

**Municipality Of Chatham-Kent**

**Community Development**

**Legal Services**

**To:** Mayor and Members of Council  
**From:** Dave Taylor, Manager, Legal Services  
**Date:** July 08, 2020  
**Subject:** Review of Municipal By-Laws

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**Recommendation(s)**

It is recommended that the following be approved by Council:

1. Repealing By-Law 164-2012, the Building Code By-Law, and replacing it with the proposed by-law attached as Appendix "A".
2. Repealing By-Law 79-2020, the Clean and Clear Yards By-Law, and repealing By-Law 101-2004, the Standing Water By-Law, and replacing them with proposed by-law attached as Appendix "B".
3. Repealing By-Law 146-2003, the Fortification of Lands By-Law, and replacing it with the proposed by-law attached as Appendix "C".
4. Repealing By-Law 39-2019, the Sale and other Disposition of Real Property By-Law, and replacing it with the proposed by-law attached as Appendix "D".
5. Repealing By-Law 144-2007, the Graffiti By-Law, and replacing it with the proposed by-law attached as Appendix "E".
6. Amending By-Law 156-2004, the Sign By-Law, as amended in the attached proposed amending by-law Appendix "F".
7. Repealing By-Law No. 90-2015, the Donation / Collection Bin By-Law by passing the proposed repealing by-law attached as Appendix "G".

## **Background**

Subsequent to the 2018 municipal election, Council established a priority of “red tape review” with the general goal of reducing municipal regulations in order to be business friendly.

In response to direction from Council, staff in the Legal Services Division began to review municipal By-Laws in pursuit of the reduction of regulation and potential general improvements. Through this process Legal Services determined that several By-Laws pertaining to property and conducting business within the municipality require modernization to address changes in the law, municipal best practices, and to address shortcomings. The purpose of this report is to provide a summary and rationale for proposed changes which staff consider to be important regarding eight (8) By-Laws. This report presents the changes in an “omnibus” style approach so as to provide for simplicity of process.

## **Comments**

### **Building Code By-Law 164-2012**

The Building Code By-Law was last amended in 2012. The *Building Code Act* and the Building Code itself are Provincial legislation, the responsibility for which is downloaded onto municipalities. Where municipal discretion exists is in the process over how to administer its building services, not in the requirements of the Building Code itself.

One of the changes inspired by the review is to remove the requirement for applicants to submit paper copies of documents and provide them, explicitly, with an electronic option. While as a practical matter the Building Department has received many documents by email for several years, the By-Law reflected only that scale plans may be submitted electronically. This has been amended to allow the Building Department to accept any document electronically and is important for unexpected events like COVID-19.

The language supporting application for various types of permits has been improved to better reflect actual business and statutory requirements. Definitions have been added so that builders can better understand the process set out in the By-Law. In particular, resolving an issue that has been raised by Council in the past, clarity has been added to what is included and not included in construction value for the purposes of determining permit fees.

A provision has been added to allow for builders to use Alternative Solutions pursuant to the building code, allowing for greater flexibility in construction methods while continuing to ensure safety. This constitutes a significant reduction in red tape as innovation is becoming codified into acceptable practice rather than only government regulation.

Authority is also explicitly provided for the Chief Building Official to enter into limiting distance agreements to address situations that arise from time to time in the agricultural sector.

Lastly, the offence provision was removed as it was redundant to the way that the *Building Code Act* is organized regarding contraventions and offences.

### **Clean & Clear By-Law 79-2020**

The Clean & Clear Yards By-Law was most recently amended on June 15, 2020 regarding enforcement and penalty provisions.

There are two primary changes proposed for this By-Law, pertaining to enforcement and public health issues.

Firstly, the By-Law now contains a prohibition on standing water. As indicated in the next sub-section of this Report to Council, Chatham-Kent has a separate Standing Water By-Law. The administration of similar provisions from that separate By-Law is now folded into the Clean & Clear By-Law so that citizens and businesses need only be aware of one single by-law rather than dealing with similar, overlapping areas of regulation.

