

THE CORPORATION OF THE MUNICIPALITY OF ARRAN-ELDERSLIE

BY-LAW NO. 35 – 2017

BEING A BY-LAW TO REGULATE THE MAINTENANCE OF LAND IN THE MUNICIPALITY OF ARRAN-ELDERSLIE

WHEREAS Section 11(2)(6) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws respecting the health, safety and well-being of persons; and

WHEREAS Section 127 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may require the owner or occupant to clean and clear the property, not including buildings, or to clear refuse or debris from the property, not including buildings; and

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

NOW THEREFORE BE IT ENACTED as a By-law of the Municipality of Arran-Elderslie as follows:

1. DEFINITIONS

1.1 In this By-law:

“Compost” means the natural decomposition, in a composter, heap or digester, of organic material to produce humus, and is comprised of the following materials only: leaves, grass, shrub and hedge clippings, house and garden plants, branches, all fruits and vegetable matter, coffee ground and filters, tea bags, egg shells, pasta and bread;

“Debris” shall mean any material whatsoever capable of holding water, and without limiting the generality of the foregoing, includes, but is not limited to, tires, motor vehicles, boats, bird baths, wheelbarrows, containers of any kind and garden fixtures;

“Derelict Motor Vehicle” shall mean a vehicle having missing bodywork components or parts, including tires or damaged components, parts, bodywork, glass or deteriorated or removed adjuncts, which prevents its mechanical function, and includes a motor vehicle that is not licensed for the current year;

“Good Repair” means not unsightly by reason of deterioration, neglect, damage or defacement and free from injury accident hazard or health hazard;

“Ground Cover” means organic or non-organic material applied to prevent soil erosion such as concrete, flagstone, gravel, asphalt, grass or other landscaping;

“Industrial Waste” shall mean any debris, refuse, sewage, effluent, discard or garbage of a type arising from industrial waste or commercial operation, or belonging to or associated with industry or commerce or industrial or commercial property including, but not limited to, garbage, discarded material or things, broken or dismantled things, materials or things exposed to the elements, and deteriorating or decaying on a property due to exposure to the weather;

“Inoperative Motor Vehicle” mean a motor vehicle having missing bodywork, components or parts, including tires or damaged components, parts, bodywork, glass or deteriorated or removed adjuncts, which prevents its mechanical function, and includes any vehicle that does not display a vehicle permit number plate with evidence of the current validation of the permit affixed to it, issued under the Highway Traffic Act, or as issued by another provincial, state or national government;

“Land” includes any part of a yard or lot within the Municipality of Arran-Elderslie;

“Motor Vehicle” includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electric steam railways, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self propelled implement of husbandry or road building machine within the meaning of the Highway Traffic Act;

“Municipality” means the Municipality of Arran-Elderslie;

“Nuisance” means that which causes offence, annoyance, trouble or injury

“Occupant” means any person or persons over the age of eighteen (18) years occupying a Lot;

“Officer” means a municipal law enforcement officer, inspector or other person appointed or employed by the Municipality to enforce by-laws, statues and/or regulations;

“Owner” includes:

- (a) The registered owner of the Lot;
- (b) The person, for the time being, managing or receiving the rent from a building on the Lot, whether on the person’s own account or as agent or trustee of any other person, or who would receive the rent if the building on the Lot were let; and,
- (c) A lessee or occupant of a Land on the Lot who, under the terms of a lease, is required to repair and maintain the Lot in accordance with the standards set out in this by-law;

“Person” means an individual, corporation, unincorporated association or partnership;

“Pests” means rodents, vermin or insects;

“Refuse” means any article or thing, organic or inorganic that;

- (a) Has been cast aside, discarded or abandoned, whether of any value or not;
- (b) Has been used up, in whole or in part, whether of any value or not; or,
- (c) Has been expended or worn out, in whole or in part, whether of any value or not.

“Standing or Stagnant Water” includes but is not limited to water that is void of movement by either natural or artificial means and includes moisture or water that may cause health hazards as identified by the Grey Bruce Health Unit;

"Undesirable Material" includes:

- (a) Refuse, rubbish, garbage, brush, waste, litter and debris;
- (b) Injurious insects, termites, rodents, vermin and other pests;
- (c) Growth of grass or weeds in excess of 30.5 centimetres (12");

"Waste" means garbage, special collection materials, recyclable materials, organic materials, yard waste;

"Weeds" means all noxious and local weeds designated as such under the *Weed Control Act* R.S.O. 1990, C.W. 5.

2. CLEAN AND CLEAR YARDS

2.1 Every owner, lessee or occupant shall keep his or her grounds, yard or vacant land free from holes and excavations, adequately drained, graded, cleaned or cleared up and free from conditions that may be considered a health hazard, safety hazard or nuisance.

2.2 For the purpose of subsection 2.1, "keeping cleared up" includes:

- a) The removal of dead, decayed or damaged trees or other natural growth and the branches or limbs thereof which create an unsafe condition in relation to their environment;
- b) The removal, trimming, or cutting of weeds or grass more than 30.5 centimeters (12 inches) in height;
- c) The removal of standing and stagnant water;
- d) The removal of objects or conditions that create or might create a health, fire or accident hazard;
- e) The removal of any animal excrement;
- f) The removal of all garbage, refuse and domestic or industrial waste of any kind.

