

THE CORPORATION OF THE TOWNSHIP OF ADELAIDE METCALFE

BY-LAW NUMBER ____ of 2019

Being a By-law to provide for the filling up, draining, cleaning and clearing of Land, and clearing of Refuse

“Tidy Yard By-law”

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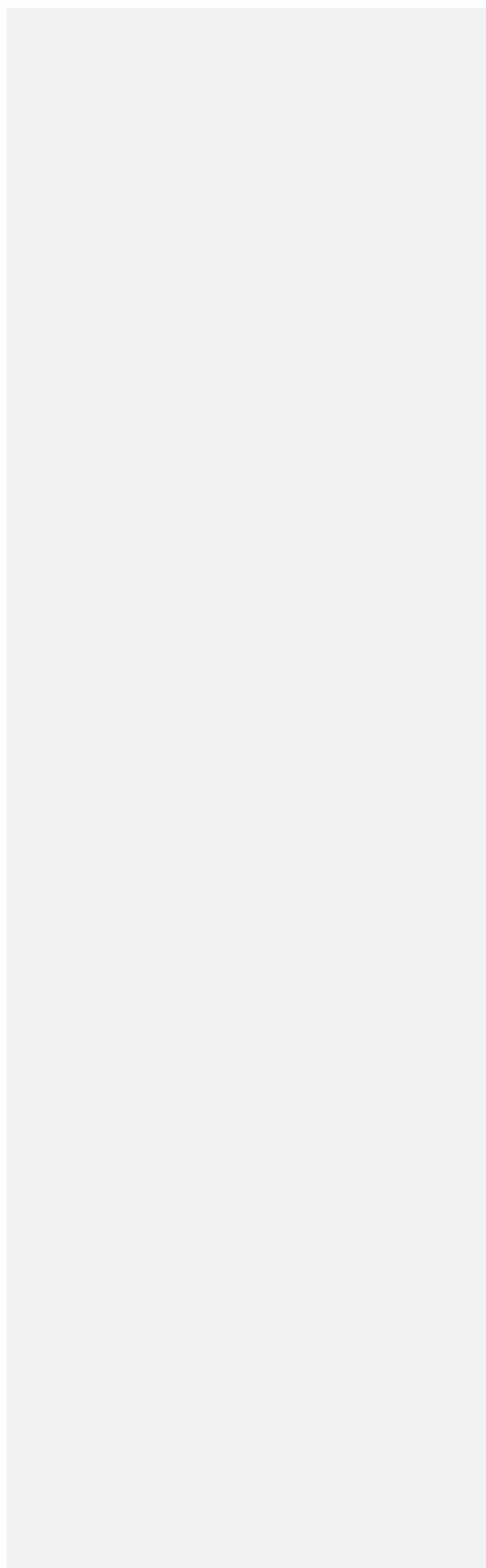
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THE CORPORATION OF THE TOWNSHIP OF ADELAIDE METCALFE**BY-LAW #____ of 2019**

Being a By-law to provide for the filling up, draining, cleaning and clearing of Land, and clearing of Refuse in the Township of Adelaide Metcalfe;

WHEREAS Section 11(2) of the *Municipal Act*, S.O. 2001, c.25, provides that a municipality may pass By-laws respecting matters for purposes related to the health, safety, and well-being of the inhabitants of the municipality; and Section 11(3) of the *Municipal Act*, provides that a municipality may pass By-laws respecting matters within the sphere of jurisdiction of drainage and flood control and Waste management;

AND WHEREAS Section 127 of the *Municipal Act*, S.O. 2001, c.25, 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 127 of the *Municipal Act*, S.O. 2001, c.25, provides that a municipality may regulate when and how matters required under the By-law may be done;

AND WHEREAS Section 127 of the *Municipal Act*, S.O. 2001, c.25, provides that a municipality may prohibit the depositing of Refuse or debris on Land without the consent of the Owner or occupant of the Land;

AND WHEREAS Section 127 of the *Municipal Act*, S.O. 2001, c.25, provides that a municipality may define "Refuse" for the purpose of the By-law;

AND WHEREAS Section 127 of the *Municipal Act*, S.O. 2001, c.25, provides that a municipality may regulate when and how the Owner or occupant of Land cleans and clears the Land or to clear Refuse or debris from the Land;

AND WHEREAS Section 128 of the *Municipal Act*, S.O. 2001, c.25, provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or become or cause public nuisances, and it is the opinion of Council that the failure to clear Refuse and debris from Land is a public nuisance and a contributor to the spread of vermin;

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

AND WHEREAS Section 446(1) of the *Municipal Act*, S.O. 2001, c.25, provides that a municipality has the authority to direct or require a person to do a matter or thing,

the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

AND WHEREAS Section 446(2) of the *Municipal Act*, S.O. 2001, c.25, provides that a municipality may enter upon Land at any reasonable time; ~~for the purpose of doing the matter or thing that the person was directed or required to do and defaulted in doing;~~