Standing water is recognized by both Public Health Ontario and the Chatham-Kent Public Health Unit as breeding grounds for mosquitos. Therefore standing or stagnant water should be addressed wherever possible so as to combat the spread of West Nile Virus and Zika Virus. There were media reports of confirmed West Nile Virus in Chatham-Kent during the summer of 2019.

Secondly, new language clarifies the application of the by-law to exterior structures. Staff have been experiencing enforcement issues arising from this lack of clarity. Complaints have been received about the presence of unsightly porch or deck conditions, and the By-Law's applicability to porches is open to interpretation. Making this change will provide a mechanism for staff to assist in ensuring that porches maintain a minimal standard of cleanliness. This provides the community with better options to keep their neighbourhoods healthy and vibrant.

### **Repealing Standing Water – By-Law No. 101-2004**

The repeal and replacement of the Clean & Clear Yards By-Law noted above allows for the repealing of By-Law 101-2004. Legal Services is of the view that the desired effect of that By-Law is now resolved through the additions to the Clean and Clear Yards By-Law and that it is more likely that residents of Chatham-Kent would look into a Clean and Clear Yards By-Law than to seek out a standing water by-law. There is no need for two layers of regulation.

### **Fortification By-Law 146-2003**

The Fortification By-Law was last updated in June, 2003. Since that time, the Province has amended the provisions of the *Municipal Act, 2001* with respect to the fortification of lands and an update is necessary.

Bullet proof or bullet resistant materials are now specifically identified as items which constitute "excessive fortification". Panic rooms are now permitted under certain conditions. These changes will result in a safer community for citizens and the Chatham-Kent Police Services.

Specific to the reduction of red tape, an exemption has been added for electric fences in agricultural areas for movement of livestock and normal farm practices. This exemption reduces red tape in the agricultural and livestock sector, an essential part of the Chatham-Kent economic community.

Further, the prohibited types of glass have been reduced to bullet proof glass only.

In addition, clarity has been achieved around both the Powers of Entry for staff when conducting enforcement activity, and the power to compel the production of relevant documentation, all consistent with the *Municipal Act, 2001*.

### **Sale and other Disposition of Surplus Lands – By-Law No. 84-2017**

The amendment to this By-Law is to eliminate section 21(f) which restricts the ability of a purchaser of municipal lands to dispose of the property within 10 years of purchase.

The purpose of section 21(f) is to stop speculation from occurring where the per acre price is set to encourage industrial development, but Legal Services is of the view that as long as the building is erected within the required timeline, market forces will provide similar protection as there would be a going concern on the property. Also, it should be noted that surplus lands by-laws have moved toward allowing for greater discretion. This results in a case-by-case set of conditions that can be recommended to Council at the time when Council declares a particular piece of land surplus or when a particular buyer offers to buy the land. Elimination of this provision would not prevent Council and/or administration from imposing the condition on a case-by-case basis where it is deemed appropriate.

### **Graffiti By-Law 144-2007**

The improvements related to the Graffiti By-Law target keeping business areas vibrant. Graffiti does not include art murals.

The current Graffiti By-Law has not been modified since July of 2007. While the By-Law remains functional, in its existing form it does not provide for a mechanism for a Court to determine that an ongoing offence is occurring, which is an important consideration with respect to sentencing in the unfortunate event that prosecution is required.

The By-Law does not make a distinction between generic graffiti and the proposed new element of “Hate Graffiti”. Many of Ontario’s larger municipalities have developed what is essentially a two-tiered standard where a stronger and more expeditious response is expected for Graffiti that indicates hateful concepts/motivations targeted at identifiable groups or individuals. The proposed changes would require “Hate Graffiti” to be removed within seven (7) calendar days of being discovered, as compared to the default standard of fourteen (14) calendar days. For comparison, a number of municipalities require graffiti to be removed within 7 days, and allow only forty-eight (48) hours for “Hate Graffiti”. The appropriate standard for this community is entirely at Council’s discretion.

**Sign By-Law – By-law No. 156-2004**

The amendment to the Sign By-Law is to eliminate section 11 and the Schedule “A” map related to Historic Downtown Signs. When these provisions were implemented the intention was to focus the character of the downtown in a way that would look similar to municipalities like Niagara-on-the-Lake and Prince Edward County. However, many of the businesses in the downtown have legacy signs and the desired effect has not occurred in practice.