2.3 Every owner, lessee or occupant shall ensure that his or her land is free and clear of infestation.

3. UNSAFE OR HAZARDOUS CONDITIONS

3.1 No Owner shall cause or permit an unfenced or unprotected pit, excavation or other downward slope which causes a safety hazard on their property.

3.2 No Owner shall permit any well which is unprotected or which the presence of which creates a risk, accident or injury.

3.3 No Owner shall fail to comply with an order issued by the Officer to take remedial act and carry out remedial work to remove any standing or stagnant water. Not limiting the foregoing, such order may include a direction to fill or drain off the water or the treatment of the same with larvicide.

3.4 No Owner shall keep a swimming pool, hot tub, wading pool or artificial pond unless it is maintained in good repair and working condition.

4. OUTSIDE STORAGE OF REFUSE, COMPOST OR RECELABLE MATERIAL

- 4.1 Where refuse, compost or recyclable material is stored outside of the enclosed walls of a building, the refuse, compost or recyclable material shall be stored, by an owner or occupant, in a container suitable for such a purpose and in a manner that does not attract pests or create a health or safety hazard.
- 4.2 Every owner or occupant shall carry out all composting in accordance with the following requirements:
- a) Only in the rear yard of a dwelling unit;
 - b) Only in a container or digester and only on land on which a dwelling unit is located;
 - c) Any compost containers or digesters used for composting shall be kept covered tightly at all times, except when being emptied or filled;
 - d) Composting in a pile is prohibited;
 - e) No feces shall be placed in a compost container or digester used for composting;
 - f) No offensive odour shall be permitted to emanate from the compost container, or digester used for composting;
 - g) Any compost container or digester used for composting shall be set back at least 0.6 metres (1.97 feet) from any lot line;
 - h) No bones, meat, dairy or other fat products are permitted to be composted.

5. VEHICLES

- 5.1 Except as provided in the Municipality of Arran-Elderslie Zoning By-law and amendments thereto, no person shall use any land in the Municipality of Arran-Elderslie for storing inoperative motor vehicles or used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal.
- 5.2 No person shall store or allow to remain any machinery, vehicle, boat, trailer or part thereof which is in an unusable, wrecked, discarded, dismantled, partially dismantled or abandoned condition on any land by an owner or occupant unless otherwise permitted by a Zoning By-law.

6. EXCEPTIONS

- a) Nothing in this by-law applies to prevent:

A lawfully licensed premises operating within the scope of a license that specifically permits that which is prohibited by this by-law;

- i. Construction proceeding under a valid building permit;
- ii. The lawful outside storage of materials or things if this use is permitted under and in compliance with, the Municipality of Arran-Elderslie Zoning By-law No. 36-09, as amended.

7. INSPECTIONS

- a) The Municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - i. This by-law; or,
 - ii. An order made under s. 431 of the *Municipal Act 2001, S.O. 2001, c. 25, as amended*.
- b) For the purpose of conducting an inspection pursuant to s. 7 (a) of this by-law, the Municipality may exercise its rights provisions of Section 436 of the *Municipal Act, 2001, S.O. 2001, c. 25, as amended*:
 - i. Require the production for inspection of documents or things relevant to the inspection;
 - ii. Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - iii. Require information from any person concerning a matter related to the inspection; and,
 - iv. Alone or in conjunction with a person possessing special or expert knowledge, make examination or take tests, samples, or photographs necessary for the purpose of the inspection.
 - v. No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this by-law.

8. NOTICE OF REMEDY

- 8.1 An Officer may give an owner notice in accordance with Section 435 of the *Municipal Act 2001, c. 25, as amended*, requiring the Owner within the time specified in the notice:
 - a) To clean, clear or remove from the land or structure: garbage, refuse or domestic or industrial waste of any kind;
 - b) To cease using the land or structure for the dumping or disposing of garbage, refuse, or domestic or industrial waste of any kind;
 - c) To temporarily cover over, screen, shield or enclose the garbage, refuse of the domestic or industrial waste until such time as the garbage is removed in the manner prescribed by the Officer;
 - d) To pull down, repair or renew any structure (including but not limited to fences and retaining walls) (not including buildings) that by reason of its ruinous or dilapidated state is an unsafe condition;
 - e) To remove the inoperative motor vehicle(s);
 - f) To eliminate or remove any object or conditions that creates or might create a health, fire or accident hazard;
 - g) To eliminate or remove the excrement of any domesticated animal.
- 8.2 Every notice sent by the Officer shall identify the land or structure.
- 8.3 Every notice to an Owner shall be sent to the address shown on the last revised assessment roll or to the last known address of such Owner.

8.4 In the event the Officer is unable to serve such notice under the provisions of this Section, the notice may be posted in a conspicuous place on the property, and the placing of the notice shall be deemed to be sufficient service of the notice on the property Owner.

9. RIGHT OF ENTRY

9.1 The Municipality, for the purpose of inspection and/or remedial action, may exercise power of entry in accordance with and subject to Sections 435 to 439, inclusive, of the Municipal Act 2001, S.O 2001, c. 25, as amended.

