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File No. 19537

November 16, 2010

Township of Melancthon  
157101 Highway 10  
R.R. 6  
Shelburne, Ont. L0N 1S9

Dear Mesdames & Sirs:

Re: Township of Melancthon - Salvage Yards

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Following our letter of October 13, 2010, and your request for us to redraft the proposed Salvage Yards By-law in light of the comments the Township and our offices received regarding the same, attached is the revised draft By-law. There are a few additional issues council should take into consideration as they review this re-draft, some of these comments were mentioned in our previous letter and are repeated below.

1. Currently, the regulation of salvage yards is partly under the zoning by-law and partly under the 1966 by-law. There is no coherent regime. It is desirable to have everything contained in the new by-law. However, due to provisions in the Planning Act, the new by-law must be in conformity with the zoning by-law.

This draft brings all salvage yard regulation into this by-law. It is anticipated that any new zoning by-law shall not deal specifically with salvage yards, and as such there will no longer be any conflict between the two by-laws. To the extent that this salvage yard by-law is contrary to the current zoning by-law, the new provisions shall not be operative as long as the zoning by-law is in force, or provides salvage operators some time to come into compliance with this by-law. Section 29 offers these transitional provisions.

2. Under Part IV of the *Municipal Act, 2001*, the Township is permitted to establish a system of administrative penalties as a means of enforcing a system of licences. This has not been included in the current draft salvage by-law, but is something that the Township might want to consider. Relevant provisions would deal with notice, penalty payment, appointment and powers of a screening officers to review any imposed penalties, appointment of a hearings

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officer, the power to grant extensions of time and other penalties that can be imposed according to the by-law. The advantages of an administrative penalty system are:

- ✓ The increased ability to regulate and impose conditions on a licensee over a long period of time.
- ✓ It can be used as part of a mixed system of enforcement, for example, a first offence can be subject to a modest administrative penalty and subsequent contravention can be subject to more severe prosecution, this can be a way to increase compliance, at a reduced cost to the municipality.
- ✓ It can improve efficiency in the administration and enforcement of all by-laws since a licensee is required to keep up to date contact information on the record when applying for a licence.
- ✓ Renewal of licences may be denied if there are any outstanding administrative penalties in the applicant's name, which again can bolster enforcement.
- ✓ It offers an alternative means of enforcement outside of the courts, but can be significant enough to discourage repeat offenders.
- ✓ It can offer a more cost efficient means of ensuring enforcement without starting more costly and lengthy revocation or suspension of licence proceedings.
- ✓ Offers a means of going after relatively less important offences that may be overlooked in order to avoid lengthy prosecution procedures.
- ✓ Council can appoint a hearings officer to hear reviews of any administrative penalties.

3. Certain provisions of the re-draft salvage by-law remain unchanged despite some of the comments received. Specifically Section 19(e) prohibits any salvage yard operator from disposing of liquid waste contrary to legislation and also in accordance with any schedule that may be imposed. Comments received in regard to this provision state that Environmental legislation dealing with the disposal of liquid waste already deal with this issue, and that imposing additional legislation through this by-law would make it too onerous for the salvage yard operators. It is left to council to determine whether this section is indeed too onerous, we do not feel that it is unreasonable as it stands.

Section 22(b)(v) imposes a holdback period of seven days on any materials a salvage yard operator purchases. This, it was argued, creates a problem for the salvage yard owners in terms of the ability to resell these parts. The holdback may cause a loss of business since potential customers may choose to purchase the parts at a salvage yard that does not have to comply with such holdback provisions. Additionally, requiring proof of ownership of vehicle parts s. 22(b)(vi) also posed a problem for salvage yard operators since not all vehicle parts would have ownership papers attached to them. While we feel that these sections are reasonable, it is up to council to decide whether these sections should be further amended to suit the salvage yard owner's requirements.

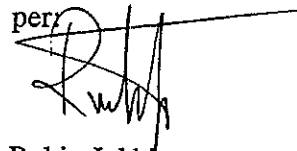
November 16, 2010

Township of Melancthon

Page 3

These are our comments on the attached re-draft. We trust that you will find the above satisfactory. If you have any further questions please contact the undersigned. We look forward to your comments.

