

THE CORPORATION OF THE TOWNSHIP OF

MELANCTHON BY-LAW NUMBER -2019

**SALVAGE YARD BY-LAW**

WHEREAS the provisions of the Municipal Act, 2001, S.O. 2001, as amended, ("Municipal Act") including but not limited to the following provisions, authorize municipalities as follows:

- a) Sections 8, 11 and 11.1 authorize a municipality to pass by-laws to regulate, prohibit, require a person to do certain things and to licence matters;
- b) Section 131 authorizes a municipality to prohibit and regulate the use of any land for the storage of used vehicles for the purpose of wrecking, dismantling or salvaging parts of them for sale or other disposition; and
- c) Section 150 to 153 authorize a municipality to provide for the licencing of any business within the municipality.
- d) Part XIV of the Act provides a local municipality with the authority to enforce said by-law.
- e) Section 425(1) of the Municipal Act, 2001, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Municipal Act, 2001, as amended, is guilty of an offence.
- f) Section 429(1) of the Municipal Act, as amended, provides that a municipality may establish a system of fines for offences under a by-law passed under the Municipal Act, 2001, as amended.

AND WHEREAS the Corporation of the Township of Melancthon has and intends to licence, regulate and control any visual, noise, environmental, fire safety, health hazard and property standards nuisance caused by Salvage Yards including automobile wrecking yards or premises.

NOW THEREFORE the Council for the Corporation of the Township of Melancthon enacts as follows:

**1. SHORT TITLE**

**1.1** This By-law may be cited as the "Salvage Yard By-law".

**2. INTERPRETATION**

**2.1** In this By-law:

- a) The necessary grammatical changes required to make the provisions hereof apply to corporations, partnerships, trusts and individuals, male and female, and to include the singular or plural meaning where the context so requires shall in all cases be assumed as though fully expressed.
- b) The insertion of headings and the division of this By-law into sections and subsections are for the convenience of reference only and shall not affect the interpretation thereof.
- c) Any references in this By-law to any statutes, regulations or by-laws, as amended, restated or replaced from time to time.

**3. DEFINITIONS**

**3.1** In this By-law:

- a. "Applicant" means a Person applying for a Salvage Yard Licence or renewal of a Salvage Yard Licence under this By-law and application has a corresponding meaning;
- b. "By-law Enforcement Officer" means a By-law Enforcement Officer appointed by the Township;

- c. "Clerk" means the Chief Administrative Officer or designate of the Corporation of the Township of Melancthon;
- d. "Council" means the Council for The Corporation of the Township of Melancthon;
- e. "Licensee" means the holder of a current and valid Salvage Yard Licence issued by the Township in accordance with the terms of this By-law;
- f. "Municipal Act" means to Municipal Act, S.O. 2001, c25, as amended, and the Regulations, or any successor legislation;
- g. "Person" means an individual, corporation, association or partnership;
- h. "Police Officer" means a law enforcement officer employed by the Ontario Provincial Police;
- i. "Salvage Yard" or "Salvage Operation" means a property used in whole or in part for the storing of obsolete, discarded, or salvaged materials including motor vehicles and machinery for the purpose of wrecking or dismantling them, or salvaging parts thereof for sale or other disposal, and for the collection, purchase, keeping or selling of second hand goods and merchandise such as, but not limited to, waste paper, rags, bottles, tires, metal, scrap material, appliances, scrap metal processing and recycling and matters ancillary thereto, (all such materials referred to herein this By-law as "Salvage");
- j. "Salvage Yard Licence" means a licence issued by the Clerk of the Township for a Salvage Yard or Salvage Operation issued pursuant to the requirements of this By-law;
- k. "Township" means The Corporation of the Township of Melancthon;
- l. "Vehicle" has the same meaning as "vehicle" as defined in the *Highway Traffic Act*, R.S.O. 1990, c.H.8, as amended, and the Regulations, or any successor legislation.

#### **4. PROHIBITION**

- 4.1** No Person shall own or operate a Salvage Yard unless that Person holds a current Salvage Yard Licence.
- 4.2** No owner of property shall authorize or permit a Person to operate a Salvage Yard unless such Person holds a current Salvage Yard Licence.

