

**MUNICIPALITY OF MIDDLESEX CENTRE**

**BY-LAW NUMBER 2012-027**

**BEING A PROPERTY STANDARDS BY-LAW RESPECTING THE FILLING,  
DRAINING, CLEANING AND CLEARING OF LAND**

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WHEREAS the Official Plan for the Municipality of Middlesex Centre includes provisions relating to the establishment of minimum standards for the maintenance and occupancy of property and associated buildings;

AND WHEREAS Section 127 of the *Municipal Act, 2001* 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, 2001* 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, 2001* 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, 2001* provides that a municipality may define "refuse" for the purpose of the by-law;

AND WHEREAS Section 128 of the *Municipal Act, 2001* provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances, and it is the opinion of Council that the failure to clear refuse and debris from land is a public nuisance, including the spread of vermin;

AND WHEREAS Section 11 of the *Municipal Act, 2001* 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 11 of the *Municipal Act, 2001* provides that a municipality may regulate matters for purposes related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS Section 446 of the *Municipal Act, 2001* provides that a municipality may direct that in default of clearing the land of refuse by the person directed or required to do it, the cleaning and clearing of land shall be done at the person's expense;

AND WHEREAS Section 446 of the *Municipal Act, 2001* provides that a municipality may enter upon land and into structures at any reasonable time for the purpose of cleaning and clearing the land of refuse, and Section 428 provides that the power to enter shall be exercised by an employee or agent of the municipality who may be accompanied by any person under his or her direction;

AND WHEREAS Section 446 of the *Municipal Act, 2001* provides that a municipality may recover the costs of clearing the land from the person directed or required to do it and the municipality may recover the costs by action or by adding the costs to the tax roll and collecting them in the same manner as taxes;

AND WHEREAS Section 391 of the *Municipal Act, 2001* provides that a municipality may impose fees or charges on any class of persons for services or activities provided or done by or on behalf of it, and which by-law may provide for interest charges and other penalties, including the payment of collection costs, for fees and charges that are due and unpaid;

NOW THEREFORE the Council of the Municipality of Middlesex Centre hereby enacts as follows:

1. **SHORT TITLE**

This By-law may be cited as the "Property Standards - Clearing of Land By-law".

2. **DEFINITIONS**

In this By-law:

- 2.1 "Cleared" means the removal of weeds or grass more than 15 centimetres (6 inches) in height and the removal of stock piles of soil or other aggregate material not required to complete the grading of the lot on which the stock pile is located, and includes the draining, the treatment and/or the disposing of water on any property where there is a swimming pool which is a health or safety hazard, or is malodorous or is a breeding place for mosquitoes.
- 2.2 "Domestic waste" means 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) all kitchen and table waste, of animal or vegetable origin resulting from the preparation or consumption of food except any acceptable material placed in a composting container;
  - (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, freezers, stoves or other appliances and furniture;
  - (g) furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks;
  - (h) unlicensed motor vehicle, inoperative motor vehicle, vehicle parts and accessories, vehicle tires mounted on rims or unmounted, mechanical equipment;
  - (i) rubble, inert fill, fencing materials; and
  - (j) other miscellaneous scrap metal items.
- 2.3 "Industrial waste" means any article, thing, matter or effluent belonging to or associated with industry, including agriculture or commerce or concerning or relating to manufacturing 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 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) paper or cardboard packaging or wrapping;
  - (h) material resulting from, or as part of, construction or demolition projects;
  - (i) unlicensed motor vehicle, inoperative motor vehicle, vehicle parts and accessories, vehicle tires mounted or not mounted on rims, mechanical equipment;
  - (j) other miscellaneous scrap metal items.
- 2.4 "Inoperative motor vehicle" means a licensed or unlicensed vehicle, having missing, damaged, deteriorated or removed parts including, but not limited to: wheels, motor, transmission, doors, glass or other parts or mechanical equipment necessary for its safe operation.

- 2.5 "Land" means yards, vacant lots or any part of a lot which is not beneath a building.
- 2.6 "Motor vehicles" means an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power.
- 2.7 "Municipality" means the Municipality of Middlesex Centre.
- 2.8 "Officer" means a By-law Enforcement Officer, Building Inspector or Chief Building Official as appointed by the Council of the Municipality.
- 2.9 "Owner" means the holder(s) of legal title to a property.
- 2.10 "Refuse" means 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 shall include domestic waste and industrial waste; and that domestic waste and/or industrial waste does not cease to be refuse by reason that it may be commercially saleable or recyclable.
- 2.11 "Rubble" includes but is not limited to broken concrete, bricks, broken asphalt, patio or sidewalk slabs.
- 2.12 "Store" when used in reference to the keeping of storage containers, boats or any vehicles shall mean keep, store or park.
- 2.13 "Storage containers" means any waste containers, shipping containers, rail containers, transport containers or any part of a cube van used for storage on a property.
- 2.14 "Unlicensed" means the lack of a currently validated permit for the motor vehicle within the meaning of the *Highway Traffic Act*, displayed on the motor vehicle.
- 2.15 "Zoning By-law" means the Municipality of Middlesex Centre Comprehensive Zoning By-law currently in effect.