AND WHEREAS Section 446(3) of the *Municipal Act*, S.O. 2001, c.25, provides that a municipality may recover the costs/~~expenses~~ of doing a matter or thing ~~under subsection (1) under as provided for in Section 446(1) of the *Municipal Act*, 2001~~ from the person directed or required to do it by action or by adding the costs/~~expenses~~ to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS Section 15 of the *Police Services Act*, R.S.O. 1990, c. P.15, authorizes the municipality to appoint persons to enforce the By-laws of the municipality; and ~~and that such persons are peace officers for the purpose of enforcing municipal By-laws~~

NOW THEREFORE the Municipal Council for the Corporation of the Township of Adelaide Metcalfe enacts as follows:

Part 1 DEFINITIONS

1. Definitions

In this By-law, the following definitions shall apply:

~~“Buffer Strip”~~

~~“Buffer strip” shall mean a Border of a minimum of 0.9 m wide that outlines delineates a Wildflower Meadow or Naturalized Area.~~

Commented [DS2]: Does not appear anywhere else in this by-law

“Building”

~~“Building” shall include for~~ the purposes of Graffiti removal a Building, structure, erection, object, fence, retaining wall, paved or similarly finished surface, vehicle, trailer and Waste container.

“By-law Enforcement Officer”

~~“By-law Enforcement Officer” shall mean~~ a Provincial Offences Officer as that term is defined in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, and such other person appointed by the Township to enforce this By-law.

“Cleared”

“Cleared” shall mean the removal of weeds or grass more than 20 centimeters (or 8 inches in height), the removal of stock piles of soil or other aggregate material not needed to complete the grading of the lot on which the stock pile is located, the draining, the treatment and/or the disposing of water which is a health or safety hazard, or is malodorous or is a breeding place for mosquitoes; such that the Land is in full compliance with this By-laws.

“Composting”

“Composting” shall mean the biological degradation or breakdown of organic material into a dark soil-like material called humus.

“Composting Container”

“Composting Container” shall mean the holding unit used to store Yard, garden and household Waste for the purpose of Composting.

“Costs/Expenses”

“Costs/Expenses” shall mean all Costs and/or expenses (including labour, materials and disbursements) incurred by the Township in enforcing this By-law (including which, includes, for greater certainty, cost recovery the By-law Enforcement Officer's time, preparation and issuance of Notice(s), searching title, site visits, correspondence, title searches, sheriff certificates, and any other action taken to bring the property / Land into compliance with this By-law and the Costs of the service of Servant/Agent retained to assist the Township in doing so).

“Derelict Vehicle”

shall mean a Motor Vehicle as defined in the *Highway Traffic Act*, R.S.O 1990, c. H.8, including, but not limited to, abandoned, inoperative, not in roadworthy condition, and/or in a state of disrepair.

“Domestic Waste”

“Domestic Waste” shall mean any debris, article, thing, matter or effluent belonging to or associated with a residence, household or dwelling unit that appears to the discretion of the By-law Enforcement Officer 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) dead, dying or decaying(s) trees, shrubs, bushes or vegetation;
- (c) paper, cardboard and clothing;
- (d) kitchen and table Waste, of animal or vegetable origin resulting from the preparation or consumption of food except any material of vegetable placed in a Composting Container;
- (e) cans, glass, plastic containers and dishes;

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- (f) new, used or decaying/decayed material resulting from or for the purpose of construction, alteration, repair or demolition of any Building or structure;
 - (g) refrigerators, freezers, stoves or other appliances and furniture;
 - (h) furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks;
 - (i) a Motor Vehicle that appears by reason of its age, appearance, mechanical condition or lack of current validated license plate to be inoperative;
 - (j) inoperative mechanical equipment of any type;
 - (k) automotive and mechanical parts and accessories;
 - (l) Rubble, fencing materials; and
 - (m) Sewage.

“Excavation”

~~“Excavation”~~ shall mean any human-made opening, hole or depression in the ground other than:

- (a) an Excavation conducted pursuant to a pit license issued under the *Aggregate Resources Act*, R.S.O. 1990, c. A.8;
- (b) an abandoned pit;
- (c) an irrigation pond; and
- (d) a fish pond or a water garden.

“Graffiti”

~~“Graffiti”~~ shall mean one or more letters, symbols, figures, etchings, scratches, pictorial representations, messages, inscriptions, stains or other markings that disfigure or deface a Building, howsoever made, including, but not limited to:

- (a) initials;
- (b) slogans;
- (c) emblems; and
- (d) logos or drawings, either written in ink, spray paint, chalk, marker or any other writing implement on private property and visible to the public.

“Industrial and/or Commercial Waste”

~~“Industrial and/or Commercial Waste”~~ shall mean any article, thing or matter belonging to or related with industry or commerce or any trade, business, calling or occupation that appears to the By-law Enforcement Officer to be Waste material and includes but is not limited to the following:

- (a) piping, tubing, conduits, cable fittings or other accessories, or adjuncts to the piping, tubing, conduits or cable;
- (b) containers of any size, type or composition;
- (c) Rubble, inert fill;
- (d) mechanical equipment, mechanical parts, accessories or adjuncts to mechanical equipment;
- (e) articles, things, matter, effluent which are derived from or are constituted from or consist of,
 - (i) agricultural, animal, vegetable, paper, lumber or wood products; or
 - (ii) mineral, metal or chemical products;Whether or not the products are manufactured or otherwise processed;
- (f) bones, feathers, hides;
- (g) dead, dying or decaying trees, shrubs, bushes or vegetation;
- (h) paper or cardboard packaging or wrapping;
- (i) material resulting from, or being part of, construction or demolition projects;
- (j) a Motor Vehicle, Inoperative, Derelict, Abandoned;
- (k) automotive and mechanical parts and accessories; and
- (l) Sewage.