The Historic sign criteria can be costly to business owners and would not be consistent with the character of the neighboring businesses and therefore is likely to be viewed by businesses as unnecessary red tape. Therefore, these sections are eliminated by amendment.

The Chatham BIA was consulted on this amendment.

**Donation / Collection Bin - By-Law No. 90-2015**

Legal services proposes repealing of the Donation/Collection Bin By-Law as details are covered under other By-Laws. The By-Law serves to put certain conditions on the placement of donation and collection bins within the municipality of Chatham-Kent.

The municipal interests within the By-Law are:

- a) that a bin cannot be placed on any street or property owned by the Municipality;
- b) that they will not be permitted in Residential Zones;
- c) that they shall not occupy a parking space required by the Zoning By-Law;
- d) they shall not obstruct a Visibility Triangle; and,
- e) that the area around them shall be cleaned up and they shall be clear of graffiti.

There are further provisions that:

- a) require the owner of the bin to be a registered charity;
- b) that they shall not be placed closer than 1 meter to any property line;
- c) that the bin can only be placed on private lands with permission of the owner;
- d) that the contact information for the owner be legible on the bin;
- e) that to place a bin there must be approval from the Chief Building Official or designate, even where the bin does not constitute a ‘structure’ within the meaning of the *Building Code Act*; and,

It is the view of Legal Services that each of the municipal concerns contained in the first enumerated list above are more appropriately addressed in the Clean and Clear Yards By-Law; the Zoning By-Law; the graffiti by-law; and, the *Municipal Act, 2001* and common law authority of the municipality regarding encroachments on its roads. If specific zoning provisions prohibiting the activity/use or the set-back are required, it is more appropriate for them to be amended into the Zoning By-Law which may require amendment depending on Council’s wishes to regulate the issue.

The second enumerated list above are regulations pertaining to permission by owners, contact information being posted, lack of maintenance and the requirement to be a registered charity are better left to private business relationships between the parties and constitute unnecessary red tape on private affairs.

### **Areas of Strategic Focus and Critical Success Factors**

The recommendations in this report support the following areas of strategic focus:

Economic Prosperity:

Chatham-Kent is an innovative and thriving community with a diversified economy

A Healthy and Safe Community:

Chatham-Kent is a healthy and safe community with sustainable population growth

People and Culture:

Chatham-Kent is recognized as a culturally vibrant, dynamic, and creative community

Environmental Sustainability:

Chatham-Kent is a community that is environmentally sustainable and promotes stewardship of our natural resources

The recommendations in this report support the following critical success factors:

Financial Sustainability:

The Corporation of the Municipality of Chatham-Kent is financially sustainable

Open, Transparent and Effective Governance:

The Corporation of the Municipality of Chatham-Kent is open, transparent and effectively governed with efficient and bold, visionary leadership

Has the potential to support all areas of strategic focus & critical success factors

Neutral issues (does not support negatively or positively)

### **Consultation**

Legal Services consulted with the Chief Building Official, the General Manager, Community Development, the Chatham BIA regarding the Historic Sign By-Law and Public Health regarding consolidation of Standing Water By-Law into the Clean and Clear Yards By-Law.

In addition, the draft changes were presented to the Community Development Advisory Committee.

**Financial Implications**

There are no financial implications to amend the by-laws to support business friendly practices.

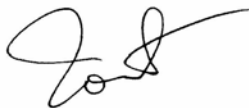
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Consulted and confirmed the content of the consultation section of the report by:



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Paul Lacina, Chief Building Official



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Cara Robinson, Program Manager, Healthy Environments

Attachment(s):

- Appendix "A" – Proposed Building Code By-law
- Appendix "B" – Proposed Clean and Clear Yards By-law
- Appendix "C" – Proposed Fortification of Lands By-law
- Appendix "D" – Proposed Disposition and Sale of Real Property By-law
- Appendix "E" – Proposed Graffiti By-Law
- Appendix "F" – Proposed Amending By-law for the Sign By-law
- Appendix "G"-- Proposed Repealing of the Donation/Collection Bin By-law

## CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

### By-Law \_\_\_\_\_-2020

*being a By-Law under the Building Code Act, 1992, S.O. 1992, c. 23, respecting construction, demolition, change of use, occupancy permits, transfer of permits, on-site sewage system permits and inspections.*

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**WHEREAS** section 7 of the *Building Code Act, 1992*, authorizes a municipal council to pass By-Laws concerning the construction, demolition, change of use, occupancy permits, on-site sewage system permits, inspections and related matters.

