

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

BY-LAW NO. 2019-38

BEING A BY-LAW RESPECTING LITTER, YARD WASTE AND THE MAINTENANCE OF PROPERTY WITHIN THE TOWNSHIP OF WEST LINCOLN

WHEREAS Section 127 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, provides that a local municipality may require an owner or occupant of land to clean and clear the land, not including buildings; to regulate when and how such matters shall be done; to prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land; and to define refuse;

AND WHEREAS Section 128 of the *Municipal Act, 2001, S.O. 2001, c.25*; as amended, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become nuisances;

AND WHEREAS Section 131 of the *Municipal Act, 2001, S.O. 2001, c.25*; as amended, provides that a municipality may prohibit and regulate the use of any land for the storage of motor vehicles for the purpose of wrecking or dismantling them or salvaging parts from them for sale or other disposition;

AND WHEREAS Section 11 of the *Municipal Act, 2001, S.O. 2001, c.25*; as amended, provides that a municipality may pass by-laws respecting, inter alia, health, safety and the well-being of persons;

AND WHEREAS Subsection 446(1) of the *Municipal Act, 2001, S.O. 2001, c.25*; as amended, provides that if a municipality has the authority under the *Municipal Act, 2001* or any other Act, or under a By-law under the *Municipal Act, 2001* or any other Act, 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 Subsection 446(2) of the *Municipal Act, 2001, S.O. 2001, c.25*; as amended, provides that a municipality may enter upon land at any reasonable time for the purpose of Subsection 446(1);

AND WHEREAS Subsection 446(3) of the *Municipal Act, 2001, S.O. 2001, c.25*; as amended, permits a municipality to recover the costs of doing a matter or thing under Subsection 446(1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS Council desires to pass a by-law:

- (1) for the maintenance of yards by owners and occupants;
- (2) prohibiting the keeping of domestic and industrial waste on lands;
- (3) prohibiting littering on public and private land; and
- (4) regulating the salvage of motor vehicles and their components with the intent of promoting proper recycling and reuse of resources, the limiting of waste and wasteful practices, the limiting or eliminated of nuisances, particularly from waste and naturalized areas to other properties in the municipality, and the limiting and eliminating of other unhealthy practices and conditions arising from litter, refuse or neglect.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN ENACTS AS FOLLOWS:

SECTION 1 GENERAL PROVISIONS

1.1 SHORT TITLE

- 1.1.1 This by-law shall be known as the "Clean Yards By-law".

1.2 DEFINITIONS

1.2.1 For the purpose of this by-law:

- (1) “*agricultural operation*” means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward operated in accordance with *normal farm practices*;
- (2) “*Chief Building Official*” means the *Chief Building Official* appointed by *Council* under the *Building Code Act, 1992, S.O. 1992, c. 23, as amended*, or the *person* to act in that capacity in his or her absence;
- (3) “*Council*” means the *Council* of the Corporation of the Township of West Lincoln;
- (4) “*domestic waste*” means any debris, rubbish, *refuse*, *sewage*, effluent, discard, or garbage of a type arising from a residence, belonging to or associated with a house or residential *property*, which for greater certainty includes all garbage, discarded material or things, broken or dismantled things, and materials or things exposed to the elements, deteriorating or decaying on a *property* due to exposure or the weather; and for even greater certainty, it is hereby declared that “*domestic waste*” includes but is not limited to the following classes of materials regardless of the nature or condition of the material, article or thing:
 - (a) broken or torn bits of twigs, splinters or rags, tree cuttings or cut limbs and brush from any shrub or tree, waste lumber, except only cut and stacked *firewood*;
 - (b) paper, paper cartons and other paper products;
 - (c) rotting vegetable matter, or rotting animal matter, unless it is contained in an appropriate composting container;
 - (d) disconnected appliances, including refrigerators, stoves, dishwashers, microwaves, freezers, washers, dryers or any part or parts of such things;
 - (e) electronic devices, including televisions, computers and related components, radios, amplifying devices, speakers, audio and visual players and any parts of such things;
 - (f) furnaces, air conditioners, ducting, pipes heat pumps, fittings, pipes, wire and parts or accessories of such items;
 - (g) damaged water or fuel tanks;
 - (h) *inoperative motor vehicles, inoperative vehicles, and vehicle parts*;
 - (i) inoperative lawnmowers, engines and other mechanical tools or devices;
 - (j) accumulations, deposits, leavings or sweeping of litter, remains, rubbish, or trash of any sort, whether animal, mineral or vegetable;
 - (k) broken or *indoor furniture*;
 - (l) crockery, dishes, pots and pans, and small kitchen appliances;
 - (m) animal waste products, hides, bones, feathers or other animal parts or carcasses;
 - (n) construction, demolition, repair or renovation debris or leftover materials from such work; and
 - (o) accumulations of rubble or broken materials such as brick, concrete or asphalt.

Domestic waste as defined in this by-law does not cease to be *domestic waste* by reason only that it may be commercially salable or recyclable.