“Land”

~~“Land”~~ shall mean grounds, Yards, vacant lots, **developed lots** or any part of a lot that is not beneath a Building.

“Motor Vehicle”

~~"Motor Vehicle" shall mean~~ an automobile, truck, motor home, motorcycle, and/or any other vehicle propelled or driven other than by muscular power.

~~**"Motor Vehicle, Inoperative, Derelict, Abandoned"**~~

~~"Motor Vehicle Inoperative, Derelict, Abandoned" shall mean a Motor Vehicle which is in state of advanced disrepair having missing or damaged parts or deteriorated body conditions that render it inoperative, and includes a Motor Vehicle that has been evidently abandoned and left in a state of apparent disuse, regardless of whether it is either operable or inoperable or licensed or unlicensed for operation.~~

~~**"Motor Vehicle, Restorable"**~~

~~"Motor Vehicle, Restorable" shall mean a Motor Vehicle of such age or other unique quality or category that the Owner thereof can demonstrate or has demonstrated a credible intention to restore same to its original or comparable condition, and the said Motor Vehicle is being stored in a manner in keeping with the said intention to restore same.~~

~~**"Motor Vehicle, Unlicensed"**~~

~~"Motor Vehicle, Unlicensed" shall mean a Motor Vehicle that is unlicensed in accordance with the Highway Traffic Act, R.S.O. 1990, c. H. 8 and fails to display a current validated sticker.~~

Commented [DS3]: These definitions do not appear anywhere else in this By-law

"Naturalized Area"

~~"Naturalized Area" shall mean~~ a portion of a lot or lawn containing vegetative growth ~~or where a lawn or Perennial Garden~~ which was previously maintained thereon which has been allowed to re-establish a reproducing population of native species through a combination of natural regeneration and deliberate plantings of species or other species to emulate a natural area.

"Owner"

~~"Owner" shall mean the registered legal~~ Owner(s), lessee(s) and/or occupant(s) of the Land, ~~or an individual managing or receiving the rent of the property, which includes a person, firm, corporation or organization.~~

"Perennial Garden"

~~"Perennial Gardens" shall mean a defined~~ area deliberately planted to produce ground cover including wild flowers, shrubs, perennials, ornamental grasses or combinations of them, but does not include a Wildflower Meadow or a Naturalized Area.

"Refuse"

~~"Refuse" shall mean~~ Waste and also includes any article, thing, matter, substance or effluent that has been cast aside, discharged or abandoned or is discarded from its usual and intended use or is used up, in whole or in part, or expended or worn out in whole or in part, and such Waste does not cease to be Refuse by reason that it may be commercially saleable or recyclable.

“Rubble”

~~“Rubble” shall mean any~~ broken concrete, bricks, stones, broken asphalt, patio or sidewalk slabs.

“Servant/Agent”

~~“Servant/Agent” shall mean~~ any service provider who has been contracted or engaged to carry out the works necessary to bring property into compliance with this By-law which may include but not limited to paid duty police officers, security personnel, property estimators, professional engineers, qualified tradespeople, and municipal employees.

“Sewage”

~~“Sewage” shall mean~~ any liquid or pelletized Waste containing human, vegetable, or mineral matter, but does not include roof water or storm run-off.

“Township”

~~“Township” shall mean~~ the Corporation of the Township of Adelaide Metcalfe

“Waste”

~~“Waste” shall mean a material that is unwanted, including, but not limited to:~~

- (a) Domestic Waste;
- (b) Industrial and/or Commercial Waste;
- (c) Animal feces; and
- (d) Broken materials.

“Wildflower Meadow”

~~“Wildflower Meadow” shall mean~~ a habitat within a Naturalized Area that is dominated by native species of flowers and grasses.

~~**“Woodlot”**~~

~~“Woodlot” shall mean the definition meaning given to it pursuant to in The Corporation of the County of Lambton Woodlands Conservation By-law, as amended.~~

Commented [DS4]: Definition does not appear anywhere else in the By-law

“Yard”

~~“Yard” shall mean the Land within the boundary 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 forgoing, includes Lands or vacant properties.

Part 2
SCOPE AND INTERPRETATION

- 2.1 Where the provisions of this By-law conflict with the provision of any other By-law, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail. Where the provisions of this By-law conflict with any Act, the provisions of the provincial standard shall prevail. In the interpretation and application of the provisions of this By-law, unless otherwise stated to the contrary, the provisions shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare.

Part 3
GENERAL PROVISIONS

3.1 Administration

This By-law is ~~governed administered~~ by the Township and any other person, including ~~the~~ Corporation, appointed by the Township to administer this By-law and/or any part thereof.

