

**The Corporation of the
Municipality of Chatham-Kent**

By-law No. 152-2015

Being a By-law to provide for the maintenance of land in a clean and clear condition

Finally Passed the 7th day of December, 2015.

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 of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings;

And Whereas Section 128 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances;

And Whereas Section 425(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, 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*, S.O. 2001, c.25, as amended, is guilty of an offence;

And Whereas Section 429(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may establish a system of fines for offences under a By-Law passed under the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;

And Whereas Section 446 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may direct that where an owner has defaulted, the municipality may have the default remedied at the owner's expense and add the cost to the tax roll in the same manner as municipal taxes.

Now Therefore be it resolved that the Council of The Corporation of The Municipality of Chatham-Kent enacts as follows:

1. Definitions: In this By-law:

1.1 "By-law" shall mean this by-law.

1.2 "infestation" shall mean the overrunning of a property by vermin, rodents and insects;

1.3 "land" shall not include buildings for the purpose of this By-law;

1.4 "Municipal By-law Enforcement Officer" shall mean (i) a Municipal By-law Enforcement Officer as appointed by the Council of the Municipality or (ii) Chatham-Kent Police Officer;

1.5 "Municipality" shall mean the Corporation of the Municipality of Chatham-Kent;

1.6 "owner" shall mean the registered owner, occupant, tenant, person for the time being managing or receiving the rent of the property, whether on his or her account or on account of an agent or trustee of any other person, or any one of the aforesaid;

1.7 "refuse" shall mean any article, matter or thing that appears to be waste material, and shall include but not be limited to the following:

- a) articles, things, matter, effluent, which in whole or in part or fragments thereof, are derived from or are constituted from or consist of:

- i. agricultural, animal, vegetable, paper, lumber, or wood products; or
- ii. mineral, metal, steel, aluminum, or other ferrous or non-ferrous material or alloy, or chemical products, whether or not the products are manufactured otherwise processed, or are products or by-products, products manufactured or otherwise processed;
- b) automotive parts, batteries, vehicle parts, mechanical equipment, mechanical parts, accessories or adjuncts to the vehicles and mechanical equipment, or any part thereof;
- c) piping, tubing, conduits, cable and fittings or other accessories, or adjuncts to the piping, tubing, conduits or cable;
- d) refrigerators, freezers or other appliances, any attached hinges or latching, locking or other closing mechanism or device, or any part thereof;
- e) paper, cartons;
- f) containers of any size, any type or any composition;
- g) material resulting from, or as part of, construction or demolition projects;
- h) rubble, inert fill;
- i) bones, feather, hides;
- j) accumulations, deposits, leavings, litter, remains, rubbish, trash;
- k) furniture;
- l) crockery;
- m) sewage;
- n) salvage materials; and
- o) waste material.

2. Property Maintenance

2.1 No *owner* shall fail to keep his or her land free and clear of *refuse* or anything that is an eyesore, unless specifically permitted to have such *refuse* or things on their land pursuant to a Federal, Provincial or Municipal law or approval.

2.2 No *owner* shall fail to keep his or her land free and clear of *infestation*.

3. Enforcement

3.1 This By-law shall be enforced by *Municipal By-law Enforcement Officers*.

3.2 A *Municipal By-law Enforcement Officer* may enter on land at any reasonable time for the purpose of carrying out an inspection for the purpose of enforcing this By-law, including for the purposes of making a determination of whether or not this By-law or notice of violation made under this By-law are being complied with.

3.3 For the purpose of conducting an inspection under 3.2, a power of entry may be exercised by a *Municipal By-law Enforcement Officer* to carry out an inspection and the *Municipal By-law Enforcement Officer* may:

- a) require the production for inspection of documents or things relevant to the inspection;
- b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- c) require information for any person related to a matter relevant to the inspection; and
- d) alone or in conjunction with any person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

3.4 No person shall hinder or obstruct, or attempt to hinder or obstruct, a *Municipal By-law Enforcement Officer* from carrying out inspections of land to ensure compliance with this *By-Law*.

4. Notice of Violation

4.1 If a *Municipal By-law Enforcement Officer* is satisfied that a violation or contravention of the *By-Law* has occurred, the *Municipal By-law Enforcement Officer* may serve written notice upon the *owner* of the property, directing that the violation be remedied within a specific period. Such notice shall contain reasonable particulars of the violation adequate to identify same and the location of the property as well as the date by which compliance must be effected.

4.2 In the event that the violation in the notice is not remedied within the aforesaid period of time, the *Municipal By-law Enforcement Officer* may cause the violation to be remedied at the expense of the owner. The Municipality shall not be responsible for any damage or loss that may be sustained by the *owner* as a result.

4.3 Where a *Municipal By-law Enforcement Officer* deems a violation of this *By-Law* to constitute an emergency or danger to the public, the *Municipal By-law Enforcement Officer* may, without notice, cause the violation to be remedied at the expense of the *owner*. The Municipality shall not be responsible for any damage or loss that may be sustained by the *owner* as a result. Where a violation is remedied without prior notice to the *owner*, the *Municipal By-law Enforcement Officer* shall serve written notice upon the *owner* of the property describing the particulars of the violation adequate to identify same and the location of the property as well as the date on which the remedial action was taken.

4.4 Any notice given under this *By-Law* may be given by regular mail or personal delivery. Delivery by regular mail shall be deemed to have been affected three (3) days after mailing.

4.5 The Municipality may recover its costs of remedying a violation of this *By-Law* by invoicing the *owner*, by instituting court proceedings or by adding the cost to the tax roll in the same manner as municipal taxes. The exercise of any such remedy shall not preclude the exercise of any other available remedy.

5. Penalty

- 5.1 Any person who contravenes any provision of this *By-Law* is guilty of an offence and, upon conviction, is liable to a minimum fine of \$250.00 and a maximum fine of not more than \$15,000.
- 5.2 A director or officer of a corporation who knowingly concurs in the violation or contravention by the corporation of any provision of this *By-Law* is guilty of an offence and, upon conviction, is liable to a minimum fine of \$250.00 and a maximum fine of not more than \$15,000.
- 5.3 If an order has been issued under this *By-law* or by the court, and the order has not been complied with, the contravention of the order shall be deemed to be a continuing offence for each day or part of a day that the order is not complied with.
- 5.4 Any person who contravenes any provision of this *By-law* is guilty of a continuing offence, shall be liable to a fine of not less than \$100 and not more than \$15,000 for each day or part of a day that the offence continues. The total of the daily fines may not exceed \$100,000.

6. Severability

- 6.1 If a court of competent jurisdiction declares any section or part of this *By-Law* invalid, the remainder of this *By-Law* shall continue in force unless the court makes an order to the contrary.

7. Effective Date

- 7.1 This *By-Law* shall come into full force and take effect on the day it is passed.

Read a First, Second and Third time this 7th day of December, 2015.

Original Signed By:

Mayor – Randy R. Hope

Original Signed By:

Clerk – Judy Smith