-
- (5) “*firewood*” means and includes any untreated wood cut and split into easily handled sizes and intended to be burned in a solid fuel burning appliance or outdoor fire pit;
- (6) “*indoor furniture*” means and includes any furniture intended for and made of such material that would require the furniture be sheltered from the natural elements such as rain and snow and shall include but not be limited to items such as couches, sofas, love seats, fabric covered chairs and mattresses;
- (7) “*industrial waste*” means debris, rubbish, *refuse*, *sewage*, effluent, discard or garbage of a type arising from industrial or commercial operations, or belonging to or associated with industry or commerce or industrial or commercial *property*, which for greater certainty includes all garbage, discarded material or things, broken or dismantled things, and materials or things exposed to the elements, deteriorating or decaying on the *property* due to exposure or the weather, and for even greater certainty it is hereby declared that “*industrial waste*” includes but is not limited to the following classes of material regardless of the nature or condition of the material, article or thing:
- (a) debris discarded things or matter, or effluent which in whole or in part are derived from or are constituted from or consist of:
 - (i) animal or vegetable matter, paper, lumber or wood; or
 - (ii) mineral, metal or chemicals or fill contaminated with petrochemical or petroleum products;
 - (b) piles of miscellaneous plastic, wood or metal parts, or combinations of such materials;
 - (c) *inoperative motor vehicles*, *inoperative vehicles*, and *vehicle parts*;
 - (d) piping, ducting, tubing, conduits, cable, wire and fittings or related accessories, with or without adjuncts and not packaged for immediate shipment or sale;
 - (e) material resulting from or as a part of, construction, demolition, repair or renovation projects including debris and leftovers;
 - (f) accumulations of rubble or broken materials such as brick, concrete or asphalt;
 - (g) bones, feathers, animal waste products, hides or other animal parts or carcasses; and
 - (h) dust or ashes emanating from the operation of the enterprise.
- (8) “*inoperative motor vehicle*” means and includes any motor vehicle other than a motor vehicle which is currently licensed, and operable and regularly driven by an *owner* or *occupant* of the *property* on which it is stored;
- (9) “*inoperative vehicle*” means an automobile, motorcycle, motor assisted bicycle, traction engine, farm tractor or farm machinery, road building machine, construction vehicle, bulldozer, backhoe, excavator, grader, asphalter, earth mover, compactor, crane, lift, skid steer, generator, welder, street car or other vehicle, trailer, boat, bicycle, or any vehicle drawn, propelled or driven by any kind of power, including but not limited to mechanical power, muscular power or wind power, where such items are unable to operate as a result of being dismantled, broken or incomplete, decayed or dilapidated, and in particular includes missing parts, wheels, tires, engines, drive train, body components windows, or any other component necessary for the vehicle to properly operate;
- (10) “*last known address*” means the address, which appears on the last revised assessment rolls of the Corporation of the Township of West Lincoln;

-
- (11) “*lawn*” means ground cover comprised of one or more species of growing grass with or without trees, shrubbery or maintained planting beds for other vegetation;
- (12) “*naturalized area*” means land or a portion of land that does not consist of
- (a) cut *lawns* and tended flower beds;
 - (b) vegetation that is deliberately landscaped and planted, monitored, tended to and regularly maintained with a variety of flowers, plants or grasses;
 - (c) vegetation that is deliberately planted, tended to and harvested as a crop serving an *agricultural operation*; or
 - (d) wood lot areas being land or a portion of land covered with a thick growth of trees, shrubbery and undergrowth.
- (13) “*normal farm practices*” means those practices required for the operation of a farming operation in accordance with the *Farming and Food Production Protection Act, 1998*;
- (14) “*occupant*” means any *person* or *persons* over the age of 18 years in possession of the *property*;
- (15) “*Officer*” means an Enforcement Officer, a Building Inspector, a *Chief Building Official* or any other *person* appointed or employed by the *Township* for the enforcement of by-laws and includes both Police and Peace Officers;
- (16) “*order*” means any notice of non-compliance issued under this by-law;
- (17) “*owner*” means
- (a) the *person* for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the *person’s* own account or as an agent or trustee of any other *person*, or who would so receive the rent if such land or premises were let; and
 - (b) a lessee or *occupant* of the *property* who, under the terms of a lease, is required to repair and maintain the *property* in accordance with the standards for the maintenance and occupancy of the *property*;
- (18) “*person*” means and includes an individual, firm, corporation, association or partnership and includes an *occupant* or an *owner* of a *property*;
- (19) “*property*” means land and includes; a parcel or tract of land capable of being conveyed as a separate parcel pursuant to the provisions of the Planning Act, or is described in accordance with a registered Plan of Condominium;
- (20) “*refuse*” means and shall include all manner of waste, debris and *sewage* as provided for or defined in this by-law but does not include a building or buildings on a *property*, but does include parts or pieces of such structures on the *property* that are dismantled or are rubble, or which have become detached from a building whether by construction, demolition, damage or deterioration and any article, thing, matter, substance or effluent that:
- (a) has been cast aside, discharged or abandoned;
 - (b) is disused from its usual and intended use;
 - (c) is used up, expended or worn out, in whole or in part, or
 - (d) is determined to be *domestic waste* and / or *industrial waste*;
- (21) “*sewage*” means and includes 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 storm run-off;