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

#### SHORT TITLE

This by-law may be cited as the "Building By-law".

#### ARTICLE 1 DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions

In this By-Law:

**"Act"** means the Building Code Act, 1992, S.O. 1992, c.23, as amended.

**"Actual Value of Construction"** means the actual value of the work and materials incorporated into the work thereof and all costs necessarily incidental to the subject matter of construction, including all general construction, labour and equipment; plumbing, heating and air conditioning; elevators and other building services and systems; site services and landscaping inside the property line; contractor's overhead and profit; and provincial sales tax; but, does not include cost of land, professional design fees; soft costs, such as financing, marketing, legal, appraisal, surveying, soil testing or remediation, development charges; furnishing and process equipment housed in the building; and allowances.

**"Applicant"** means the owner of a building or property who applies for a permit or, a person authorized by the owner to apply for a permit on the owner's behalf, or any person or Corporation empowered by statute to cause the demolition of a building or buildings and anyone acting under the authority of such person or corporation.

**"Architect"** means the holder of a license, certificate of practice or a temporary license issued under the Architect Act as defined in the Building Code.

**"Building"** means a building as defined in Section 1(1) of the Act.

**"Building Code"** means the regulation made under Section 34 of the Act.

**"Business Day"** means any other day than a Holiday as defined in the *Legislation Act, 2006*, S.O. 2006, Saturday, and all other days when the offices of the Corporation are not open for the transaction of business with the public.



**"Chief Building Official"** means the person appointed as such by by-law by the Corporation for the purposes of enforcement of the Act.

**"Construct"** means to do anything in the erection, installation, extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere and "construction" has a corresponding meaning.

**"Corporation"** means The Corporation of the Municipality of Chatham-Kent.

**"Demolish"** means to do anything in the removal of a building or any material part thereof and "demolition" has a corresponding meaning.

**"Electronic Submission"** means the filing of an application for permit or alternative solution, including all required forms, documents, plans and drawings, submitted through an online application procedure approved by the Chief Building Official.

**"Estimated Value of Construction"** means the estimated value of the work and materials to be incorporated into the work thereof and all costs necessarily incidental to the subject matter of construction, including all general construction, labour and equipment; plumbing, heating and air conditioning; elevators and other building services and systems; site services and landscaping inside the property line; contractor's overhead and profit; and provincial sales tax; but, does not include cost of land, professional design fees; soft costs, such as financing, marketing, legal, appraisal, surveying, soil testing or remediation, development charges; furnishing and process equipment housed in the building; and allowances.

**"Inspector"** means the person appointed as such by by-law by the Corporation for the purposes of enforcement of the Act.

**"Owner"** means the registered owner of the property and includes a lessee, mortgagee in possession, and the authorized agent in lawful control of the property.

**"Parking Lot"** means an area which contains, and the main use of which is, a parking area, whether or not such parking area is located within a structure.

**"Partial Permit"** means a permit issued by the Chief Building Official to construct part of a building.

**"Permit"** means permission or authorization given in writing by the Chief Building Official to perform work regulated by this by-law, the Act and Building Code, or to occupy a building or part thereof.

**"Permit Holder"** means the person to whom the permit has been issued or where a permit has been transferred, the new owner to whom the permit has been transferred.

**"Plan Review"** means the review of drawings which are submitted to the Building Department;

**"Professional Engineer"** or **"engineer"** means a person who holds a license or temporary license under the Professional Engineers Act, as defined in the Building Code.

**"Registered Code Agency"** means a Registered Code Agency defined in subsection 1(1) of the Act.

**“Revised Submission”** means the additional information filed with the Chief Building Official which depicts one or more changes to the proposed or as constructed design of a building or part of a building for which a permit has already been issued and for which approval by the Chief Building Official is required.