3.2 Land – ~~Filled Up and Drained – Owner Responsibility~~

Every Owner shall keep his Land free of standing water, clean and Cleared up ~~from conditions that might create a hazard.~~

3.3 Excavations – ~~Filled – Exception – Enclosed by Barrier~~

Every Owner shall fill in any Excavation on the Land to an adjacent grade with non-contaminated fill ~~unless an exemption applies below:~~

- (a) the Excavation is enclosed completely by a fence ~~or barrier~~ having a minimum height of at least 122 centimeters or 48 inches in height; or
- (b) construction is proceeding on the Land where the Excavation is located for which a valid Building permit has been issued by the Township.

3.4 Water Drainage – ~~Exceeding 30 cm – Drained Exception~~

Every Owner shall drain Land of the water accumulations that exceeds 30 centimeters ~~or~~ 12 inches in depth unless the water:

- a) is completely enclosed by a temporary barrier of at least 122 centimeters ~~or~~ 48 inches in height; or
- b) constitutes a storm water management pond approved by the Township; or
- c) constitutes a natural body of water or results from the periodic flooding of a natural water course; or

-
- d) constitutes a water garden or fish pond; or
 - e) constitutes a private drain or a municipal drain or any part thereof; or

3.5 Waste Material –Cleared

Every Owner shall keep his Land clean, ~~Cleared and free of Domestic Waste, grass, weeds, Industrial Waste and/or Refuse of any kind.~~

3.6 Dumping Waste Material –Prohibited–Without Lawful Authority

No Owner shall throw, place, dump or deposit ~~Domestic Waste, Industrial Waste or Refuse~~ on private property or ~~the~~ Township property without ~~the~~ lawful authority.

3.7 Swimming Pool Maintenance –Maintained

Every Owner shall keep or maintain the water in a swimming pool in a condition which is not:

- (a) a health or safety hazard;
- (b) foul-smelling; or
- (c) a breeding place for mosquitoes.

3.8 Land – Removal of Refuse

Every Owner shall remove Refuse from his Land.

3.9 Storm Water Run-Off

Every Owner shall direct storm water run-off generated on his Land away from neighboring Lands. Every Owner shall grade and maintain his Land to prevent ponding or the entry of water onto ~~any~~ adjacent Lands.

3.10 Ditches, Private Drains, Swells and Water Courses

Every Owner shall maintain ditches, private drains, swells and water courses on his Land to facilitate the unimpeded flow of water and to prevent ponding.

3.11 Stormwater – Drainage ~~Storm Water or Roof Water Discharge~~

No Owner shall discharge storm water or roof water on to a sidewalk, walkway, steps, porches or other pedestrian's access to a property that could be hazardous or result in a potential safety risk to any other person. ~~Any stormwater discharge shall be directed away from any neighboring properties.~~

3.12 Weeping Tile, Foundation, Drain, Roof Drain or Land Drain

No Owner shall connect or discharge a weeping tile, foundation, drain, roof drain or Land drain into any sanitary Sewage system or public storm drainage system.

3.13 Graffiti – Removal

Every Owner shall clean and remove the Graffiti off of the exterior of any Building, structures, objects or property located on the Land in accordance with this By-law.

**Part 4
GENERAL PROHIBITIONS****4.1 Clearing - Refuse, Grass, Weeds ~~– Not Cleared – From Land – Prohibited~~**

No Owner shall fail to keep his Land Cleared and free of Refuse, ~~Grass and Weeds~~.

4.2 Excavation ~~– Failure to Enclose – Prohibited~~

No Owner shall fail to enclose an Excavation with a temporary barrier at least 122 centimeters or 48 inches in height.

4.3 Water – Drainage 30 cm Deep ~~– Failure to Drain – Prohibited~~

No Owner shall fail to drain a ~~build-up accumulation~~ of water exceeding 30 centimeters or 12 inches in depth.

4.4 Private Property Deposits ~~– Refuse – Deposit On~~

No Owner shall deposit Refuse on his private property without ~~the~~ lawful authority.

4.5 Township Property Deposits ~~– Refuse – Deposit On~~

No Owner shall deposit Refuse on public property without ~~the~~ lawful authority.

4.6 Water in Swimming Pool

No Owner shall fail to keep or maintain the water in a swimming pool located on his Land in accordance with the provisions of this By-law.

4.7 Land Use ~~Prohibitions – Prohibited~~

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 and approved for the purposes of a salvage Yard~~, or by the Township for such purpose.

4.8 Land - Permitted Uses

Notwithstanding Section 4.7 above, Lands may be used for the sale or display of household goods, furnishings, apparel and similar articles provided such sale and display is limited to not more than four (4) days in any calendar year.

4.9 Waste – Collection

~~Refuse~~ Waste shall be placed for collection in accordance with the standards and regulations of the Township's By-laws. This section shall not apply in the following circumstances: ~~where:~~

-
- (a) the Lands are lawfully used for outdoor storage of material in compliance with the applicable zoning and licensing By-laws of the Township; or
 - (b) Lands are designated by or operated by the Township or the County of Middlesex for the purposes of dumping or disposing of Refuse.

4.10 No Obstruction of By-law Enforcement Officer

No Owner shall hinder or obstruct, or attempt to hinder or obstruct, a By-law Enforcement Officer in the administration or enforcement of this By-law.

