
 - viii) material resulting from, or as part of, construction or demolition;
 - ix) sewage.
- 2.9 **Land**, shall mean grounds, property, yards, or vacant lots or any part of a lot which is not beneath a building.
- 2.10 **Landscaped Open Space**, shall mean the area of a lot which is used for the growth and maintenance of grass, flowers, shrubbery and other landscaping materials, both natural and artificial, and includes any surfaced walk, patio, or similar area, but does not include any access driveway or ramp, parking lot, deck or any space beneath or within any building or structure.
- 2.11 **Motor Vehicle**, shall mean an automobile, motorcycle, motor assisted bicycle and any other vehicle propelled or driven other than by muscular power.
- 2.12 **Motor Vehicle, Derelict or Abandoned**, shall mean a motor vehicle that is in a state of advanced disrepair having missing or damaged parts or deteriorated body conditions which renders it inoperative and may include a motor vehicle that has been evidently abandoned by its owner and left in a place or state of apparent disuse or disinterest by the owner regardless of whether it is either operable or inoperable or licensed or unlicensed for operation.
- 2.13 **Motor Vehicle, Restorable**, shall mean a motor vehicle of such an age, or other unique quality or category, that the owner thereof can demonstrate and has demonstrated a credible intention to restore same to its original or comparable condition and, further thereto, the said motor vehicle is being stored in a manner in keeping with the said intention to restore same.
- 2.14 **Municipality**, shall mean the Corporation of the Municipality of West Elgin.
- 2.15 **Owner**, shall mean the person or legal entity who or which holds legal title to land.
- 2.16 **Rubble**, shall mean broken concrete, bricks, broken asphalt, patio or sidewalk slabs or combination thereof.

- 2.17 **Sewage**, shall mean any waste containing animal, 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.
- 2.18 **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 six (6.0) 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 street lines drawn through the extremities of the interior lot lines.
- 2.19 **Yard**, shall mean the land around and appurtenant to the whole or any part of a building and used or intended to be used, or capable of being used in connection with that building and notwithstanding the foregoing, shall mean land as defined herein.

3. Prohibited Matters

- 3.1 No owner shall, unless otherwise exempted by this By-law, fail to clear land of domestic refuse and or industrial refuse.
- 3.2 No owner shall, unless otherwise exempted by this By-law, fail to enclose an excavation in accordance with Section 4.
- 3.3 No owner shall, unless otherwise exempted by this By-law, fail to drain an accumulation of water exceeding 30 centimetres in depth.
- 3.4 No person shall, unless otherwise exempted by this By-law, deposit domestic waste or industrial waste on land without consent of the owner.

4. Ponds and Excavations

- 4.1 Every owner shall fill in any excavation to adjacent grade with non-contaminated fill unless:
- i) the excavation is enclosed completely by a fence having a minimum height of one and one-half (1.5) metres, and;
 - ii) construction is proceeding for which a valid building permit has been issued.
- 4.2 Every owner shall drain land of accumulations of water that exceed 30 centimetres in depth unless the water:
- i) is completely enclosed by a barrier of at least 1.0 metres in height; or
 - ii) constitutes a storm water management pond approved by the Municipality; or
 - iii) constitutes a natural body of water or results from the periodic flooding of a natural watercourse; or
 - iv) constitutes a farm pond or irrigation pond; or
 - v) constitutes a water garden or fish pond; or
 - vi) constitutes a private drain or a municipal drain; or
 - vii) constitutes a lawfully maintained swimming pool.

5. Drainage

- 5.1 Stormwater runoff from any downspout or any impervious surface shall be directed away from neighbouring lands. Lands shall be graded and maintained to prevent ponding or the entry of water into a basement or cellar.
- 5.2 Ditches, private drains, swales and watercourses shall be maintained to facilitate the unimpeded flow of water and prevent ponding.
- 5.3 No stormwater or roof water shall be discharged onto a sidewalk, walkway, steps, porch or other pedestrian access which may be hazardous or result in a potential safety risk.
- 5.4 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.