- (22) “*Township*” means The Corporation of the Township of West Lincoln or the geographical area of the municipality, as the context requires;
- (23) “*vehicle parts*” means and shall include any component or element, whether operable or not, used in the assembly, construction, maintenance or repair of a vehicle;
- (24) “*watercourse*” means an identifiable depression in the ground in which a natural flow of water occasionally, regularly or continuously flows, even if the bed is sometimes dry, and even if the banks are sometimes overflowed or submerged;
- (25) “*weed*” means a noxious weed designated by or under the *Weed Control Act, R.S.O. 1990, c.W.5* including any *weed* designated as a local or noxious weed under a by-law of the *Township* passed under the act;

1.3 INTERPRETATION

1.3.1 In this by-law statutory references are to Statutes of Ontario and the regulations made thereunder and shall be deemed to refer to such statutes and regulations as amended, consolidated, re-enacted and in force from time to time.

1.3.2 This by-law shall be read with all changes of gender and number required by the context or circumstances.

1.3.3 For the purpose of this by-law:

- (1) “m” means meters;
- (2) “mm” means millimetres;
- (3) ‘ means feet (i.e. 5’ = 5 feet);
- (4) “ means inches (i.e. 5” = 5 inches);
- (5) values contained in [] denote imperial equivalents to the prescribed metric value.

1.3.4 In this by-law the numbering methodology shall be referenced in accordance with the following:

1	section
1.1	subsection
1.1.1	article
1.1.1(1)	sentence
1.1.1(1)(a)	clause
1.1.1(1)(a)(i)	subclause

1.4 EXEMPTIONS

1.4.1 The provisions and regulations of this by-law do not apply to materials or equipment directly related to construction works on lands on which construction is actively proceeding in accordance with a permit issued pursuant to the Building Code Act or to any construction project being carried out by or for any of the parties exempted by article 1.4.3.

1.4.2 The provisions and regulations of this by-law shall not apply to inhibit or prohibit *normal farm practices* protected under the *Farming and Food Production Protection Act, 1998*.

1.4.3 The *persons* listed below shall be exempt from the provisions and regulations of this by-law:

- (1) the Corporation of the Township of West Lincoln;
- (2) the Regional Municipality of Niagara; and
- (3) any Department or Ministry of the Federal or Provincial Government.

SECTION 2 APPLICABLE PROVISIONS

2.1 VEGETATION

- 2.1.1 Every *owner* or *occupant* of *property* shall maintain vegetation on the *property* in accordance with the following provisions:
- (1) for *lawns*, vegetation other than trees and shrubbery shall be cut to maintain its height below 203mm [8"] in height over the entirety of the *lawn* area;
 - (2) except as provided in 2.1.1(3), for *naturalized areas*, vegetation other than trees or shrubbery shall be cut to maintain its height below 203mm [8"] in height:
 - (a) for properties of 0.4 hectares [1.0 acre] or less in size, over the entirety of the *naturalized area*;
 - (b) for properties greater than 0.4 hectares [1.0 acre] but less than 1.0 hectare [2.47 acres] in size, along a minimum 1m [3'-3"] wide strip immediately adjacent to the lot lines abutting an adjacent lot occupied by a residential or commercial use; or
 - (c) for properties greater than 1.0 hectare [2.47 acres] in size, along a minimum 10m [32'-9"] wide strip immediately adjacent to the lot lines abutting an adjacent lot occupied by a residential or commercial use.
 - (3) for areas of any *property* under the jurisdiction of the Conservation Authority being regulated features or having specific requirements for the maintenance of vegetation, sentences (1) and (2) shall not apply.
- 2.1.2 Every *owner* or *occupant* of *property* shall maintain vegetation, including trees and shrubbery, on the *property* in a manner to ensure:
- (1) a health, fire or safety hazard to the public is not created;
 - (2) the vegetation does not constitute an obstruction of view or otherwise impacts the safety of vehicular or pedestrian traffic;
 - (3) the vegetation does not conceal or interfere, in whole or in part, with the use of any sign, hydrant, water valve, or other utility;
 - (4) the vegetation does not encroach upon any public sidewalk, pavement or traveled portion of any street or highway;
 - (5) the vegetation does not overhang any sidewalk, pavement or traveled portion of any street or highway in a manner that would negatively impact the use of such sidewalk, pavement or traveled portion of any street or highway;
 - (6) trees are not dead, in whole or in part; and
 - (7) trees are pruned so as to be free from dead or dying limbs and / or branches.
- 2.1.3 Every *owner* or *occupant* of *property* shall remove *weeds* from all *lawn* and *naturalized areas* on the *property* by:
- (1) pulling or otherwise removing the *weeds* from the soil;
 - (2) cutting the roots or stalks of the *weeds* before the seeds have developed sufficiently to ripen after cutting;
 - (3) turning the soil where *weeds* were growing so as to bury or kill the *weeds*; or
 - (4) applying a herbicide, in accordance with all applicable law for the application of such substances, that causes the *weeds* to be destroyed, or which prevents the growth of *weeds* or the ripening of their seeds.