**“Sewage System”** means sewage system as defined in subsection 1(1) of the Act.

**“Work”** means construction or demolition of a building or part thereof, as the case may be.

Any word or term not defined in this By-Law, that is defined in the Act or Building Code shall have the meaning ascribed to it in the Act or Building Code.

## **1.2 Headings**

Headings are inserted for convenience and reference purposes only, form no part of this by-law and shall not affect in any way the meaning or interpretation of the provisions of this by-law.

## **1.3 Interpretation**

For the purposes of interpretation of this By-Law and subject to the Act and Building Code, the requirements herein are in addition to the requirements of the Act and the Building Code.

## **ARTICLE 2 CLASSES OF PERMITS**

**2.1** Classes of permits set out in Schedule “A” of this By-Law are hereby established.

## **ARTICLE 3 PERMITS**

### **3.1 Requirements for Permit Applications**

To obtain a permit, the applicant shall file an application in writing by completing a prescribed form available from the Chief Building Official, the Corporation’s website, the offices of the Corporation or from the Ministry of Municipal Affairs and Housing Website.

### **3.2 Information Submitted to Chief Building Official**

Every application for a permit shall be submitted to the Chief Building Official either in writing or online (when available), and:

- (1) Where application is made for a building permit under subsection 8(1) of the Act, the application shall:

- a) use the provincial application form entitled, "Application for a Permit to Construct or Demolish";
- b) include complete plans and specifications, documents and other information as required by Article 1.3.1.3.(5), Division C, of the Building Code and as described in Schedule "B" of this By-law;
- c) include completed form(s) as set out in Schedule "D" where applicable;
- d) for new single detached, duplex, semi-detached or multiple dwellings include,
  - (i) in the case of land in respect of which an accepted area or subdivision grading plan has been filed with the Corporation, a lot grading plan bearing the signature and seal of the subdivision owner's professional engineer, who is responsible for the overall subdivision grading, certifying thereon that the lot grading plan conforms with the accepted area or subdivision grading plan filed with the Corporation; or
  - (ii) in the case of land in respect of which no accepted area or subdivision grading plan has been filed with the Corporation, a lot grading plan bearing the signature and seal of a professional engineer, a landscape architect (a member of the Ontario Association of Landscape Architects), or an Ontario Land Surveyor who certifies thereon that the drainage scheme depicted by the lot grading plan will be compatible with the existing drainage patterns.
- e) provide at time of application for permit, along with all other drawings and documentation as required by this By-law, a typical wall section showing the finished grade elevations of the accepted grading plan filed with the Corporation and the proposed elevation for the top of the footing;
- f) provide prior to constructing the foundation wall, an interim grading certificate bearing the signature and seal of a professional engineer, landscape architect (a member of the Ontario Association of Landscape Architects), an Ontario Land Surveyor, or a qualified person approved by the Chief Building Official certifying that the elevation of the top of the footing conforms with the lot grading plan specified in clauses 3.2(1) (d) (i) and (ii) of this By-Law; and
- g) provide a final lot grading certificate within 3 months of occupancy,

- (i) bearing the signature and seal of the subdivision owner's professional engineer, landscape architect (a member of the Ontario Association of Landscape Architects), an Ontario Land Surveyor, or a qualified person approved by the Chief Building Official certifying that the finished elevations and grading of the land generally conforms with the accepted area or subdivision grading plans and the lot grading plan specified in clauses 3.2(1)(d)(i) and (ii) of this By-Law; or
- (ii) where no accepted area or subdivision grading plan exists, bearing the signature and seal of a professional engineer, landscape architect (a member of the Association of Landscape Architects) an Ontario Land Surveyor or a qualified person approved certifying that the finished elevations and grading of land generally conforms to the lot grading plan specified in clauses 3.2(1)(d) (i) and (ii) of this By-Law.