#### **5. CLERK**

- 5.1** The Clerk or a designate of the Township shall:
  - a) Receive and process all applications for Salvage Yard Licences and for renewal of Salvage Yard Licences;
  - b) Issue Salvage Yard Licences to and renew Salvage Yard Licences for Persons who meet the requirements of this By-law;
  - c) Make or direct all necessary inspections to ensure that this By-law and applicable comprehensive zoning by-laws are being complied with;
  - d) Where the business of Salvage Operation is being carried on in the Township of Melancthon by any Person without a Salvage Yard Licence, take all such steps as may be required to enforce this By-law; and
  - e) Carry out the instructions of Council relating to this By-law.

## 6. LICENCING PRE-REQUISITES

6.1 No Salvage Yard Licence may be granted or renewed for a Salvage Yard unless there is proof of compliance with all of the following:

- a) It is in a location where the use of land as a Salvage Yard is not prohibited by any provisions of the comprehensive zoning by-law or any other by-law of the Township, as amended;
- b) A Salvage Yard shall not be operated or established within 150 meters of a residence other than a residence located on the same parcel of land as the Salvage Yard Existing Licensed Salvage Yards that are in operation on the date of passing of this By-law that are located within 150 meters of a residence shall be deemed to be in compliance of section of Section 6.1 (b) of this By-law;
- c) The Salvage Yard shall not be located on land that is subject to flooding or land that directly drains to a watercourse, subject to first obtaining any and all required approvals of appropriate Conservation Authorities and or the Ministry of Environment;
- d) Certificates have been issued by the appropriate licencing authorities of the Province of Ontario, including any required pursuant to the *Highway Traffic Act*, R.S.O 1990, The *Environmental Protection Act*, R.S.O. 1990, and the *Conservation Authorities Act*, R.S.O. 1990, authenticating that the property and Salvaging Yard operations are permitted, licenced and in good standing; and
- e) A fire inspection report has been submitted for the Salvage Yard, dated within two (2) months of the date of the application, as prepared by the fire department having jurisdiction for the subject Salvage Yard in the Township confirming compliance with the *Fire Protection and Prevention Act*, S.O. 1997, as amended and its Regulations, or any successor legislation.

## 7. LICENCING

7.1 An Applicant shall submit in person to the Clerk of the Township such completed application or renewal form as prescribed by the Township, payment of the required application or renewal fee and shall provide such further information and documentation, which shall include but not necessarily be limited to,

- a) All documentation required pursuant to section 6.1 of this By-law;
- b) Applicant's full name, address, phone number and date of birth (if an individual). The business name under which they carry on or intend to carry on business;
- c) The address of the Salvage Yard;
- d) The type of Salvage that will be located at the Salvage Yard;
- e) Information on whether the Person, or any officer or director of the Person, has been convicted of an offence relating to a Salvage Operation, the protection of the environment, fire safety or public health or property standards;
- f) Information on whether the Salvage Yard, or any part thereof, has been subject to any order in regard to the protection of the environment, fire safety or health hazard, or whether the Salvage Yard, or any part thereof, has been subject to an order within a previous twelve (12) month period;
- g) Information on whether the Person or any officer or director of the person, who had a licence for a Salvage Yard suspended or revoked in any Municipality in Ontario;
- h) A current Hazardous Waste Information Network Generator number, as required pursuant to applicable law;
- i) A valid insurance certificate pursuant to 7.5 herein; and
- j) Evidence of the ownership of or right to carry on the operation of the Salvage Yard on the premises where the Salvage Yard is to be located.
- k) A site plan for the Salvage Yard as provided in 7.6 herein;
- l) A satisfactory plan that addresses:
  - a. On-site storm management with no off-site liquid drainage;
  - b. A spills action plan; and
  - c. An emergency disaster plan.

**7.2** In the case of a Salvage Yard that is owned by a partnership, the personal appearance required by 7.1 shall be made by one of the partners, provided the application shall be signed by all of the partners. In the case of a Salvage Yard owned by a corporation, the personal appearance shall be made by an officer of the corporation who is authorized to bind the corporation and not by an agent thereof.