2.2 DRAINAGE, STANDING WATER AND WATERCOURSES

- 2.2.1 Every *owner* or *occupant* of *property* shall maintain the *property* free of standing water remaining for a period in excess of three (3) days on ground, within litter or waste, structures or any other locations that may promote the breeding and/ or larvae growth of insects, except in areas of the *property* where vegetation is deliberately planted, tended to and harvested as a crop or wood lot areas being land or a portion of land covered with a thick growth of trees, shrubbery and undergrowth.
- 2.2.2 Every *owner* or *occupant* of *property* shall ensure that water discharged from downspouts, sump pump outlets or other similar sources on the *property* is directed in such a way to:
- (1) contain the water within the limits of the *property* until absorbed by the soil or drained to a swale, *watercourse*, storm sewer, or other suitable outlet;
 - (2) prevent discharge directly on to streets, sidewalks or stairs;
 - (3) prevent discharge into sanitary sewers; or
 - (4) prevent discharge on to neighbouring *property* unless the grading was designed to utilize shared swales or other forms of shared overland flow to capture surface water and direct it to a storm sewer or other suitable collection mechanism.
- 2.2.3 Every *owner* or *occupant* of *property* shall maintain any *watercourse* on the *property* free of obstructions.

2.3 FILL

- 2.3.1 Every *owner* or *occupant* of *property* shall ensure that fill shall not remain in an unlevelled state on the *property* for longer than thirty days, unless the *property* is:
- (1) a construction site for which a building permit is in effect;
 - (2) the subject of an agreement with the *Township* for site plan agreement, subdivision agreement, development permit agreement or any other matter entered into in accordance with the requirements of the *Planning Act R.S.O. 1990 c. P. 13*, as amended;
 - (3) has a valid site alteration permit issued by the *Township* in accordance with the Site Alteration By-law;
 - (4) *property* upon which material is being stored with the approval of an authority having jurisdiction in connection with a public works project; or
 - (5) *property* upon which material is being stored with the approval of an authority having jurisdiction in conjunction with an active agricultural, commercial or industrial operation.
- 2.3.2 Every *owner* or *occupant* of *property* shall ensure that fill shall not remain in an uncovered state, not covered by sod, seed or agricultural crop, on the *property* for longer than sixty days unless the *property* is:
- (1) a construction site for which a building permit is in effect;
 - (2) the subject of an agreement with the *Township* for site plan agreement, subdivision agreement, development permit agreement or any other matter entered into in accordance with the requirements of the *Planning Act R.S.O. 1990 c. P. 13*, as amended;
 - (3) has a valid site alteration permit issued by the *Township* in accordance with the Site Alteration By-law;
 - (4) actively being used in conjunction with an *agricultural operation*;
 - (5) *property* upon which material is being stored with the approval of an authority having jurisdiction in connection with a public works project; or

- (6) in a manner consistent with targeted and established provincially or federally endorsed *weed* management strategies.

2.4 MOVABLE CONCRETE BARRIERS

2.4.1 Every *owner* or *occupant* shall maintain the *property* free of movable concrete barriers.

2.4.2 Article 2.4.1 shall not apply to prohibit the placement of movable concrete barriers erected:

- (1) under approval or requirement of an engineering, planning or similar agreement;
- (2) to protect an excavation, construction site, or any emergency or hazardous area;
- (3) as a component of a building requiring a permit in accordance with the Ontario Building Code;
- (4) in association with an active *agricultural operation*; or
- (5) in association with an industrial operation.

2.5 FIREWOOD

2.5.1 Every person shall maintain and store *firewood*:

- (1) outside of the front yard, except when on display for sale as part of an active farm operation;
- (2) in a manner not to occupy more than 15% of the area of the *property* on which it is located;
- (3) neatly stacked;
- (4) with a total height of not more than 1.5m [4'-11"]; and
- (5) other than along a fence adjacent to a *property* containing a swimming pool.

2.6 LITTER

2.6.1 No *person* shall cause, permit, throw, place or deposit *refuse* and / or waste on any *property* other than their own, without the written authority of the *owner* or *occupant* of that *property*.

2.6.2 No *person* shall cause, permit, throw, place or deposit *refuse* and / or waste on *property* owned or maintained by the Corporation of the Township of West Lincoln or *property* owned or maintained by the Regional Municipality of Niagara without the written authority of the *owner* or *occupant* of that *property*.

2.6.3 A *person* does not breach the provisions of article 2.6.2 by placing garbage out for collection in accordance with applicable by-laws and collection schedules, but no *person* shall place garbage out contrary to such by-laws or schedules.