Yours very truly,  
SHEPHERD, OSYANY & KING, LLP  
per

A handwritten signature in black ink, appearing to read 'Ruhia Jokhio', is written over a horizontal line. The signature is stylized and somewhat cursive.

Ruhia Jokhio

(ext. 222)

RJ/m

**THE CORPORATION OF THE TOWNSHIP OF  
MELANCTHON BY-LAW NUMBER 2010-  
SALVAGE YARDS BY-LAW**

WHEREAS the provisions of the Municipal Act, 2001, S.O.2001, c.25, and in particular Sections 131 and 150 as amended, provide the authority for Council to pass this by-law

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

**Part One - Definitions**

1. DEFINITIONS

“Applicant” means the person applying for a licence or renewal of a licence under this by-law and “application” has a corresponding meaning;

“Council” means the Council for The Corporation of the Township of Melancthon;

“Licence” means the certificate issued under this by-law as proof of licensing under this by-law;

“Licensed” means licensed under this by-law;

“Licensee” means the person licensed under this by-law or the person required to be licensed under this by-law;

“Licensing Appeal Committee” means Council or a committee of Council designated by Council for the purpose of hearing appeals under this by-law;

“Licensing Commissioner” means the Chief Administrative Officer for the Township of Melancthon or his or her designate as described in Section 3 of this By-Law;

“Mercury Switch” includes each mercury-containing capsule or mercury-containing switch assembly that is part of a convenience lighting switch assembly in a vehicle;

“Operator” includes the licensee and every person employed in the operation of the salvage yard;

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

“Salvage Yard” or “Salvage Operation” means a building or place used for the storing of 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 as such, but not limited to, waste paper, rags, bottles, tires, metal, scrap material and appliances; and

“Township” means The Corporation of the Township of Melancthon in the County of Dufferin.

## **Part Two - Licensing Pre-Requisites**

### **2. LICENSING PRE-REQUISITES**

No license may be granted for a salvage yard unless there is 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 provision of the comprehensive zoning by-law of the Township;
- 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;
- c) the salvage yard shall not be located on land covered by water or subject to flooding and shall be located such that no direct drainage leads to a watercourse;
- d) the salvage yard shall be located so as to reduce impacts due to excessive dust, noise, and traffic;
- e) the salvage yard shall be located so as to minimize the hazards to health and safety of persons or property including hazards from fire or vermin.

## **Part Three - Licensing Process**

### **3. LICENSING COMMISSIONER**

The Licensing Commissioner shall:

- a) receive and process all applications for licenses and for renewal of licenses to be issued under this by-law;
- b) issue licenses to and renew licenses for persons who meet the requirements of this by-law;
- c) generally perform all the administrative functions conferred upon the Licensing Commissioner by this by-law;
- d) keep a separate account of all licence fees received and provide the Treasurer of the Township of Melancthon with a statement of fees received upon request;
- e) make all necessary inspections to ensure that this by-law and comprehensive zoning By-laws are being complied with;
- f) where the business of salvage operation is being carried on in the Township of Melancthon by any person without a licence, take all such steps as may be required to enforce this by-law; and
- g) carry out the instructions of Council relating to this by-law.

4. APPLICATION FOR A LICENCE AND FOR RENEWAL OF A LICENCE

- a) An application for a licence or renewal of a licence shall be completed on the form which is Schedule "A" to this by-law.
- b) A licence shall be granted only to the legal owners of the Salvage Yard, with the permission of the land owner, in respect of which a licence is sought.

5. SUBMISSION OF LICENCE APPLICATION TO THE LICENSING COMMISSIONER

A completed application for a licence or for renewal of a licence shall be delivered to the Licensing Commissioner and shall be accompanied by:

- a) the fee in the appropriate amount as set out in Schedule "B" this by-law;
- b) a certificate of zoning compliance issued by the Township of Melancthon or a survey, showing all the buildings on the lands;
- c) if other than a sole proprietorship, a copy of incorporating documents or the names and addresses of all partners and a copy of the business registration;
- d) proof of ownership of the lands or of right to carry on the operation of the Salvage Yard on the premises where the Salvage Yard is located;
- e) a certificate of Public Liability Insurance in a minimum amount of two million dollars (\$2,000,000.00) endorsed to provide the Licensing Commissioner at least ten (10) days' notice in writing prior to cancellation, expiration or change of the policy, which policy shall be maintained in force throughout the licensing period.
- f) a security clearance issued by the Police Service in which the applicant resides. Where a partnership or corporation applies for a licence under this By-law, each partner or each officer and director of the corporation shall provide a security clearance certificate issued by the Police Service.
- g) a bond, or cash deposit in the amount of \$5,000.00. In the event the security is a cash deposit, there shall be no interest paid to the person making the cash deposit.