**7.3** Without limiting the generality of any other provision in this By-law, persons associated in a partnership applying for a Salvage Yard Licence shall file with their application a statutory declaration, in writing, signed by all members of the partnership, dated within 30 days of the application, which declaration shall state:

- a) The full name of every partner and the address of his ordinary residence;
- b) The name or names under which it carries on or intends to carry on business;
- c) That the Persons therein named are the only members of the partnership;
- d) The mailing address of the partnership; and
- e) The date the statutory declaration was entered into by each member.

**7.4** Without limiting the generality of any other provision in this By-law, every Corporation applying for a Salvage Yard Licence or every Corporation that is a partner in a partnership applying for a Salvage Yard Licence shall file with the Clerk, at the time of making its application, a copy of its articles of incorporation or other incorporating documents, a certificate of status dated within 30 days of the date of the application indicating the corporation to be active and in good standing and shall file a statutory declaration, in writing signed by an Officer of the Corporation, dated within 30 days of the application, which declaration shall state:

- a) The full name of every officer and director and the address of his ordinary residence;
- b) The name or names under which it carries on or intends to carry on business;
- c) That the Persons therein named are the only officers and directors of the Corporation;
- d) The mailing address for the Corporation.

**7.5** For the purposes of consumer protection in the event of personal injury and/or property damage, and for claims of actions or proceedings resulting from breach of the terms of any Salvage Yard Licence issued pursuant to this By-law, every Person who holds a Salvage Yard Licence shall;

- a) Provide and maintain Commercial General Liability Insurance, by a licenced insurer within the Province of Ontario, subject to limits not less than \$2,000,000.00 inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof arising from such activity;
- b) Ensure that the insurance be in the name of the property owner and shall name the Township as an additional insured thereunder;
- c) Deliver a Certificate of Insurance listing the requirements as set out in (a) and (b) above which insurance shall remain in effect for the term of the Salvage Yard Licence and shall not be cancellable except on thirty days prior notice to the Township; and
- d) Indemnify and save harmless the Township for all losses, costs, damages, charges and expenses whatsoever that may be incurred, sustained or paid by the Township resulting from the negligent acts, omissions, and/or breach of contract in the performance of the Owner's obligations under this By-law.

**7.6** (1) Every Person who applies for a Salvage Yard Licence shall provide the Clerk with a site plan for the Salvage Yard that shows:

- a) The legal boundaries for the Salvage Yard;
- b) The location of all existing and proposed buildings, roads, driveways, parking areas, storage areas and operating areas; and
- c) The location of any fence or other barrier as required under section 11 of this By-law.

(2) The legal boundaries of the Salvage Yard shall only include those lands that are owned or are leased by the Person applying for a Salvage Yard Licence.

(3) Every Person who applies for a Salvage Yard Licence shall allow the Clerk or a By-law Enforcement Officer to enter onto the Salvage Yard to verify the site plan as provided under subsection (1) of this section.

## **7.7 RENEWAL OF SALVAGE YARD LICENCE**

Every Person who applies for a renewal of a Salvage Yard Licence under this By-law shall deliver to the Clerk of the Township an application to renew, together with the information and documentation and the required renewal fee a minimum of seven (7) business days before the Salvage Yard Licence expires as provided for in paragraphs, 7.1 to 7.6 herein together with 6.1.

## **8. ISSUANCE, RENEWAL OR REVOCATION OF SALVAGE YARD LICENCE**

### **8.1 Subject to 8.2 herein:**

- a) Salvage Yard Licences shall be issued for a maximum period of one year and shall come into effect on the date that they are issued and expire on December 31 of that same year;
- b) The Salvage Yard Licence is not transferable;
- c) The Salvage Yard Licence terminates upon the death of the Licensee or the dissolution of the Corporation or partnership;
- d) Any fee submitted is non-refundable; and
- e) The Salvage Yard Licence shall specify the location for which the Salvage Yard Licence is applicable.

### **8.2 A Salvage Yard Licence application or renewal application may be refused, or a Salvage Yard Licence revoked by the Clerk if:**

- a) The information on the application or renewal is incorrect or cannot be verified;
- b) The application or renewal is incomplete; and/or
- c) The Applicant is in non-compliance with the terms of the Salvage Yard Licence and the requirements of this By-law.