6. Waste On Land

- 6.1 Every owner shall keep his land cleaned, cleared and free from domestic refuse and industrial refuse unless:
- i) the land is zoned for the purposes of outdoor storage of domestic refuse and industrial refuse; or
 - ii) the land is owned, licensed and used by the Municipality or the County of Elgin for the purposes of dumping or disposing domestic refuse and/or industrial refuse.
- 6.2 Notwithstanding Section 6.1 to the contrary, lands may be used for the sale and display of household goods, furnishings, apparel and similar articles provided such sale and display is limited to not more than three days in any calendar year with the exception of home made 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.
- 6.3 Leaves, twigs, branches, grass clippings, plants and other biodegradable matter may be composted on land provided such composting is confined to a rear yard, is situated at least one (1.0) metre from a property line and is undertaken a manner which prevents any noxious odour emitting therefrom or is otherwise disposed of in accordance with the standards and regulations of the Municipality.

7. Derelict or Abandoned Motor Vehicles and Similar Items

- 7.1 Lands shall be kept free and clear of derelict or abandoned motor vehicles, railway cars, trailers, boats and street car bodies unless such land:
- i) is licensed as a salvage yard by the Municipality; or
 - ii) 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; or
 - iii) 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.
- 7.2 Lands shall be kept free and clear of disused or in-operative farm equipment and machinery unless such land is zoned Agricultural (A1) or Special Agricultural (A2) in the Township of Aldborough Zoning By-law No. 90-50, as amended, and unless such equipment and machinery is maintained in a neat and tidy fashion and confined to an area not exceeding 100 square metres in an A1 zone and to an area not exceeding 50 square metres in an A2 zone and situated in a rear yard.

8. Built-Up Areas

In addition to all other requirements of this By-law, the following regulations shall apply to built-up areas as defined or as otherwise shown on Schedule "A" and Schedule "B" to this By-law.

- 8.1 Weeds and grass shall not be permitted to grow or stand greater than 20 centimetres in height.
- 8.2 Hedges and trees adjacent to a public sidewalk or road shall be cut and trimmed so as to permit safe and unhindered passage.
- 8.3 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.
- 8.4 Yards shall be maintained as landscaped open space except where otherwise occupied by buildings and structures, driveways, fences, and/or patios or decks.
- 8.5 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.
- 8.6 All sidewalks, driveways, parking areas and loading areas shall be maintained in good condition, so as to afford safe passage under normal use and weather conditions.
- 8.7 All fences shall be maintained 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.

- 8.8 All lands shall be kept free of rodents, vermin, termites and other injurious insects and pests.
- 8.9 A maximum of one (1) restorable motor vehicle may be parked in a driveway in a built-up area.

9. Inspections and Notice

- 9.1 The By-law Enforcement Officer may enter onto land and/or inspect any land for the purpose of determining whether the land complies with the provisions of this By-law.
- 9.2 The By-law Enforcement Officer may, by prepaid first class mail send to an owner, require the owner, within the time specified by the notice, take such actions that may be necessary to bring such lands into compliance with the terms, conditions and requirements of this By-law. Every notice given by the By-law Enforcement Officer shall identify the land and describe the conditions which contravene the provisions of this By-law.
- 9.3 Every notice given by the By-law Enforcement Officer to an owner shall be sent, by registered mail, to the address shown on the last revised assessment roll or to the last known address.
- 9.4 The By-law Enforcement Officer may, upon such further notice as he deems appropriate, undertake such measures or actions as may be necessary to ensure compliance with the By-law at the expense of the owner of the lands affected and where the expenses incurred by the Municipality are not paid within a reasonable period of time, the Municipality may recover same in like manner as taxes in accordance with the provisions of the Municipal Act.

10. Default

- 10.1 Where the owner is in default of doing a 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.
- 10.2 Where any of the matters or things so removed are removed in accordance with Section 10.1, the matters or things may be immediately disposed of by the Municipality.
- 10.3 The Municipality shall recover all expenses incurred in an undertaking any removal referred to in Section 10.1 herein by action in a court of competent jurisdiction or, otherwise in like means as municipal taxes.

11. Offence

- 11.1 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.
- 11.2 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.

12. Gender

- 12.1 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.

13. Severability

- 13.1 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.

14. Effective Date

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

READ A **FIRST** AND **SECOND** TIME ON THIS 23rd DAY OF SEPTEMBER, 2004.

READ A **THIRD** TIME AND **FINALLY PASSED** ON THIS 23rd DAY OF SEPTEMBER, 2004.

"Graham Warwick"

"Norma I. Bryant"

MAYOR

CLERK