6. ISSUE OF LICENCE

- a) When an application for a licence is made in accordance with the provisions of this by-law and the applicant meets all the requirements of this by-law, the Licensing Commissioner shall issue a licence that shall set out the expiry date of the licence in accordance with section 8 to this by-law and the applicant shall thereby be licensed.
- b) A licence shall specify the location from which the licensed business is to be carried on, and a separate licence is required for each location, if more than one.

7. RENEWAL OF LICENCE

Every application for renewal of a licence shall be completed and delivered to the Licensing Commissioner before the expiry date of the licence as set out in the licence. The requirements for a renewal shall be the same as the requirements for a new licence under this By-law.

## 8. TERM OF LICENCE

A licence issued under the provisions of this by-law shall expire three years from the issuance of the licence unless it is renewed or revoked in accordance with the provisions of this by-law. Upon the termination of a licence the balance of the bond or cash deposit shall be returned to the person who filed the security.

## 9. LICENCE NOT TRANSFERABLE

A licence issued under the provisions of this by-law shall be personal to the licensee and is not transferable.

## 10. GROUNDS FOR REFUSAL TO ISSUE OR TO RENEW A LICENCE

An applicant is entitled to be licensed and a licensee is entitled to have a licence renewed except where:

- a) at any time within three years prior to the application the applicant, or in the case of a partnership or corporation partner or officer or director of the corporation, has been convicted of any offence relating to fraudulent practices, stolen goods, theft or burglary under the Criminal Code of Canada; or
- b) the issuance of the licence or renewal of the licence or continuation of an existing licence would be contrary to the public interest;
- c) the information on the application or renewal is not correct or cannot be verified;
- d) the application is not complete;
- e) the licensing pre-conditions are not met.

## 11. REVOCATION OF A LICENCE

- a) Any licence issued under this by-law may be revoked by the Licensing Commissioner:
  - i. upon the request in writing by the licensee;
  - ii. upon change of ownership of a business occupying the licensed premises; or
  - iii. forthwith, if the licensed premises are vacated, and the Licensing Commissioner's decision shall be effective upon it being issued.
- b) The Licensing Appeal Committee may suspend or revoke a licence in the following circumstances:
  - i. the license should not have been granted by reason of any of the causes in the preceding section; or
  - ii. the licensee has failed to comply with the terms of the licence or the provisions of this By-law.

## 12. LICENSING OFFICER'S POWER TO REFUSE TO ISSUE OR TO RENEW A LICENCE

- a) The Licensing Officer may refuse to issue a licence or may refuse to renew a licence where the applicant or licensee would be disentitled to a licence or renewal of a licence

for any of the reasons set out under in the previous two sections. The Licensing Officer may issue a licence subject to terms and conditions where, the terms and conditions are imposed to ensure compliance with this By-law.

b)The applicant may appeal the decision to the Licensing Appeal Committee, within 30 days of the Licensing Officer's decision.

#### 13. NOTICE OF REVOCATION OR SUSPENSION OF A LICENCE

a) If the revocation or suspension is to be under Section 11, the Licensing Officer shall give the licensee at least fifteen (15) days' notice of the intention to revoke or suspend the licence, either by prepaid registered mail to his or her last known address or delivered to him or her personally, of the time and place where the Licensing Appeal Committee will be considering the matter, and that he or she shall be permitted either personally or by his or her representative to appear before the Licensing Appeal Committee to show cause why such licence should not be revoked or suspended.

b) Where the notice referred to in the previous subsection is given by prepaid registered mail, the notice shall be deemed to have been received by the licensee on the fifth day after the notice was mailed.

#### 14. REFUND OF FEE ON REVOCATION OF A LICENCE

If Licensing Appeal Committee decides to revoke a licence, the licensee is entitled to a refund of a part of the balance of the licence fee proportionate to the unexpired part of the term for which it was granted.