### **8.3 The Clerk reserves the right to revoke any Salvage Yard Licence where:**

- a) there has been a misrepresentation or false statement or declaration;
- b) the Applicant is deemed to be in non-compliance with the terms of the Salvage Yard Licence which includes compliance with the operational requirements of this By-law; and/or
- c) the Salvage Yard Licence or permits granted to the Applicant by any provincial authority are revoked, cancelled or otherwise not maintained in good standing.

### **8.4 The Clerk shall give the Applicant notice of the refusal or revocation of Salvage Yard Licence/renewal by registered mail addressed to the municipal address of the Applicant declared on its application/renewal form. Notice shall be deemed effective as received five (5) business days after mailing of the Notice.**

### **8.5 The Applicant may within fifteen (15) business days of receiving the Notice prescribed in paragraph 8.4 appeal the Clerk's decision to the Council of the Township in writing. The Notice of Appeal shall set forth in writing the specific grounds of appeal and be accompanied by a non-refundable appeal fee of \$500.00. The Appeal shall be delivered in person by the Applicant to the Clerk.**

### **8.6 Council of the Township shall consider the appeal of the Applicant at the next regular Council meeting next following the date of the filing of the Appeal Council may:**

- a) Affirm the decision of the Clerk; or
- b) Direct the Salvage Yard Licence or renewal be granted, or the revocation set aside on such terms and conditions as Council shall deem appropriate.

- 8.7** The Clerk shall provide the Applicant in writing with the decision of Council ("Notice of Decision") forthwith and by registered mail addressed to the mailing address of the Applicant set out in the Notice of Appeal. Notice shall be deemed to be effective five (5) business days after mailing of the Notice of Decision.
- 8.8** The Notice of Decision issued Council as provided for in paragraph 8.7 is final and non-appealable.
- 8.9** Where a Salvage Yard Licence under this By-law has been revoked the holder of the Salvage Yard Licence shall return the Salvage Yard Licence to the Clerk within twenty-four (24) hours of service of the Notice of Decision.

## **9. CHANGE OF STATUS**

- 9.1** Where there is any change in any of the particulars relating to a Licensee under this By-law, which particulars were required to be filed with the Township on applying for a Salvage Yard Licence, such Person shall report the change, in writing, to the Clerk within six (6) calendar days of the change.
- 9.2** Where there is to be a change in the composition or the controlling interest of a partnership licenced under this By-law, the Licensees hereunder in partnership shall obtain the written approval of the Clerk prior to the change, having provided the Clerk with any information required including information pursuant to 7.1 (f), (h), 7.2 and 7.3.
- 9.3** Where there is to be a change in the composition of the director and or officer or the controlling interest of the shareholders of a corporation licenced under this By-law, the corporation shall obtain the written approval of the Clerk prior to the change, having provided the Clerk with any information required including information pursuant to 7.1 (f), (h) and 7.4.

## **10. GENERAL**

- 10.1** Each Person who holds a Salvage Yard Licence shall notify the Clerk within six (6) calendar days of any criminal convictions registered against the Person that relate in any way to an act of dishonesty, fraud or theft.
- 10.2** Each Person who holds a Salvage Yard Licence shall notify the Clerk within six (6) calendar days of any order or conviction pursuant to any environmental, fire safety, health hazard or regulation that relates to its Salvage Yard.
- 10.3** No Person who applies for a Salvage Yard Licence shall knowingly misstate or provide false information to the Clerk.

## **11. OPERATIONAL REGULATIONS**

- 11.1** Every Person holding a Salvage Yard Licence shall erect and maintain a fence or berm, approved by the Township in advance of construction, that encloses the Salvage operation:
  - a) To a minimum height of 3.05 meters above grade and not to exceed 5.49 meters above grade;
  - b) If a fence, to be constructed of a solid uniform material being of a neutral uniform colour;
  - c) To provide a full visual barrier to the Salvage operations; and
  - d) Be kept in good repair and appearance at all times.
- 11.2** If an opening is required in any fence as required under section 11.1 of this By-law for ingress or egress, then the opening shall be covered by a gate that:
  - a) Is the same height as the fence;
  - b) Is kept in good state of repair at all times;
  - c) Does not open over a travelled portion of a public road allowance or sidewalk;
  - d) Is kept clear of obstructions so that it may be opened fully at all times;
  - e) Opens to a width of at least 3.5 meters; and
  - f) Is constructed of a solid uniform material being of a neutral uniform colour.

