

THE CORPORATION OF THE
MUNICIPALITY OF CHATHAM-KENT

BY-LAW NO. 101-2004

**By-Law of The Corporation of the Municipality
of Chatham-Kent to regulate Standing Water**

WHEREAS pursuant to Section 130 of the *Municipal Act, 2001*, S.O. 2001, c.24 a municipality may regulate matters for the purposes related to the health, safety and well being of the inhabitants of the municipality;

AND WHEREAS the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7 authorizes the Medical Officer of Health to act to prevent the spread of disease;

AND WHEREAS standing water provides a breeding environment for the mosquitoes that may carry the West Nile Virus and thereby endangers the health of the inhabitants of the Municipality of Chatham-Kent through the spread of disease;

AND WHEREAS pursuant to Section 427 of the *Municipal Act, 2001*, S.O. 2001, c.24 a municipality may enact a by-law to require that a matter or thing be done and in default, the matter or thing may be done by the municipality at the person's expense and further that the costs of so doing may be added to the tax rolls and collected in the same manner as taxes;

NOW THEREFORE the Council of The Corporation of the Municipality of Chatham-Kent enacts as follows:

Definitions:

1. For the purpose of this By-Law:
 - (a) "By-law Enforcement Officer" means a person appointed as such by the Municipality;
 - (b) "Debris" means any material whatsoever capable of holding water and without limiting the generality of the foregoing including tires, cars, boats, containers of any kind and garden fixtures;
 - (c) "Depression" means any natural or man made condition on property that is capable of holding water but does not include a municipally-owned stormwater management facility;
 - (d) "Medical Officer of Health" means the Medical Officer of Health for the Municipality;
 - (e) "Municipality" means the Municipality of Chatham-Kent;
 - (f) "Natural Body of Water" means a creek, stream, bog, marsh, river, pond or lake created or maintained by the forces of nature, which contains water and includes spring fed man-made ponds;
 - (g) "Person" includes a partnership or association;
 - (h) "Property" means any land in the Municipality of Chatham-Kent not owned and occupied by the Crown, an agency of the Crown, or a municipal government;
 - (i) "Property Owner" includes tenants and persons occupying the property for the time being;
 - (i) "Property Owner" includes the owner of a property or a tenant and/or persons occupying the property for the time being;
 - (j) "Public Health Inspector" shall mean a person appointed as a Public Health Inspector under the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7;
 - (k) "Standing Water" means any water which is not continuously filtered and in movement by mechanical means i.e. Sprayed, pumped, aerated etc. that is found either on the ground or in any object or debris for more than four days as defined in this by-law but does not include a natural body of water that exist on a permanent basis or is contained within a municipally-owned drain or stormwater management facility.

General

2. Between May 15 and September 30 of any year when standing water temperatures exceed 21 degrees Celsius (70 degrees Fahrenheit) for a minimum of 5 consecutive days, no person shall:
 - (a) permit standing water to accumulate in debris, deep ruts and holes, excavations, depressions or any unprotected or unused wells on his/her property;
 - (b) permit a swimming pool, swimming pool cover, hot tub, wading pool or artificial pond located on his/her property to contain standing water.

Natural Body of Water

3. Every Property Owner in the Municipality upon which a Natural Body of Water exists shall, when advised by the Medical Officer of Health or his/her designate that a health hazard exists, comply with any Order issued by the Medical Officer of Health or his/her designate to remedy the situation within the time specified in the Order. Without limiting the foregoing, such Order may include a direction to treat the Natural Body of Water with larvicide.

Administration

4. The Medical Officer of Health, Public Health Inspectors or By-law Enforcement Officers shall enforce the provisions of this by-law.
5. When the Medical Officer of Health, a Public Health Inspector or By-law Enforcement Officer determines that a contravention of this by-law poses a threat to the health, safety and well being of the inhabitants of the County, he/she may issue an Order to remedy the contravention within a time specified in the Order.
6. An Order issued by the Medical Officer of Health, a Public Health Inspector or By-law Enforcement Officer may be delivered by first class mail or by hand to the address of the Property Owner. Such service shall be deemed to be good and sufficient service of the Order on the Property Owner five days after the due date on which it is mailed, except in the case where the Order is delivered to the Owner personally where service is considered effective immediately.
7. Whenever any work is required to be done in accordance with this by-law or pursuant to an Order issued by the Medical Officer of Health, a Public Health Inspector or a By-law Enforcement Officer in accordance with this by-law, in default of the work being done by the person directed to do it within the time prescribed in the Order, such work may be done by the Municipality or its agents at the expense of the person and the Municipality may recover all costs incurred in doing the work by adding the costs to the tax roll for collection in the same manner as municipal taxes.

Penalty

8. Anyone who contravenes any provisions of this by-law is guilty of an offense and upon conviction is liable to a fine pursuant to the provisions of the *Provincial Offenses Act*, R.S.O. 1990, c. P.33, as amended.

In Force

9. This by-law shall come into force and take effect on the day of the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 3rd day
of May 2004

Mayor – Diane Gagner

Clerk – Elinor Mifflin