### **Part Four - Operational Regulations**

#### 15. REQUIREMENTS FOR BUILDINGS AND STRUCTURES

a) No Operator shall conduct a salvage operation except within an enclosed building or within an area surrounded by a fence of masonry, metal, wood or a composition, sunk at least 1.07 meters into the ground, and if of metal or wood composition, painted a uniform colour, or berm or combination thereof to a minimum height of 3 meters above grade and not to exceed 5 meters above grade;

b) No Operator shall conduct a salvage operation except where the property is secured by a gate, which shall be locked when the business is not in actual operation

c) No Operator shall conduct a salvage operation without a driveway of minimum width of 8 meters;

d) No Operator shall conduct a salvage operation except where there has been stable surface treatment for all driveways and parking areas.

#### 16. MAINTENANCE OF BUILDING AND GROUNDS

a) No Operator shall carry on a salvage operation except where all buildings and all fences in a state of good repair.

b) No Operator shall carry on a salvage operation except where lighting shall be installed, maintained and used in every salvage yard in a manner sufficient to protect the health and safety of persons within the salvage yard, and those coming to or leaving such yard.

#### 17. STORED MATERIAL

No Operator of a salvage yard shall, after the coming into effect of this By-law, place any of the substances referred to under Section 1 of this By-law, or any second-hand goods, whether for storage or otherwise, or permit any such substances or second-hand goods to become so placed or stored, within an area 5 meters inside of the fence required by Section 15 so as to cause any such material to be stored or piled to a height higher than 0.3 meters below the height of the fence erected in compliance with that section pursuant to a site plan agreement.

#### 18. NUISANCE CONTROL

Every Operator of a salvage yard shall take all reasonable steps to ensure the control and minimization of nuisance. In particular, no Operator shall allow

- a) litter in and around the salvage yard;
- b) excessive dust in the salvage yard and on the roadways in its immediate vicinity;
- c) the presence of rodents and other pests;
- d) excessive noise caused by machinery or equipment and noise disturbing to members of the public as outlined in the relevant noise by-laws for the Township;
- e) unmitigated harmful and other negative effects upon the quality of life of inhabitants in the vicinity of the salvage yard;
- f) open burning, unless allowed by permit; or
- g) scavenging by persons not under the supervision of the attendant.

#### 19. ENVIRONMENTAL

- a) No goods, substances, or materials containing one or more contaminants or likely to contain such contaminants shall be brought on to the salvage yard property or dealt with by an Operator, unless all steps are taken by the Operator to control and minimize the potentially harmful effects of any such contaminants.
- b) No owner or Operator shall permit or cause to permit a vehicle to be sent for crushing, baling, shredding, melting or processing by a steel mill without first removing, collecting, storing mercury switches and disposing of them in accordance with the guidelines set out in Schedule "C" attached to and forming part of this by-law.
- c) No Operator shall allow the discharge of gasoline, vehicle fluids or other chemicals from the salvage operations to enter onto any lands or into any aquifer, drainage ditch, storm sewer, or other body of water.
- d) No Operator shall process or store derelict automobiles before all liquids or other wastes disposed of in accordance with the provisions of the Environmental Protection Act, R.S.O. 1990, as amended, or after drainage safely stored for purposes of resale.
- e) No Operator shall fail to remove liquid wastes contrary to legislation and in accordance with the schedule that may be imposed as a condition of issuing a licence.

20. RECORDS

No Operator shall fail to keep the following records, being a register in a form approved by the Licensing Commissioner in which shall be entered in the English language:

- a) a description of all goods taken in exchange or otherwise obtained, including, where available, make, serial number and model number;
- b) the date on which the goods were taken in;
- c) 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;
- d) the name, address and telephone number of the person from whom the goods were obtained and if the goods were delivered or conveyed by a motor vehicle, the licence number of that motor vehicle; and
- e) particulars of mercury switches removed and recycled.

21. OPERATING HOURS

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

Monday through Saturday 7:00 AM to 7:PM

- b) No Operator shall allow access to the premises at any time unless there is an attendant on duty.

