

## THE MUNICIPALITY OF LEAMINGTON

### BY-LAW NO. 639-05

Being a by-law to licence and regulate Salvage Yards.

WHEREAS Section 150(1) of the Municipal Act, 2001, S.O. 2001 c.25 (herein, the 'Act') authorizes a municipality to licence, regulate and govern any business wholly or partly carried on within the municipality;

AND WHEREAS section 150 (2) of the Act provides that a municipality may only exercise its licensing powers for the purposes of health and safety, nuisance control and consumer protection;

AND WHEREAS the Council of the Corporation of the Municipality of Leamington wishes to ensure that all salvage yard operations conform to measures guarding health and safety and nuisance control;

AND WHEREAS Section 150 (9) provides that a municipality may charge a licence fee directly related to the administration and enforcement of such by-law;

AND WHEREAS a public meeting for consideration of this by-law has been held and notice was given in accordance with Section 150 (4) of the Act;

NOW THEREFORE BY ITS COUNCIL THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON ENACTS AS FOLLOWS:

#### PURPOSE

1. The purpose of this by-law is to provide for the protection of the health and safety of residents, and the control of nuisance, by exercising authority to licence and regulate the operation of salvage yards.

#### DEFINITIONS

2.
  - a) "chief building official" shall mean the Chief Building Official appointed by by-law of the municipality or designate.
  - b) "council" shall mean the Council for the Municipality of Leamington.
  - c) "derelict motor vehicle" shall mean a motor vehicle that is inoperable and which has no market value as a means of transportation, or has a market value as a means of transportation that is less than the cost of repairs required to put it into operable condition.

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- d) "licence" shall mean a salvage yard licence.
- e) "municipality" shall mean the Municipality of Leamington.
- f) "person" includes a corporation, partnership, association, club, or firm.
- g) "salvage yard" shall mean the use of land, buildings, or structures where merchandise, articles and goods or things are stored wholly or partly in the open, kept for sale/and or processed for further use and, without limiting the generality of the foregoing, may include a junk yard, a scrap metal yard, and a motor vehicle wrecking yard, but shall not include the disposal of tires, lubricants, refrigerants, petroleum products and other industrial waste and pollutants.

**REQUIREMENTS**

- 3. No person, corporation or partnership shall own or operate a salvage yard within the municipality without holding a current valid licence pursuant to the provisions of this by-law, and without having all other necessary licences and permits as may be required by the authority(ies) having jurisdiction.
- 4. Every such licence shall extend for a period of two year(s) from date of issue unless sooner revoked as provided herein.
- 5. The licence fee will be payable to the Municipality at the time of issuance.
- 6. Every application for a licence under this by-law shall be made on a form provided by the Municipality and signed by the owner of the property, and by the operator of the salvage yard if other than the owner.

**OPERATION**

- 7. All salvage, derelict motor vehicles, and used or second-hand goods, wares or materials which are kept for sale, for processing or for re-cycling or otherwise used in respect to the operation of any salvage yard shall be confined to the lands licensed as a salvage yard.
- 8. Parking areas, driveways and entrances shall, at a minimum, be surfaced with gravel provided such surface treatment is well drained, free of potholes and maintained in a manner to prevent the raising of dust.
- 9. Surface water runoff shall be dispersed entirely within the salvage yard or carried to a retention pond within the salvage yard and thereafter discharged to an outlet approved by the Municipality, or discharged directly to an outlet approved by the Municipality.
- 10. The area licensed as a salvage yard shall be visually screened from abutting roads and properties, save and except from railway property, by means of:
  - a) a solid continuous fence, except where interrupted by entrances, constructed of solid material and having a minimum height of 2.43 meters (8 feet).
  - b) by an earthen berm or by combination of earthen berm and a solid continuous fence constructed of solid material, provided:

- i) said earthen berm or combination of earthen berm and fence shall be a minimum height of 2.43 meters (8 feet).
  - ii) in the case of an earthen berm, or combination of fence and earthen berm, such earthen berm shall be maintained with a natural ground cover and kept free of noxious weeds and debris.
- 11. Exterior lighting shall be affixed to poles or a building(s) and installed in such a manner that any glare is directed away from neighbouring dwellings and roads.
- 12. The area licensed as a salvage yard shall be equipped with doors or gates which shall be kept locked and secured except during hours of operation.
- 13. Signage shall be restricted to the exterior walls of any building or structure located within the area licensed as a salvage yard; or a fence surrounding the area of the lands used as a salvage yard, provided that, where such signage is proposed to be affixed to a fence, plans indicating the dimensions of the sign are first submitted to, and approved by, the Municipality.
- 14. Prior to the issuance of a licence and a salvage yard or the renewal thereof or at any other time upon the receipt of a written request from the Chief Building Official, the operator of the salvage yard or proposed salvage yard shall conduct a tour of the salvage yard for the Chief Building Official, after which the Chief Building Official shall provide the operator with written comments on his assessment of the facility with respect to compliance with this by-law. Such assessment shall identify any matters which require rectification by the operator and shall indicate that the licence will not be issued or renewed until such matters are rectified or shall provide a time limit within such matters shall be rectified, failing which the operator's licence to operate a salvage yard will be revoked.
- 15. The Municipality may revoke a licence issued to the operator of any salvage yard who fails to comply with the provisions of this by-law or any other by-law of the Municipality.

## ENFORCEMENT

- 16. Every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction, forfeit and pay a penalty of not more than twenty-five thousand dollars (\$25,000.00), exclusive of costs, pursuant to Section 161 of the Municipal Act, and every such fine is recoverable under the Provincial Offences Act, R.S.O. 1990 c.P.33.
- 17. If any section or sections of this by-law or any part or parts thereof shall be found by any court of law having jurisdiction to be illegal or unenforceable or beyond the power of the Municipality to enact, such section or sections or part or parts thereof shall be considered separate and severable from the by-law and all remaining sections of this by-law or parts thereof shall not be affected thereby and shall remain in full force and effect as if the illegal or unenforceable section or section or part or parts thereof had before been enacted.

18. Nothing in this by-law shall serve to relieve any person from obligation to comply with the requirements of the Ontario Building Code, the Municipality's Zoning By-law(s), or any licence, permit, authority or approval required by the municipality or any other public authority or body.
19. Notwithstanding the provisions of this by-law to the contrary, existing salvage yards shall have a maximum of one (1) year from the date of passing to comply with the requirements herein, after which the Municipality may seek remedial action.

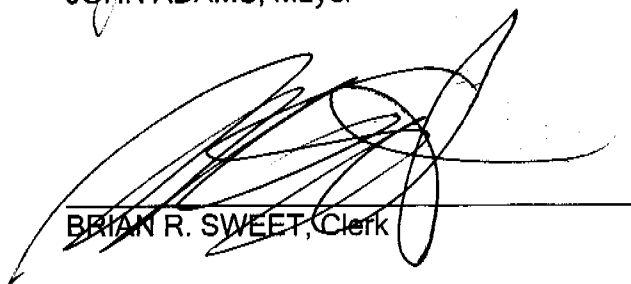
**EFFECTIVE DATE**

20. This by-law shall take effect on the date of passing by Council and shall remain in effect until the date it is repealed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY ENACTED THIS

17<sup>TH</sup> DAY OF OCTOBER 2005.

  
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JOHN ADAMS, Mayor

  
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BRIAN R. SWEET, Clerk

SCHEDULE A

ANNUAL LICENCE FEE

SALVAGE YARD                      \$300.00