4.11 Yards – Motor Vehicles

Yards shall be kept free and clear of Motor Vehicle, inoperative, Derelict, abandoned and all other dismantled, discarded, wrecked or abandoned vehicles, farm machinery and equipment, railway cars, trailers, boats and street-car bodies and kept free of Refuse and of parts of Motor Vehicles whether inoperative or not unless the Lands upon which the Yard is situated:

- (a) are licensed as a salvage Yard in accordance with the Township's By-laws; or
- (b) constitute a Waste disposal site for which an environmental certificate of compliance has been granted pursuant to the *Environmental Protection Act*, R.S.O. 1990, c. E.19, as amended; or
- (c) is enclosed in a Building; or
- (d) constitutes a permitted use and is in conformity with the Township's zoning By-laws or otherwise constitutes a legal non-conforming use under the *Planning Act*, R.S.O. 1990, c. P.13.

4.12 Permitted Use

Notwithstanding Section 4.7, the use of sea containers, railway cars, street cars, buses, trucks, trailers, vans and similar Motor Vehicles or parts thereof are permitted provided they satisfy the provisions of the Township's zoning By-laws for accessory Buildings.

~~4.13 Graffiti – Removal~~

~~No Owner shall fail to remove Graffiti from Buildings, structures, erections or objects on his Land in accordance with this By-law.~~

Commented [D55]: Previously addressed in paragraph: 3.13 above

Part 5 EXEMPTIONS

5.1 Perennial Gardens – Exemption

This By-law does not apply to Perennial Gardens provided that the Perennial Gardens are managed in accordance with the *Weed Control Act*, R.S.O 1990, c. W. 5, and provided that there is no Waste deposited in the Perennial Gardens.

5.2 Wildflower Meadow – Exemption

This By-law does not apply to a Wildflower Meadow or Naturalized Area provided that those areas are managed in accordance with the *Weed Control Act*, R.S.O 1990, c. W. 5 and provided that there is no Waste in the Wildflower Meadow.

5.3 Collection of Waste – Exemption

This By-law does not apply to the placement or collection of Waste left at the curb in accordance with the Township's Waste Collection By-law(s).

**Part 6
INSPECTIONS AND NOTICES****6.1 By-law Enforcement Officer**

The By-law Enforcement Officer shall, by notice of violation (**Schedule 'A'**) posted on the Land or by pre-paid first class mail sent to the Owners of the Land or structure, require the Owner within the time period specified in the notice of violation to take such action as may be necessary to bring the Land or structure in compliance with the terms, conditions and requirements of this By-law.

6.2 Notice

Every notice given by the By-law Enforcement Officer shall identify the Land or structure, **and provide reasonable particulars with respect to the contravention of the By-law.**

6.3 Address

Every notice to an Owner or occupant shall be sent to the address shown on the last revised assessment role or to the last known address.

6.4 Deadline

An Order to an Owner shall also define the deadline, being the date and time, for the Owner to comply with this By-law, which deadline shall not be less than five (5) days excluding Saturday, Sunday and public statutory holidays in the Province of Ontario.

6.5 Cost/Expense Notification

An Order to an Owner may advise that unless the Owner brings the Land into compliance with this By-law within the deadline stated in the Order, the Owner shall be liable for the Costs **and** Expenses incurred by the Township to bring the Land into compliance **with this By-law.**

~~6.6 Appeal~~

~~An Order shall advise the Owner of the Owner's option to appeal the Order and any requirements contained therein together with the person and/or position at the Township with whom such appeal shall be filed and the applicable deadline for filing such appeal.~~

6.7 Service

An Order is deemed served upon the Owner as follows:

- (a) three (3) days after the Order is posted on the Lands or sent by registered mail; and
- (b) on the day the Order is served personally onto the Owner.

6.8 Inspection

The By-law Enforcement Officer, with or without a Servant/Agent, may enter onto or inspect the use of any Land for the purpose of determining whether the Land complies with the terms, conditions and requirement of this By-law.

6.9 Deface or Remove Notice

No Owner shall remove or deface a notice of violation which has been posted on the Land pursuant to this By-law.

**Part 7
ENFORCEMENT and OFFENCE**

7.1 ~~Offence—Penalty for Contravention~~

Any person who contravenes any of the provisions of this By-law, ~~or who obstructs or attempts to obstruct an Officer in carrying out its duties under this By-law~~ is guilty of an offence and on conviction is liable to a fine and such other penalty as provided for in the *Provincial Offences Act, R.S.O., 1990, c. P.33*. Each day that such an offence is committed, or permitted to continue, shall constitute a separate offence and may be punishable as such.

7.2 ~~Continuation—Repetition— Court Order Prohibiting Offence – By Order~~

The court in which a conviction has been entered and any court of competent jurisdiction thereafter may make an ~~Order~~ prohibiting the continuation or repetition of the offence.