22. PROHIBITIONS

- a) No person shall:

- i. carry on the business of a salvage yard without a licence to do so issued under this By-law;
- ii. hold themselves out as being licensed to carry on the business of a salvage yard if the person is not so licensed;
- iii. carry on the business of a salvage yard except in accordance with the requirements set out in this By-law;
- iv. carry on the business of a salvage yard without displaying the licence in a conspicuous place;

- b) No Operator shall:

- i. receive from any person or persons any article or goods which the Operator knows or has reason to believe have been stolen or otherwise secured by the person in possession of same by means of a commission of an offence under the Criminal Code of Canada;
- ii. shall purchase or acquire any vehicle that has a Vehicle Identification Number obliterated or mutilated without first having given notice to the Ontario Provincial Police 24 hours prior to the intended purchase or acquisition;

iii. purchase, take in exchange, or receive directly or indirectly, any goods, article or thing relating to a machine or motor vehicle parts from any minor person who appears to be under the age of 18 years without written authority from a parent or guardian of such minor;

iv. purchase, take in exchange, or receive directly or indirectly, any goods, article or thing from any person who appears to be under the influence of drugs or alcohol;

v. alter, repair, dispose of or in any way part with, any goods or articles purchased or taken in exchange until after the expiration of seven days and during these seven days the goods or articles so obtained shall remain on the licensed premises and shall be kept in an identifiable location and shall be subject to inspection at any time during business hours by the Ontario Provincial Police;

vi. purchase or acquire any vehicle or vehicle parts unless the person obtains and retains proof that the person selling the vehicle or vehicle part is the lawful owner; or

vii. fail to provide copies of the documents obtained under the previous subsection to the Ontario Provincial Police and the Licensing Commissioner, nor provide the records required to be kept under this By-law for inspection of the Ontario Provincial Police and the Licensing Commissioner.

## 23. RIGHT TO INSPECT

a) Any licensed premises, at all times when the said premises are open to the public, may be entered and inspected by any by-law enforcement officer, Licensing Commissioner, and police officer for the purpose of enforcing this by-law, No person shall obstruct or hinder inspection of salvage operation and its records by a by-law enforcement officer, Licensing Commissioner or police officer.

### **Part Five - Offences and Enforcement**

## 24. OFFENCE

a) Every person who contravenes sections 15, 16, 17, 18, 19, 20, 21, and 22 of this by-law is guilty of an offence.

b) Each day of a breach of this by-law shall constitute a separate offence.

## 25. PENALTY

Every person who is convicted of an offence is liable to a fine under the Provincial Offences Act.

## 26. ENFORCEMENT PROVISIONS

a) The enforcement provisions of the Municipal Act, 2001, including ss. 444, 445 and 446, shall apply to this By-law.

b) The security may be resorted to by the Township in respect of any violation, enforcement and penalty under this By-law.

### **Part Six - General**

## 27. SEVERABILITY

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

## 28. EXCEPTIONS

The provisions 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; or
- b) land upon which is a waste disposal site which has a certificate of approval for such purposes under the Environmental Protection Act.

## 29. TRANSITIONAL

Notwithstanding any other provision of this by-law, existing Salvage Operations are exempted from the provisions of this by-law, as follows:

- a) Section 15(a) - Existing fencing, kept in good repair, shall be deemed to be in compliance of this by-law, until the earlier of five years from the passage of this by-law, and the substantial repair or replacement of the fencing.
- b) Section 15(c) - Existing driveways, kept in good repair, shall be deemed to be in compliance of this by-law, until the earlier of five years from the passage of this by-law, and the substantial repair or replacement of the driveway.
- c) Section 17 - Existing storage of materials shall be deemed to be in compliance of this by-law until three years from the passage of this by-law.
- d) Any other Sections of this by-law that are in direct conflict with Zoning By-Law No. 12-1979, as amended by 12-1982, shall be deemed to be in-operative until such a time as the Zoning by-law is amended or repealed, so that there is no longer a conflict with this by-law.

30. REPEAL

a) By-law 20-1966 is hereby repealed. Notwithstanding this section, licences issued under By-law 20-1966 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 First Time this \*\*\* day of December, 2010

By-law read Second Time \*\*\* day of December, 2010

By-law read Third Time and PASSED by the Council this \*\*\* day of December, 2010

Bill Hill, Mayor

Denise B. Holmes, Clerk, CAO

SCHEDULE "A":

LICENCE APPLICATION

SCHEDULE "B" LICENSE FEES

SCHEDULE "C": MERCURY SWITCHES