### 3. GENERAL PROVISIONS

- 3.1 The provisions of this by-law are to be enforced by an Officer.
- 3.2 All land shall be kept filled and drained of standing water.
- 3.3 Every owner shall fill any excavation on the land unless it is enclosed by a temporary barrier at least 122 centimetres (48 inches) in height.
- 3.4 Every owner shall keep his or her land clean, cleared and free of refuse.
- 3.5 No person shall throw, place, dump or deposit refuse on private property or property owned by the Municipality without lawful authority.
- 3.6 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.
- 3.7 Every owner shall remove refuse from his or her land.
- 3.8 The collection, handling, storage and disposal of refuse shall comply with the following:
  - (a) it shall facilitate collection and disposal as required by the Municipality or private collecting agency, as applicable;
  - (b) refuse storage facilities shall be maintained in a clean, sanitary and odour controlled condition;
  - (c) it shall not obstruct an emergency route, recreation facility, parking area, driveway or walkway;
  - (d) it be kept at all times in a litter free condition and in a manner that will not attract pests or create a health or safety hazard due to the nature of the storage or through deterioration, wind or misuse of the storage facility;

- (e) except when associated with single and semi-detached residential buildings, be screened if less than 60 m (196 ft) from a public highway, street, walkway, park or residential property so as not to be visible from such locations; and
  - (f) the required screening in (e) above shall:
    - (i) extend from grade to a height of 0.3 m (1 ft) above the height of the storage container(s); and
    - (ii) consist of a continuous opaque visual barrier when viewed at 90 degrees to the surface.
- 3.9 No owner or person shall store storage containers upon a property except as provided in section 3.10 and 3.11 of this by-law.
- 3.10 Storage containers may be stored on a property for no more than thirty days prior to or following a sale of a property, and/or for sixty days in support of a construction project.
- Storage containers may also be stored on a parcel of land zoned Agricultural according to the Zoning By-law and containing an Agricultural Use as defined by the Zoning By-law.
- 3.11. Notwithstanding the requirements of this by-law, temporary storage resulting solely from the construction, demolition or alteration of a building or part thereof may be placed on the property within a storage container provided:
- (a) it is removed frequently and in its entirety from the property;
  - (b) it will not cause risk to the health or safety of any person;
  - (c) it will be maintained in such a manner as to not become malodorous or attract rodents or vermin; and
  - (d) it will be removed forthwith, following completion of the project.
- 3.12 Household/Garage/Yard Sales shall not exceed three consecutive days in duration and may not occur upon the same property more frequently than three times cumulative per calendar year.
- 3.13 No person shall store a boat, recreational motor vehicle or motor vehicle within any agricultural or residential zone (within the Municipality's Zoning By-law) in a front or side yard except within a driveway.
- 3.14 No person shall store a commercial motor vehicle, including a bus or tractor trailer within any residential zone (within the Municipality's Zoning By-law) where such motor vehicle exceeds a gross weight of two tonnes.
- 3.15 Yards shall be kept free of material or conditions which would attract rodents and injurious insects.

#### 4. GENERAL PROHIBITIONS

- 4.1 No person shall fail to remove refuse from land.
- 4.2 No person shall fail to keep land cleared.
- 4.3 No person shall fail to enclose an excavation with a temporary barrier at least 122 centimetres (48 inches) in height.
- 4.4 No person shall fail to drain their land of standing water.
- 4.5 No person shall fail to keep or maintain the water in a swimming pool in accordance with the provisions of this by-law.
- 4.6 No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer in the enforcement of the provisions of this by-law.
- 4.7 No person shall contravene a Work Order or an Order to Discontinue Activity.

## 5. EXEMPTIONS

- 5.1 Section 3.6 of this by-law does not apply to natural bodies of water.
- 5.2 Sections 3.9, 3.10 and 3.11 of this by-law shall not apply to land which is lawfully used for outdoor storage of materials in compliance with the Zoning By-law.
- 5.3 Section 3.5 of this by-law shall not apply to land or structures designated by or operated by the Municipality for the purpose of dumping or disposing of refuse.
- 5.4 No provision of this by-law shall regulate the filling, draining, cleaning or clearing of land within any agricultural zone (within the Municipality's Zoning By-law) if the provision would conflict with a normal farm practice.
- 5.5 Notwithstanding any other provision of this by-law, stockpiling of top soil by a subdivider may be permitted within unassumed subdivisions by the subdivider in suitable areas. The topsoil must be derived from the unassumed subdivision in which it is being temporarily stored.