7.3 ~~By-law Enforcement Officer – Entry to Inspect~~

~~This By-law shall be enforced by a Municipal By-law Enforcement Officer, and the Officer with or without a Servant/Agent, may enter upon any Land at any reasonable time to inspect and enforce compliance with this By-law. Pursuant to Section 426(1) of the Municipal Act, no person shall hinder, interfere with, or otherwise obstruct, either directly or indirectly, an officer in the lawful exercise or duty under this By-law.~~

7.4 ~~Default in Compliance –Not Remedied – Costs and Expenses and Removal~~

- (a) Where an Owner has been by Order required to take such steps and actions to comply with the provisions of the By-law and has not done so, the Township may, in default of it being done by the Owner as directed, cause it to be done at the Owner's Costs/expenses.

(b) Where an Owner has defaulted in complying with the provisions of this By-law, the Township may recover all Costs **and** Expenses incurred in bringing the Lands into compliance from the Owner by action or by adding the Cost **and** Expenses to the Land's tax roll and collecting them in the same manner as property taxes.

(d) Where any items are removed from the Land, the items shall be immediately disposed of by the By-law Enforcement Officer and/or its Servant/Agent. The Township shall have no liability whatsoever to any person for any reason for any items **se** disposed.

(e) Pursuant to Section 448 of the *Municipal Act*, no proceeding for damages or otherwise shall be commenced against a member of council or an officer, employee or agent of a municipality or a person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this Act or a by-law passed under it or for any alleged neglect or default in the performance in good faith of the duty or authority.

Part 8 VEXATIOUS, FRIVOLOUS, OR UNREASONABLY PERSISTENT REQUESTS OR COMPLAINTS

8.1

The Township is committed to providing exemplary service to all members of the public, and ~~The Township~~ aims to address service requests and complaints equitably, comprehensively, and in a timely manner.

The purpose is to address vexatious, frivolous, or unreasonably persistent requests or complaints that consume a disproportionate amount of **the** Township time and resources ~~which and~~ impede staff from attending to other essential issues. This establishes the process to be used by all staff when handling such requests or complaints. Actions taken will ensure that municipal resources are used effectively and efficiently, while maintaining a high level of service excellence and responsiveness.

This will guide staff to identify situations that meet the criteria of vexatious, frivolous or unreasonably persistent, and the associated actions that may be taken in such circumstances. The aim is to contribute to the Township's commitment to service excellence and good governance by addressing all requests and complaints equitably and efficiently, while acknowledging that there may be a need to protect staff **from** unreasonable behaviors. For immediate threats to person or property, 9-1-1 should be contacted. Examples of what might be considered vexatious, frivolous or unreasonable persistent requests or complaints are provided below. The list is not exhaustive, nor does a singular action set out below necessitate the application of this guideline.

-
- Complaints concerning an issue which staff have already investigated and determined to be groundless.
 - Complaints concerning an issue which is substantially similar to an issue which staff have already investigated and determined to be groundless (**for example**, with respect to the same neighbor or same property)
 - Unreasonable conduct which is abusive of the complaints process, including, but not limited to:
 - harassing, verbally abusing or otherwise seeking to intimidate staff dealing with a complaint;
 - excessive or multiple lines of enquiry regarding the same issue (**for example**, pursuing a complaint with staff in multiple Township departments and/or an elected official simultaneously) while a complaint is in the process of being investigated;
 - repeated challenging the findings of a complaint investigation, **unreasonably communicating complaining** about the outcome and/or denying that an adequate response has been given;
 - refusing to accept that an issue falls outside the scope of the Township's jurisdiction;
 - making unreasonable demands on staff by, for example, insisting on responses to complaints and enquiries within an unreasonable time-frame;
 - making statements or providing representations that the subject person knows or ought to know are correct, or persuading others to do so;
 - demanding special treatment from staff by, for example, not following the normal chain of command and immediately demanding to speak to a manager or supervisor;
 - using new complaints to resurrect issues which were investigated and completed in previous complaints;
 - changing the basis of the complaint as the investigation progresses and/or denying statements made at an earlier stage;
 - refusing to co-operate with the investigation process while still wanting the complaint to be resolved;
 - failing to clearly identify the precise issues of the complaint, despite reasonable efforts of staff to obtain clarification of the concerns; or
 - providing false or misleading information

8.2 Identifying the Problem

Staff must establish, through documented words and/or actions of the subject person (**for example**, emails, letters, posts on social media, photographs, voicemails, and staff notes reporting a conversation or incident), that the complaint or request is frivolous, vexatious or unreasonably persistent, before applying the processes and restrictions outlined **above**. Each case will be considered on an individual **and case-by-case** basis. The decision to classify the subject person's behaviour as unreasonable or to classify the request as vexatious or frivolous will be made by the Department Head or designate of the relevant service area in consultation with CAO/Treasurer.

8.3 Notification to the Subject Person

When the decision, in consultation with CAO/Treasurer, has been made to classify the subject person's request or complaint as vexatious, frivolous, or unreasonably persistent, the subject person (where possible and appropriate) will receive written notification **confirming the following: ~~that:~~**

- detail what action staff have taken and why;
- explain what it means for the subject person's contact with the Township; and
- advise how long the restriction will last and when the decision will be reviewed.

When any restriction ~~is a~~ put in place, a review date will be set. This will be based on the circumstances of the case and could be for a period of three (3) months or longer depending on the severity of the situation. The status of the subject person will be reviewed by the relevant Department Head on or before the review date. The subject person will be informed of the outcome of the review.