10. REMEDIATION

10.1 Where the owner is in default of doing any matter or thing directed or required to be done under this by-law, the Municipality may:

10.1.1 Issue an Order to discontinue the contravening activity pursuant to Section 444 of the Municipal Act 2001, S.O. 2001, c.25, as amended.

10.1.2 Issue a Work Order pursuant to Section 445 of the Municipal Act 2001, S.O. 2001, c.25, as amended.

10.1.3 Take remedial action at the expense of the person in contravention pursuant to Section 446 of the Municipal Act 2001, S.O. 2001, c.25, as amended.

10.2 Where any matters or things are removed in accordance with subsection 10.1, such matters or things may be immediately disposed of by the Officer.

11. OFFENCES

11.1 Every person convicted of a breach of the provisions of this by-law shall be guilty of an offence.

11.2 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 in the Provincial Offences Act, R.S.O. 1990, Chapter P. 33, as amended.

12. PENALTIES

12.1 The provisions of this by-law may be enforced pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990 c.P. 33 as amended, and where any provision of this by-law is contravened and a conviction entered, in addition to any other remedy and to any other penalty, a person so convicted may also be prohibited from continuing or repeating the offence in accordance with the provisions of s. 444 of the Municipal Act, S.O. 2001, as amended.

13. OBSTRUCTION

13.1 In accordance with the provisions of the Municipal Act S.O. 2001, c. 25, as amended, Section 426 (1), no person shall hinder, interfere with or otherwise obstruct, either directly or indirectly, an officer, employee of the Municipality of Arran-Elderslie and/or agent in the lawful exercise or power or duty under this by-law.

14. MUNICIPALITY NOT LIABLE

14.1 The Municipality assumes no liability for property damage or personal injury resulting from remedial action, remedial work and enforcement undertaken with respect to any person or property that is subject of this by-law.

15. VALIDITY AND SEVERABILITY

15.1 Should any section, subsection, clause, paragraph or provision of this by-law be declared by a Court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity of the enforceability of any other provision of this by-law, or of the by-law as a whole.

16. SEPARATE OFFENCE

16.1 For the purpose of this by-law, each day of a continued offence shall be deemed to be a separate offence.

17. SHORT TITLE

17.1 The short title of this by-law is the "Tidy Yards" By-law.

18. ENACTMENT

18.1 This by-law shall come into force and take effect immediately upon the final passing thereof.

19. REPEALED

19.1 THAT By-law Number 22 - 2017 is hereby repealed.

READ a FIRST and SECOND time this 12th day of June, 2017.

READ a THIRD time and finally passed this 12th day of June, 2017.

Original Signed by

Paul Eagleson, Mayor

Original Signed by

Peggy Rouse, Clerk-Administrator

	The Corporation of the Municipality of Arran-Elderslie		
	By-law No. 35-2017: Tidy Yards		
	Part I Provincial Offences Act		
Item	Column 1	Column 2	Column 3
	Short Form Wording	Provision Creating or Defining the Offence	Set Fine
1	Fail to keep land free of hazardous holes and excavation	2.1	\$300.00
2	Fail to trim or cut vegetation	2.2 (a)	\$300.00
3	Fail to trim or cut weeds/grass, more than 30.5 cm (12 inches) in height	2.2 (b)	\$300.00
4	Fail to remove standing or stagnant water	2.2 (c)	\$300.00
5	Fail to remove conditions creating a health, fire or accident hazard	2.2 (d)	\$300.00
6	Fail to remove animal excrement	2.2 (e)	\$300.00
7	Fail to keep land clear of garbage, refuse, debris, domestic waste or industrial waste	2.2 (f)	\$300.00
8	Fail to keep land clear of infestation	2.3	\$300.00
9	Cause or permit a hazardous unfenced/unprotected pit, excavation or declivity	3.1	\$300.00
10	Unprotected well that may cause an accident or injury	3.2	\$300.00
11	Fail to Comply with an Order	3.3	\$300.00
12	Fail to maintain swimming pool, hot tub, wading pool or artificial pond	3.4	\$300.00
13	Fail to compost or store in a suitable container	4.1	\$300.00
14	Compost other than at rear of dwelling unit	4.2 (a)	\$300.00
15	Compost where no dwelling	4.2 (b)	\$300.00
16	Compost/digester uncovered	4.2 (c)	\$300.00
17	Compost in pile	4.2 (d)	\$300.00
18	Placing feces in composter/digester	4.2 (e)	\$300.00
19	Offensive odour from composter/digester	4.2 (f)	\$300.00
20	Composter/digester located closer than 0.6 metres from lot line	4.2 (g)	\$300.00
21	Placing bones, meat, dairy or other fat products in composter/digester	4.2 (h)	\$300.00
22	Storing inoperative or used motor vehicle(s)	5.1	\$300.00
23	Storing derelict machinery, vehicle, boat, trailer or part thereof	5.2	\$300.00

Note: The general penalty provision for the offences listed above is section 61 of the Provincial Offences Act, R.S.O. 1990, c. P. 33.