## 6. ENFORCEMENT

- 6.1 Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act* and as set out in Schedule "A", Set Fines.
- 6.2 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 by the person convicted.
- 6.3 Where anything required or directed to be done in accordance with this by-law is not done, an Officer may upon such notice as he/she deems suitable, do such thing at the expense of the person required to do it, and in so doing may charge an administration fee as outlined within the Municipality's current Fee By-law as a Property Standards By-law, Continued Non-compliance Inspection Fee. Both the expense and fee may be recovered by action or by adding the costs to the tax roll and collecting them in the same manner as municipal taxes.
- 6.4 Where the Municipality proceeds pursuant to section 6.3 of this by-law an Officer or any person under his or her direction, may enter onto the land and with the appropriate equipment as required, bring the property into compliance with this by-law.
- 6.5 An Officer may at all reasonable times, enter onto land for the purposes of inspection of the land.
- 6.6 Where any of the matters or things are removed in accordance with section 6.3 of this by-law, the matters or things may be immediately disposed of by the Officer or his or her designate.
- 6.7 If an Officer is satisfied that this by-law has been contravened, the Officer may make an order, known as an Order to Discontinue Activity, requiring the person who contravened the by-law, or who caused or permitted the contravention, or the owner of the land on which the contravention occurred, to discontinue the contravention.
- 6.8 An Order to Discontinue Activity shall set out:
  - (a) the municipal address or legal description of the property on which the contravention occurred;
  - (b) the date of the contravention;
  - (c) the reasonable particulars of the contravention of the by-law;
  - (d) the date by which there must be compliance with the order; and
  - (e) the date on which the order may expire.
- 6.9 The Order to Discontinue Activity may be served personally on the owner or person to whom it is directed or by regular mail to the last known address of that owner or person, in which case it shall be

deemed to have been given on the third day after it is mailed. Service on a corporation can be effected by registered mail to the corporate mailing address.

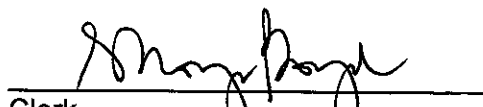
- 6.10 If the municipality is unable to effect service on the owner under section 6.9, it shall place a placard containing the terms of the Order to Discontinue Activity in a conspicuous place on the land and may enter on the land for this purpose. The placing of the placard shall be deemed to be sufficient service of the Order to Discontinue Activity.
- 6.11 If an Officer is satisfied that a contravention of the by-law has occurred, the Officer may make an order, known as a Work Order, requiring the owner or person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do the work to correct the contravention.
- 6.12 Work Order shall set out:
- (a) the municipal address or the legal description of the land;
  - (b) reasonable particulars of the contravention and of the work to be done;
  - (c) a deadline, being a specific date, for compliance with the Work Order; and
  - (d) a notice that if the work is not done in compliance with the Work Order by the deadline, the Municipality may have the work done at the expense of the owner and the cost of the work may be recovered by adding the amount to the owner's tax roll.
- 6.13 The Work Order may be served personally on the owner or person to whom it is directed or by regular mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed. Service on a corporation can be effected by registered mail to the corporate mailing address.
- 6.14 If the Municipality is unable to effect service on the owner under section 6.13, it shall place a placard containing the terms of the Work Order in a conspicuous place on the land and may enter on the land for this purpose. The placing of the placard shall be deemed to be sufficient service of the Work Order.

**7. EFFECTIVE DATE**

This by-law shall come into force and take effect on the day of the final passing thereof.

READ a FIRST, SECOND AND THIRD TIME and FINALLY PASSED on this 21<sup>st</sup> day of March, 2012.

  
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Mayor

  
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Clerk

**MUNICIPALITY OF MIDDLESEX CENTRE**

**BY-LAW NUMBER 2012-027**

**PROPERTY STANDARDS - CLEARING OF LAND BY-LAW**

**SCHEDULE "A"**

**PART I PROVINCIAL OFFENCES ACT**

**SET FINES**

<b>ITEM</b>	<b>COLUMN 1 Short Form Wording</b>	<b>COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE</b>	<b>COLUMN 3 SET FINE</b>
1.	Fail to remove refuse from land	Section 4.1	\$200.00
2.	Fail to keep land cleared	Section 4.2	\$200.00
3.	Fail to enclose excavation	Section 4.3	\$200.00
4.	Fail to drain water	Section 4.4	\$200.00
5.	Deposit refuse on private property	Section 3.5	\$500.00
6.	Deposit refuse on municipal property	Section 3.5	\$500.00
7.	Fail to maintain swimming pool	Section 4.5	\$200.00
8.	Obstruction of officer	Section 4.6	\$200.00
9.	Contravention of order	Section 4.7	\$200.00
10.	Storing a storage container	Section 3.9	\$200.00
11.	Store a vehicle in prohibited location	Section 3.13	\$200.00
12.	Store a commercial vehicle in prohibited location	Section 3.14	\$200.00

THE PENALTY PROVISION FOR THE OFFENCES CITED ABOVE IS SECTION 6.1 OF BY-LAW NUMBER 2012-027, A CERTIFIED COPY OF WHICH HAS BEEN FILED.