**11.3** Every Person who holds a Salvage Yard Licence shall ensure that:

- a) The outdoor area of the Salvage Yard is kept in a clean, neat, orderly and sanitary condition;
- b) All storage containers, and other materials belonging to the Person, or used for the Salvage Yard operation on-site, are kept within the enclosed area as required under section 11.1 of this By-law or an enclosed building;
- c) No Salvage is loaded, unloaded, sorted, processed, dismantled, crushed, recycled, demolished, displayed, stored or placed outside of enclosed area as required under section 11.1 of this By-law or an enclosed building;
- d) No Salvage inside the fence required under section 11.1 of this By-law is above the height of the fence and in any event is not greater than 4.57 m in height above grade;
- e) No Salvage within the Salvage Yard is placed against the fence required under section 11.1 of this By-law;
- f) No gasoline, vehicle fluids or other chemicals from the Salvage Yard enter onto any adjoining lands or into any aquifer, lake, pond, river, stream, drainage pond, drainage ditch, storm sewer, or other body of water;
- g) No Salvaging, shipping container or other material is placed on the roof of any building within The Salvaging Yard;
- h) All vehicle batteries within the Salvage Yard are stored in the environmentally safe manner within an enclosed building; and
- i) All outdoor lighting is arranged so as to divert light from any adjoining lands, inclusive of any public road allowances.

**11.4 OPERATING HOURS**

- a) No Licensee shall allow any work in connection with the Salvage operation outside the following hours:

Monday through Friday, 8:00 a.m. to 6:00 p.m. and

Saturday, 9:00 a.m. to 3:00 p.m.;

- b) No Licensee shall allow any work in connection with the Salvage operation on a statutory holiday;
- c) No Licensee shall allow access to the premises at any time unless there is an attendant on duty;
- d) Idling of trucks must be kept to a minimum;
- e) Paragraph (a) and (b) do not apply when a vehicle is dropped off at the Salvaging Yard pursuant to the direction of a Police Officer or other law enforcement official.

**12. TRANSACTION RECORDS**

**12.1** Every Person who holds a Salvage Yard Licence shall maintain a Register shall either be in the form of a paper booklet or an electronic format.

**12.2** Every Person who holds a Salvage Yard Licence who acquired a vehicle, vehicle parts or salvage for the purpose of dismantling or selling such at the Salvage Yard, either personally or through an employee or agent, from another person, shall immediately record in their Register, in English, and where applicable in the legible script, using permanent ink, the following:

- a) The full name and address of the Person from which they received the vehicle, vehicle parts or salvage;
- b) The date of acquisition;
- c) The name of the Licensee, or the Licensee's employee or agent who obtained the vehicle, vehicle parts or salvage;
- d) The consideration given for the vehicle, vehicle parts or salvage; and

- e) A completed description of the vehicle, vehicle parts or salvage, including the VIN, if applicable. Each vehicle, vehicle part or salvage shall be personally examined by the recipient or his designate to verify the VIN matches any ownership receipt given

**12.3** Every Person who holds a Salvage Yard Licence shall make their Register available for inspection upon request of a Police Officer, the Clerk or By-law Enforcement Officer and if required shall copy the Register or any part thereof and provide such to the Police Officer, Clerk or By-law Enforcement Officer.

**12.4** Every Person who holds a Salvage Yard Licence who maintains their Register through a computer software program shall upon the request of a Police Officer, the Clerk or By-law Enforcement Officer:

- a) Allow a Police Officer, Clerk or By-law Enforcement Officer to review the on-screen information for the Register; and
- b) Print or otherwise copy the Register or any part thereof and provide such to the Police Officer, the Clerk or By-law Enforcement Officer.

**12.5** Every Person who holds a Salvage Yard Licence shall ensure that the Register is in a neat condition and that no pages or computer information is removed, destroyed, obliterated or altered.

**12.6** No Person who holds a Salvage Yard Licence shall remove or allow any other Person, with the exception of a Police Officer, the Clerk or other Law Enforcement official, to remove their Register from the Salvage Yard.