2.7 GARBAGE AND WASTE DISPOSAL

2.7.1 Every *owner* or *occupant* of *property* shall maintain the *property* free and clear of *refuse*, *domestic waste*, *industrial waste*, or any other thing that may constitute a health, fire or safety hazard on the *property* or to adjacent properties.

2.7.2 Every *owner* or *occupant* of *property* shall maintain the *property* or structures on the *property* free of dumping or disposing of *refuse*, *domestic waste*, *industrial waste* or any other thing that may constitute a health, fire or safety hazard on the *property* or to adjacent properties.

2.7.3 A *person* does not breach the provisions of articles 2.7.1 by placing garbage out for collection on *property* in accordance with applicable by-laws and collection

schedules, but no *person* shall leave garbage out contrary to such by-laws or schedules.

2.7.4 Articles 2.7.1 and 2.7.2 do not apply to:

- (1) *property* or structures used by the *Township* or the Regional Municipality of Niagara for the purpose of dumping or disposing of waste;
- (2) *property* or structures designated by by-law for the purpose of dumping or disposing of waste;
- (3) structures for the purpose of dumping or disposing of waste identified through an agreement under the Planning Act or otherwise placed on a site for the collective disposal of garbage, *refuse* and / or waste; or
- (4) *property* or structures for the purpose of dumping or disposing of waste whereby approval has been granted for its existence or operation by any Department or Ministry of the Federal or Provincial Government.

2.7.5 No *person*, other than the *Township*, Regional Municipality of Niagara or its agents, without prior authorization of the *Township* or Regional Municipality of Niagara, and except in accordance with such authorization, shall dump or dispose of garbage, *refuse*, *domestic waste*, or *industrial waste* on any *property* subject to sentences 2.7.4(1) and 2.7.4(2).

2.7.6 No *person*, other than the *owner* or *occupant* of a *property* or their agents, without prior authorization of the *owner* or *occupant* of the *property*, and except in accordance with such authorization, shall dump or dispose of garbage, *refuse*, *domestic waste*, or *industrial waste* within structures subject to sentence 2.7.4(3).

2.7.7 Where *refuse* or waste is to be stored or placed for disposal outside the enclosing walls of a building, every person shall:

- (1) store or place such *refuse* or waste in a suitable receptacle; and
- (2) maintain such *refuse* or waste at all times in a litter free condition in a manner that will not attract pests or create a health, fire or safety hazard through deterioration, exposure to weather conditions or wind.

2.7.8 Any open landing, porch, deck or balcony shall be maintained free from the accumulation of *refuse* and / or waste and any conditions that may constitute a health, fire or safety hazard on the *property* or adjacent properties.

2.7.9 Notwithstanding the provisions of this section, on a *property* used for an *agricultural operation* every person shall place or store *inoperative motor vehicles*, *inoperative vehicles* or *vehicle parts* required for use as replacement vehicles or parts in such a manner to:

- (1) not create a health, fire or safety hazard;
- (2) not block emergency access to or from the *property*; and
- (3) setback from *property* lines bordering any residentially used *property* or public highway by not less than 100m [328'-1"]; or
- (4) contained in an area screened from view from *property* lines bordering any residentially used *property* or public highway by a fence, wall or other solid structure including a hedge at least 2m [6'-6 3/4"] high that complies with all other applicable laws and regulations.

2.8 POSTERS AND GRAFFITI

2.8.1 Every *owner* or *occupant* of *property* shall clean and clear exterior walls of any building or structure and their components on the *property* so as to be free of posters, which are for the giving of notice for an event that has already occurred, or where the message contained is not readable due to damage or deterioration to the poster or its content, or where the posters are loosened, dislodged, torn or otherwise in a condition that may permit them to detach and become litter.

- 2.8.2 Pursuant to the *Municipal Act, S.O. 2001, c.25 as amended*, the cost of removal of posters by the *Township* is collectable against the *owner* of the advertising devise under the terms of the *Municipal Act*, notwithstanding the content of this by-law.
- 2.8.3 No *person* shall place, cause or permit graffiti to be placed on any *property* within the *Township*;
- 2.8.4 Every *owner* or *occupant* of *property* shall clean and clear exterior walls of any building or structure and their components on the *property* so as to be free of graffiti.

2.9 MOTOR VEHICLE SALVAGE

- 2.9.1 Except as provided in article 2.7.9, no *owner* or *occupant* of *property* shall use, cause or permit the use of any *property* in the *Township* for storing *inoperative motor vehicles, inoperative vehicles* or *vehicle parts* for the purpose of wrecking or dismantling them or salvaging *vehicle parts* thereof for sale or other disposal including the purposes of repairing other vehicles.
- 2.9.2 Article 2.9.1. does not apply if applicable Zoning by-law provisions permit the *property* to be used for such purposes and the *owner* or *occupant* of the *property* holds a current and valid license for the *property* issued by the *Township* or the body holding jurisdiction for the permitting of motor vehicle salvage.