The Department Head, in consultation with CAO/Treasurer, may extend the restrictions beyond the review date where appropriate. The subject person shall be notified of the extension and be given another date for review.

Part 9 APPEAL

9.1 If the recipient of an Order disagrees with all or any part of its content, the recipient may, within two (2) days after the date the recipient is deemed pursuant to section 5.7 above to have received the Order, excluding Saturday, Sunday and public statutory holidays in the Province of Ontario, file a written appeal to the By-law Enforcement Officer. The recipient shall not be entitled to any hearing on his or her appeal. The enforcement of the Order shall be stayed until such date as the appeal is addressed and a decision on the Order is rendered pursuant to section 9.2.

9.2 The By-law Enforcement Office shall review the recipient's written appeal, and seek advice from the CAO/Treasurer and/or Council, and has the authority to modify, rescind or confirm all or any part of the content of the Order under appeal, and the By-law Enforcement Officer's decision shall be final and not subject to any further appeal. The recipient shall comply with the By-law Enforcement Officer's decision, if applicable, within the deadline stated in the decision to bring the Land into compliance with this By-law, if applicable, failing which the Owner shall be in violation of this By-law.

Part 10 GENDER

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.

**Part 11
TITLE**

The short title of this By-law is the *Tidy Yard* By-law.

**Part 12
MUNICIPALITY NOT LIABLE**

The municipality shall assume no liability with respect to property damage and/or personal injury resulting from action and/or enforcement undertaken with respect to any person that is subject of this By-law.

**Part 13
SEVERIBILITY**

If any section or sections of this By-law or parts thereof are found by any court to be illegal or beyond the power of the Township 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 therefrom and continue in full force and effect unless and until similarly found and this By-law shall be enacted as such.

**Part 14
COMMENCEMENT**

This By-law shall come into full force and effect upon passing hereof.

**Part 15
REPEAL**

By-law No. 35 of 2015 is hereby repealed.

This By-law read a first, second and third time and finally passed this _____ day of _____, 2019.

Kurtis Smith, Mayor

Jennifer Turk, Clerk



The Corporation of the Township of Adelaide Metcalfe
By-law No. ____ of 2019

Schedule 'A'

NOTICE OF VIOLATION

First Notice Second Notice Final Notice

TOWNSHIP OF ADELAIDE METCALFE
TIDY YARD BY-LAW ____ of 2019

Issued to: _____

Issued by: _____

Date: _____

Affected Property: _____

Be advised that on _____ (Date of inspection) an inspection of your property, as noted above, revealed certain violations of the Township's Tidy Yard By-law No. ____ of 2019. Schedule 'A', attached, sets out the work required to remedy such violation and to bring the property into compliance with the By-law.

Be advised that if remedial work is not completed to bring your property into compliance within _____ days, or an alternative time period to be determined in consultation with the By-law Enforcement Officer, you will be issued a fine under the *Provincial Offences Act*, R. S. O. 1990, C.P. 33, which you may contest in provincial court. If found guilty, and the remedial work if not completed within a period of time to be determined in consultation with the By-law Enforcement Officer, the Township may complete the required works and any Costs associated with the works shall be billed to you in a like manner as taxes.

An additional inspection of this property will take place on or about _____ (Date) to ascertain compliance.

Should you wish to discuss any of the above matters, please contact the undersigned at 519-247-3687, Monday to Friday, 9am to 4 pm, excluding holidays.