**12.7** No Person who holds a Salvage Yard Licence shall purchase or acquire any vehicle or vehicle parts unless the Person observes proof that the person selling the vehicle or vehicle part is the lawful owner.

**12.8** No Person who holds a Salvage Yard Licence shall purchase or acquire any vehicle that has a Vehicle Identification Number obliterated or mutilated without first having given written notice to a Police Officer at least 24 hours prior to the intended purchase or acquisition.

### **13. RETENTION PERIOD**

**13.1** No Person shall alter, dismantle, repair, dispose of or in any way part with any vehicle seven (7) model years old or less, purchased or take in exchange, until after the expiration of seven days from the date of obtaining the said vehicle, and during the said period the vehicle so obtained shall be subject to an inspection at any time by a Police Officer.

**13.2** Notwithstanding section 13.1, a Person may dispose of any vehicle seven model years old or less, purchased or taken in exchange before the expiry of the seven (7) days from the date of obtaining the said vehicle, provided that a Police Officer has authorized in writing the release of the vehicle.

**13.3** Section 13.1 and 13.2 of this By-law shall not apply where the Person acquires a vehicle from another Person who operates a Salvage Yard or Impound where a retention period has already transpired.

### **14. PROHIBITIONS**

**14.1** No Person shall carry on the business of a Salvage Yard without displaying the Salvage Yard Licence in ready public view in the Salvage Yard.

### **15. RIGHT TO INSPECT**

**15.1**

- a) Any licensed premises, at any reasonable time, may be entered and inspected by the Clerk, a By-law Enforcement Officer or Police Officer for the purpose of enforcing this By-law.
- b) No Person shall obstruct or hinder the inspection of Salvage operations and any records by the Clerk, a By-law Enforcement Officer or Police Officer.

## 16. EXCEPTIONS

**16.1** The provision of this By-law shall not apply to the following:

- a) The premises of a licensed garage or a licensed new or used automobile dealer on which used automobile parts are kept on hand as part of its inventory for the purposes of carrying out repairs on the premises.

## 17. TRANSITIONAL

**17.1** Notwithstanding any other provision of this By-law, existing Salvage Operations and in good standing licenced pursuant to By-law 36-2011 of the Township are exempted from the provisions of this By-law, as follows:

a) Existing fencing in compliance with By-law 36-2011, kept in good repair, shall be deemed to be in compliance of this By-law, until the earlier of five (5) years from the passage of this By-law or the substantial repair or replacement of the fencing.

## **18. SEVERABILITY**

**18.1** Should any section, clause or provision of this By-law be declared to be invalid by any court of competent jurisdiction, the same shall not affect the validity of this By-law as a whole or any part thereof, other than the part that was declared to be invalid.

## 19. PENALTY

**19.1** Every individual who contravenes a provision of this By-law, and every director or officer of a corporation who concurs in the contravention by the corporation, is guilty of an offence and on conviction is liable to a fine not exceeding \$25,000 exclusive of costs, for each offence, pursuant to the *Municipal Act*.

**19.2** Every corporation who contravenes a provision of this By-law is guilty of an offence and on conviction is liable to a fine not exceeding \$50,000 exclusive of costs, for each offence, pursuant to the *Municipal Act*.

## **20. ADMINISTRATIVE PENALTY PURSUANT TO THE MUNICIPAL ACT**

**20.1** For purpose of promoting compliance with this By-law there shall be an administrative penalty of \$2,000.00 payable by a Person being in non-compliance with this By-law.

**20.2** The administrative penalty provided for in 20.1 constitutes a debt owed to the Corporation. If the penalty is not paid within fifteen (15) days after the day it became due and penalty, the Treasurer of the Corporation may add the administrative penalty to the tax roll for any property in the Municipality for which any of the registered owners who are responsible for paying the administrative penalty, and collect it in the same manner as Municipal taxes.

## 21. REPEAL

**21.1** By-law 36-2011 is hereby repealed. Notwithstanding this section, licences issued under By-law 36-2011 shall be deemed to be licences under this By-law until they expire or are revoked or renewed, in accordance with this By-law.

By-law read a first and second time this \_\_\_\_\_ day of \_\_\_\_\_, 2019

By-law read a third time and passed this \_\_\_\_\_ day of \_\_\_\_\_, 2019

MAYOR CLERK