SECTION 3 ADMINISTRATION AND ENFORCEMENT

3.1 GENERAL PROVISIONS

- 3.1.1 No *person* shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an *Officer* or a *person* acting under their instructions in the exercise of a power or the performance of a duty under this by-law.
- 3.1.2 No *person* shall neglect or *refuse* to provide any information required by an *Officer* in the exercise of a power or performance of a duty under this by-law.
- 3.1.3 A *person* is guilty of an offence if the *person*:
- (1) contravenes any section of this by-law; or
 - (2) fails to comply with an *order* issued under this by-law.
- 3.1.4 Every director or *Officer* of a corporation who contravenes article 3.1.3 is guilty of an offence.
- 3.1.5 Neither the *Township* or an agent acting on its behalf shall be liable to compensate the *owner, occupant* or any other *person* by reason of anything done by or on behalf of the *Township* in the reasonable exercise of its powers under this by-law

3.2 OFFICERS

- 3.2.1 The *Chief Building Official*, is hereby assigned the responsibility of administering and enforcing this By-law and the *Council* of the *Township* shall appoint *Officers* responsible for the enforcement of this By-law.
- 3.2.2 *Persons* appointed or assigned for the purposes of administering or enforcing this By-law are *Officers* and have authority to carry out the duties assigned to *Officers* under this By-law, and may enforce the provisions of this By-law.
- 3.2.3 An *Officer* is authorized to give immediate effect to any *order* issued under Section 3 of this by-law, that has not been complied with by the *owner* or *occupant*, under the provisions of the *Township* Tendering and Purchasing Policy, as amended from time to time.
- 3.2.4 Where approved by the *Chief Building Official*, an *Officer* may permit the maintenance of *property* to alternate standards required by any provisions of this by-law.

- 3.2.5 The alternate standards referenced in article 3.2.4 shall be in accordance with the general purpose and intent of this by-law and they shall have the same effect and force as standards required by any provision of this by-law.

3.3 RIGHT TO ENTER

- 3.3.1 An *Officer* acting under the provisions of this by-law or any *person* acting under their instructions may at any reasonable time, and upon producing proper identification, enter upon any *property* without a warrant for the purpose of:

- (1) inspection of the *property* to determine whether the *property* conforms with the standards prescribed in this by-law;
- (2) inspection of the *property* to determine whether an *order* made under this by-law has been complied with; or
- (3) conducting necessary works to rectify and otherwise resolve any non-conformity identified in an *order* having been served and the stipulated date of compliance passed.

3.4 INSPECTION

- 3.4.1 Every *owner* or *occupant* shall permit an *Officer* to inspect the *property* or structure for compliance with the provisions of this by-law.

- 3.4.2 For the purposes of an inspection under the provision of this by-law, an *Officer* and any *person* acting under the *Officer's* instructions may:

- (1) alone or in conjunction with a *person* possessing special knowledge, enter upon the subject *property* to inspect or otherwise make an examination to determine whether:
 - (a) the *property* is being maintained in accordance with the provisions of this by-law;
 - (b) the *property* and / or structure(s) are used for dumping or disposing of garbage, *refuse*, fill, *domestic waste*, or *industrial waste* of any kind;
 - (c) the *property* is used for the storage of motor vehicles for the purpose of wrecking or dismantling or salvaging parts thereof for sale or disposal;
 - (d) the *owner* or *occupant* has complied with an *order* issued by an *Officer*, or
 - (e) there is non-compliance with any other provision of this by-law.
- (2) require information from any *person* concerning a matter related to the subject *property* or part thereof; or
- (3) through the examination of the *property*, document the state of *property* through various means, including but not limited to:
 - (a) the conducting of tests;
 - (b) taking of samples; or
 - (c) taking of photographs or video.

3.5 ORDERS

- 3.5.1 If after an inspection an *Officer* is satisfied that one or more non-conformities with the standards set out in this by-law exist on the *property*, the *Officer* may issue an *order* to the *owner* and such other *persons* affected by it, as the *Officer* determines, requiring that the *property* be brought into compliance with the provisions of this by-law.

- 3.5.2 An *order* as described in article 3.5.1 shall:

- (1) state the municipal address or the legal description of the *property* on which the non-conformity or infraction has occurred;
- (2) give reasonable particulars of the contravention adequate to identify the contravention and the location on the *property* on which the contravention has occurred;
- (3) indicate the date or dates by which compliance with the *order* must be achieved;
- (4) give notice that, if the required actions are not carried out within the time specified, the *Township* may carry out the necessary actions to resolve the non-compliance at the expense of the *owner*, and
- (5) be served in accordance with sub-section 3.6.