(2) Where application is made for a demolition permit under subsection 8(1) of the Act, the application shall:

- a) use the provincial application form entitled, "Application for a Permit to Construct or Demolish";
- b) include complete plans and specifications, documents and other information as required by 1.3.1.3(5) Division C of the Building Code and as described in Schedule "B" of this By-Law for the work to be covered by the permit;
- c) include the completed form(s) as set out in Schedule "D" where applicable;
- d) provide proof satisfactory to the Chief Building Official, that arrangements have been made with the proper authorities for the termination and capping of all services and utilities on forms described in Schedule "E" of this By-Law; and
- e) provide a security deposit in such an amount as prescribed by the Chief Building Official to ensure that the site will be backfilled and graded with clean fill material to the satisfaction of the Chief Building Official and that all private drain connections will be excavated and properly sealed at the property line.

(3) Where application is made for a conditional permit under Section 8(3) of the Act, the application shall:

- a) use the provincial application form, "Application for a Permit to Construct or Demolish";
- b) include complete plans and specifications, documents and other information as required by Article 1.3.1.3(5), Division C of the Building Code and as described in Schedule "B" of this By-Law for the work to be covered by the permit;
- c) state the reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted;
- d) state the necessary approvals which must be obtained in respect of the proposed building and the time in which such approvals will be obtained; and
- e) state the time in which plans and specifications of the complete building will be filed with the Chief Building Official.
- f) provide a written statement regarding:
  - (i) The reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted;
  - (ii) The necessary approvals which must be obtained in respect of the proposed building and the time in which such approvals will be obtained; and,
  - (iii) The date on which complete plans, specifications and documentation of the building will be filed with the Chief Building Official;

(4) Where application is made for a change of use permit issued under subsection 10(1) of the Act, the application shall:

- a) use the form available from the Chief Building Official, Corporation's website and at the offices of the Corporation;
- b) provide plans and specifications that show the current and proposed use of all parts of the building, and that contain sufficient information to establish compliance with the requirements of the Ontario Building Code

including floor plans, details of wall, floor and roof assemblies identifying required fire resistance ratings and load bearing capacities;

- c) provide the names and addresses of the previous and new land owner; and
  - d) provide the date that the land ownership took place; and
  - e) describe the permit that is being transferred.
- (5) Where application is made for the transfer of a permit, the applicant shall;
- a) use the form available from the Chief Building Official, Corporation's website and at the offices of the Corporation;
  - b) provide the names and addresses of the previous and new land owner;
  - c) provide the date that the land ownership took place; and
  - d) describe the permit that is being transferred.
- (6) Where application is made occupancy of an unfinished building as provided for in Article 2.4.3.1 of the Building Code, the application shall:
- a) Use the form available from the Chief Building Official, Corporation's website and at the offices of the Corporation; and
  - b) Describe the part of the building for which occupancy is requested.
- (7) Where application is made under an on-site sewer application under subsection 8(1) of the Act, the application shall:
- a) use the provincial application form entitled, "Application for a Permit to Construct or Demolish";
  - b) include complete plans and specifications, documents and other information as required by 1.3.1.3(5) Division C of the Building Code, and
  - c) in addition to the requirements of clause 3.2(7)(b), provide a scaled drawing of the site indicating: the legal description, lot size, location of all buildings and structures, driveways, proposed system, wells, municipal drains and watercourses.

### **3.3 Incomplete Application**

Where an application is found to be incomplete and does not comply with 1.3.1.3(5) of the Building Code, the application may be accepted for processing if the applicant acknowledges the non-compliance.

### **3.4 Partial Permit – Requirements**

When, in order to expedite work, a permit for a portion of the building or project is desired prior to the issuance of a permit for the complete building or project, the applicant shall:

- (a) submit an application for the complete project and pay all allocable fees in accordance with the applicable sections of this by-law;
- (b) submit complete plans and specifications covering the portion of the work for which immediate approval is desired to the Chief Building Official; and
- (c) acknowledge that the application is incomplete as described in Section 3.3 above.

### **3.5 Partial Permit – Limitations**

- (1) The issuance of a partial permit under section 3.4, above, shall not be constructed as authorized to construction beyond the plans for which the partial permit was given.
- (2) The issuance of a partial permit in no way guarantees that a permit will be issued for the entire building or project.