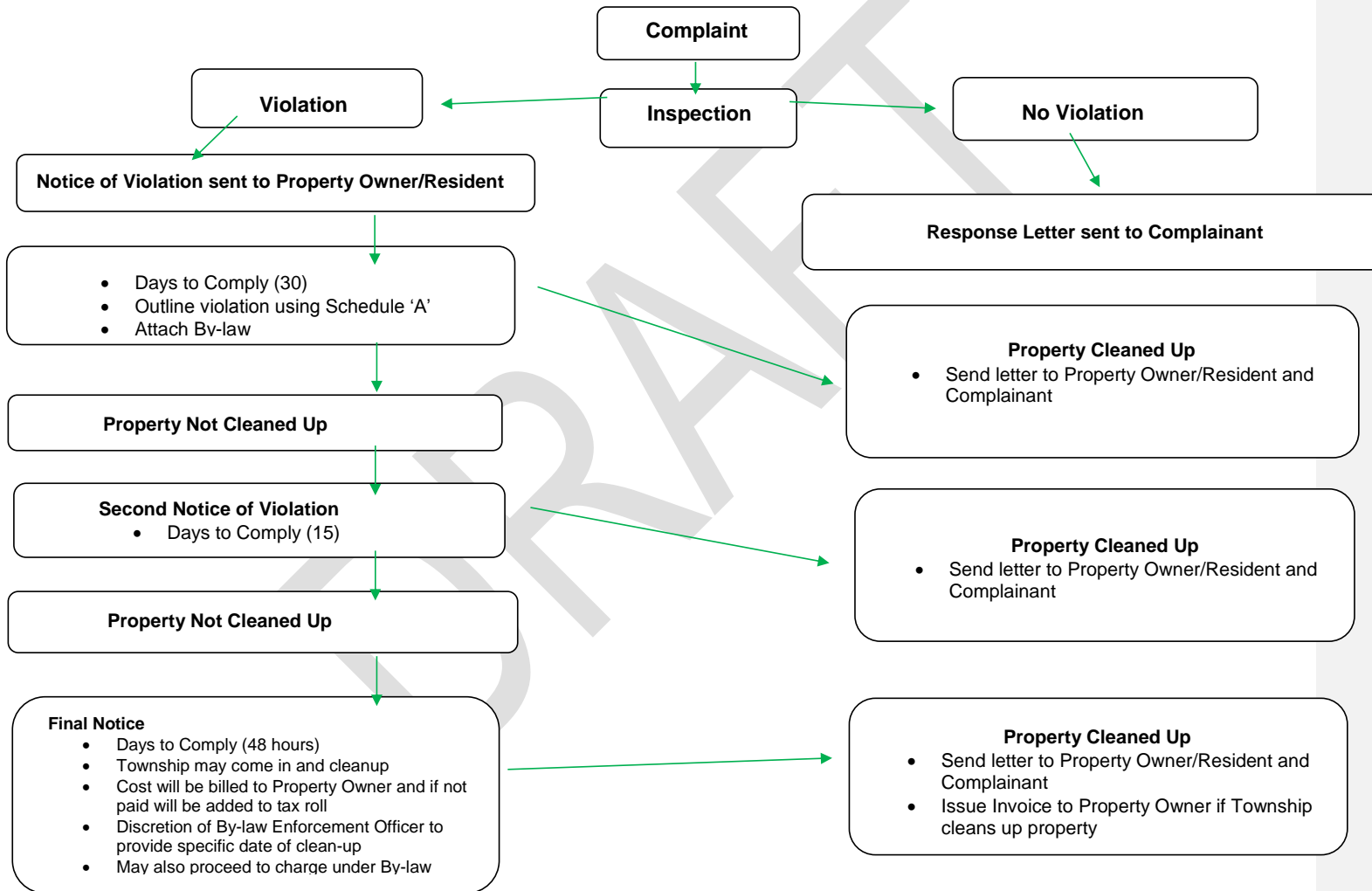
By-law Enforcement Officer

**Township of Adelaide Metcalfe
Schedule 'A': Details of Violation**

Defining Offence of By-law No. ___ of 2019	Description of Offence	Remedial Work Required

DRAFT

The Corporation of the Township of Adelaide Metcalfe
Schedule 'B'





SCHEDULE 'C'
By-law ____ of 2019
Tidy Yard By-law - Complaint Form

This form is intended to confidentially collect complaint information,
assess concerns and help determine possible resolutions.

Complainant

Your Name:* _____

Your Mailing Address:* _____

Your Telephone No.:* _____

Your e-mail:* _____

Subject Property

Subject Property Address:* _____

Owner's Name:* _____

Owner's Mailing Address:* _____

Owner's Telephone No.:* _____

Owner's e-mail:* _____

Complaint Details:* _____

if you need more space, check here and use the reverse side of this sheet.

Collection of Information
Personal information on this form is collected under the legal authority of the Municipal Act, S.O. 2001, c.25, as amended and is intended to gather confidential complaint details. Collection of information is pursuant to Section 27 of the Municipal Freedom of Information and Protection of Privacy Act. For questions about how this information is collected, please contact the Township of Adelaide Metcalfe Clerk's Department.

SCHEDULE 'D' to By-law ____ of 2019**Provincial Offences Act
Part 1
The Corporation of the Township of Adelaide Metcalfe**

By-law No. ____ of 2019

Tidy Yard By-law

ITEM	COLUMN 1 Short Form Wording	Column 2 Provision creating or defining offence	Column 3 Set Fine
1	Fail to direct storm water run-off away from neighbouring Lands	S. 3.9	\$250.00
2	Fail to maintain ditches, private drains, swells and water courses on his Land to facilitate the unimpeded flow of water and to prevent ponding	S. 3.10	\$250.00
3	Discharge storm water or roof water on to a sidewalk, walkway, steps, porches or other pedestrian's access	S. 3.11	\$250.00
4	Connect or discharge a weeping tile, foundation, drain, roof drain or Land drain into any sanitary Sewage system or public storm drainage system	S. 3.12	\$250.00
5	Fail to clear Land of Refuse	S. 4.1	\$300.00
6	Fail to enclose an Excavation	S. 4.2	\$300.00
7	Fail to drain accumulated water exceeding 30 centimeters in depth	S. 4.3	\$300.00
8	Deposit Refuse without consent of Owner	S. 4.4	\$300.00
9	Deposit Refuse without consent of the Township	S. 4.5	\$300.00
10	Fail to maintain water in a swimming pool located on his Land	S. 4.6	\$300.00
11	Fail to use Land to specified zoning & approved by Township	S. 4.7	\$300.00
12	Frivolous, Vexatious, or Unreasonably Persistent Requests or Complaints	S. 8.1	\$250.00

Note: The general penalty provision for the offences listed above is section 6 of By-law No. ____ of 2019, a certified copy of which has been filed.