3.5.3 An *Officer* may make an *order* requiring the *owner* or *occupant* within the time specified in the *order* to:

- (1) clean and clear-up the *property* and to bring the *property* into compliance with the applicable section of this by-law;
- (2) remove obstructions from *watercourses*;
- (3) clean, clear or remove from the *property* any or all garbage, *refuse*, fill, *sewage*, long grass, *weeds*, *domestic waste* or *industrial waste* of any kind or any other thing that may constitute a health, fire or safety hazard, or public nuisance;
- (4) cease using the *property* or structure for the dumping or disposing of garbage, *refuse*, fill, *sewage*, *domestic waste* or *industrial waste* of any kind or any other thing that may constitute a health, fire or safety hazard or public nuisance;
- (5) undertake and supply, at the expense of the *owner*, such tests and samples as may be specified or required to determine conformance with the provisions of this by-law; or
- (6) clean or clear exterior walls of a building or structure, and their components of posters or graffiti not in compliance with the provisions of this by-law.

3.5.4 For the purpose of this by-law the minimum duration of time offered for compliance with an *order* issued by an *Officer* shall be not less than that stipulated in the table below.

Violation	First Offence	Subsequent Offence
vegetation	10 days	3 days
drains and standing water	10 days	3 days
fill	30 days	15 days
movable concrete barriers	30 days	15 days
firewood	15 days	5 days
<i>refuse</i> and waste	15 days	5 days
posters and graffiti	10 days	3 days
motor vehicle salvage	30 days	15 days

3.5.5 The minimum duration stipulated by article 3.5.4 shall commence the day the *order* is issued and expiry of such duration shall occur as of 12:01am of the day immediately following the date of the stipulated deadline.

3.5.6 An *Officer* may grant extensions of time for compliance with any *order* beyond that specified in the *order* in any case where valid reason exists, in the opinion of the *Officer*, for the extension for such an extension.

3.5.7 Any offence that occurs after the first offence on the same *property* in the same calendar year shall be considered, for the purpose of this by-law, a subsequent offence.

3.6 SERVICE

3.6.1 The *order* described in article 3.5.1 shall be served or caused to be served on the *owner* of the *property* and such other *persons* affected by the *order* by:

- (1) *personal* service; or
- (2) prepaid registered mail sent to the *last known address* of the *owner* or *occupant*.

3.6.2 An *order* served by registered mail shall be deemed to have been served on the 5th day after the date of mailing.

3.6.3 An *Officer* may in addition to service set out in article 3.6.1, post a copy of the *order* in a conspicuous place on the *property*.

3.6.4 If an *Officer* is unable to effect service as provided in article 3.6.1, the *Officer* shall place a placard containing the terms of the *order* in a conspicuous place on the *property* and the placing of the placard shall be deemed as sufficient service of the *order* on the *owner*, *occupant* or other *persons*.

3.6.5 Where an *order* is issued for a subsequent offence, personal delivery and / or posting of the *order* on site as provided for in article 3.6.4 shall be deemed to be sufficient notice for compliance provided the *order* issued respecting the first offence indicated that any subsequent offence would be dealt with in this manner.

3.7 FAILURE TO COMPLY WITH AN ORDER

3.7.1 Where the *owner* or *occupant* fails to comply with an *order* issued under this by-law within the time specified for compliance, an *Officer*, with such assistance by others as may be required may:

- (1) clean or clear-up a *property* and bring it into compliance with the provisions of this by-law;
- (2) remove obstructions from *watercourses*;
- (3) clean, clear or remove from the *property* or structure any or all garbage, *refuse*, fill, *sewage*, *domestic waste* or *industrial waste* of any kind or any other thing that may constitute a health, fire or safety hazard or public nuisance;
- (4) remove *inoperative motor vehicles*, *inoperative vehicles*, machinery, trailers or boats and any *vehicle parts*, stored for the purpose of wrecking or dismantling the materials or the salvaging parts thereof for sale or other disposal;
- (5) clean or clear exterior walls of a building or structure, and their components of posters or graffiti not in compliance with the provisions of this by-law; or
- (6) issue a fine to the *owner* of the *property* in accordance with Schedule "A" of this by-law.

3.7.2 Where items, materials or things are removed as a result of actions to rectify non-conformities on a *property* in accordance with article 3.7.1, the items materials or things may be immediately disposed of by an *Officer*, and any resulting recovered salvage value or other actual recovery of money made upon such disposal shall be forfeited by the *owner* or *occupant*.

- 3.7.3 Upon completion of the works pursuant to article 3.7.1, by or on behalf of the *Township*, the *Township* shall have a lien on the *property* for the amount spent on the work and shall be deemed to be municipal real *property* taxes and may be added by the Clerk of the municipality to the tax roll and collected in the same manner and with the same priority as municipal real *property* taxes as provided by statute.
- 3.7.4 Where the *Township* conducts works pursuant to article 3.7.1, the *Township* may, in addition to the expense of the work, charge an administrative fee of 15% of such expense with a minimum fee of \$125.00 which shall be added to the expense of the work.
- 3.7.5 Notwithstanding the provisions of article 3.7.3, to recover the costs incurred and identified by articles 3.7.3 and 3.7.4, the *Township* may prepare and issue an invoice to the *owner* allowing for not less than 21 days to pay such invoice in full, after which time the amount shall be transferred to the tax roll by the Clerk of the municipality.

3.8 PENALTIES

- 3.8.1 Every *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 by the *Provincial Offences Act, R.S.O. 1990, Chapter P.33*, as amended.
- 3.8.2 Every *person* who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a penalty of not more than \$10,000 for the first offence and to a penalty of not more than \$25,000 for each subsequent offence.
- 3.8.3 Notwithstanding the provisions of article 3.8.2, every corporation who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a penalty of not more than \$50,000 for the first offence and to a penalty of not more than \$100,000 for each subsequent offence.

3.9 TRANSITION PROVISIONS

- 3.9.1 After the date of passing of this by-law, any former Clean Yards by-law including the predecessor to this by-law shall apply only to those properties in which an *order* has been issued prior to the date of passing of this by-law, and then only to such properties until such time as the work required by such *order* has been completed or any enforcement proceedings with respect to such *order*, including any rectification carried out by the *Township* shall have been concluded.
- 3.9.2 In the recovery or enforcement of penalties and forfeitures incurred, or in any other proceeding in relation to matters in respect of a former Clean Yards by-law including the predecessor to this by-law, the process may be continued and carried out under this by-law.

3.10 VALIDITY

- 3.10.1 Should a court of competent jurisdiction declare a part or whole of any provision of this by-law to be invalid or of no force and effect, the provision or part is deemed severable from this by-law, and it is the intention of *Council* that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under the law so as to protect the public by ensuring a minimum standard for maintenance and care of *property* is maintained.
- 3.10.2 Where the regulations of this by-law conflict with those of another by-law, Act, or Regulation in force within the *Township*, the regulation that establishes the higher standards to protect the health and safety of *persons* shall prevail.

SECTION 4 REPEALS & ENACTMENT

4.1 BY-LAWS TO BE REPEALED

- 4.1.1 By-law 2011-89, and any amendments thereto, is hereby repealed.

4.2 DATE OF ENACTMENT

4.2.1 This by-law shall come into force and effect on June 1st, 2019.

**READ A FIRST, SECOND
AND THIRD TIME AND
FINALLY PASSES THIS 27TH
DAY OF MAY 2019**

DAVE BYLSMA, MAYOR

JOANNE SCIME, CLERK

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

PART I OF THE PROVINCIAL OFFENCES ACT

By-Law 2019-38: Clean Yards By-law

SET FINES

	Column 1	Column 2	Column 3
ITEM	SHORT FORM WORDING	PROVISION CREATING OR DEFINING OFFENCE	SET FINE
1.	Fail to maintain vegetation – exceed size allowance	2.1.1	\$200
2.	Fail to maintain vegetation – create hazard	2.1.2	\$200
3.	Fail to maintain vegetation – obstruct view	2.1.2	\$200
4.	Fail to maintain vegetation – impact traffic	2.1.2	\$200
5.	Fail to maintain vegetation – interfere with sign	2.1.2	\$200
6.	Fail to maintain vegetation – interfere with utility	2.1.2	\$200
7.	Fail to maintain vegetation – encroach on public property	2.1.2	\$200
8.	Fail to maintain vegetation – overhang public property	2.1.2	\$200
9.	Fail to maintain vegetation – dead tree(s)	2.1.2	\$200
10.	Fail to maintain vegetation – tree(s) with dead limb(s)	2.1.2	\$200
11.	Fail to remove <i>weeds</i>	2.1.3	\$200
12.	Fail to maintain <i>property</i> free of standing water	2.2.1	\$200
13.	Fail to contain drainage and prevent improper discharge	2.2.2	\$200
14.	Fail to maintain <i>watercourse</i> free of obstruction	2.2.3	\$200
15.	Fail to maintain <i>property</i> free of fill	2.3.1	\$200
16.	Fail to maintain <i>property</i> free of uncovered fill	2.3.2	\$200
17.	Fail to maintain <i>property</i> free of movable concrete barriers	2.4.1	\$200
18.	Fail to store <i>firewood</i> properly	2.5.1	\$200
19.	Littering	2.6.1	\$200
20.	Fail to maintain <i>property</i> free of <i>refuse</i> / waste	2.7.1	\$200

	Column 1	Column 2	Column 3
ITEM	SHORT FORM WORDING	PROVISION CREATING OR DEFINING OFFENCE	SET FINE
21.	Fail to suitably place <i>refuse</i> / waste for disposal	2.7.7	\$200
22.	Fail to screen <i>inoperative motor vehicles</i> / vehicles / <i>vehicle parts</i> for an <i>agricultural operation</i>	2.7.9	\$200
23.	Fail to maintain <i>property</i> free of posters	2.8.1	\$200
24.	Fail to maintain <i>property</i> free of graffiti	2.8.3	\$200
25.	Fail to maintain <i>property</i> free of motor vehicle salvage	2.9	\$200
26.	Interfere with / obstruct an <i>Officer</i> in performance of their duty	3.1.1	\$200
27.	Fail to provide information to an <i>Officer</i>	3.1.2	\$200

Note: The general penalty provision for the offences listed above is Article 3.8.1 of By-law 2019-38, a certified copy of which has been filed.