### **3.6 Inactive Permit Application**

Where an application for a permit remains incomplete or inactive for six (6) months after it is submitted, the application may be deemed by the Chief Building Official to have been abandoned and notice thereof shall be given to the applicant. If an applicant is deemed to be abandoned, a new application must be filed for the proposed work.

## **ARTICLE 4 ALTERNATIVE SOLUTIONS**

### **4.1 Information Required**

Where an application for a permit or authorization to make a material change to the plan, specification, document or other information on the basis of which a permit was issued, contains an alternative solution for which approval in accordance with Part 2, Section 2.1, Division C of the Building Code is required, the application shall include

documentation in accordance with Part 2, Article 2.1.1.1., Division C of the Building Code.

## **ARTICLE 5 PLANS AND SPECIFICATIONS**

### **5.1 Information Required**

Sufficient information shall be submitted with each application for a permit to enable the Chief Building Official to determine whether or not the proposed construction, demolition, change of use or transfer of permit will conform with the Act, the Building Code and any other applicable law.

### **5.2 Number of Documents**

Each applicant shall, unless otherwise specified by the Chief Building Official, be accompanied by two (2) complete sets of plans and specifications as described in this By-Law and Schedule "B" of this By-Law.

### **5.3 Scale of Drawings**

- (1) Plans shall be drawn to scale on paper, cloth, electronic media approved by the Corporation or other durable material and shall be legible.
- (2) Any Electronic Submission is to be made in a Portable Document Format (PDF) or other document type accepted by the Chief Building Official, or designate, at his or her sole discretion. Plans, specifications, documents and other information are to be legible when printed to scale.

### **5.4 Site Plans Referenced to Plan of Survey**

Site plans shall be referenced to a plan of survey unless this requirement is waived where the Chief Building Official is able, without having a current plan of survey, to determine whether the proposed work conforms to the Act, Building Code and any other applicable law. Site plans shall indicate:

- (a) lot size and dimensions of the property lines and setbacks to any existing or proposed buildings; and
- (b) existing and unfinished ground levels or grades;
- (c) existing rights-of-way, easements and municipal services.; and
- (d) overhead electrical conductors, watercourses and railways.



## **5.5 As Constructed Drawings**

Upon completion of the construction of a building, or any phase thereof, the Chief Building Official may require a set of "as constructed plans", including a plan of survey indicating the location and elevation of the building.

## **5.6 Plans Property of Corporation**

Plans and specifications furnished according to this By-Law or otherwise required by the Act become the property of the Corporation and will be disposed of or retained in accordance with the relevant legislation and the Municipality of Chatham-Kent's Records Retention Policy or By-Law Number 5-2018, as may be amended or replaced.

## **5.7 Protection from Backflow**

A backwater valve shall be installed in every building drain of a dwelling unit.

- (1) It is a "normally open" design conforming to,
  - a) CAN/CSA-B70, "Cast Iron Soil Pipe, Fittings, and Means of Joining",
  - b) CAN/CSA-B181.1, "ABS Drain, Waste, and Vent Pipe and Pipe Fittings",
  - c) CAN/CSA-B 181.2, "PVC Drain, Waste, and Vent Pipe and Pipe Fittings", or
  - d) CAN/CSA-B182.1, "Plastic Drain and Sewer Pipe and Pipe Fittings"
- (2) A backwater valve shall be installed on every fixture drain connected to a building drain or branch when the fixture is located below the level of the adjoining street.
- (3) Where more than one fixture is located on a storey and all are connected to the same branch, the backwater valve shall be installed on the branch.

## **ARTICLE 6 REGISTERED CODE AGENCIES**

### **6.1 Registered Code Agency Appointed by Chief Building Official**

Where the Corporation enters into an agreement with a Registered Code Agency, the Chief Building Official is authorized to appoint Registered Code Agencies to perform specific functions in respect to the construction of a building class or buildings from time to time in order to maintain time periods prescribed in subsection 1.3.1 of Division C of the Building Code.

### **6.2 Functions of Registered Code Agencies**

The registered code agency may be appointed to perform one or more of the specified functions described in Section 15.15 of the Act.

## **ARTICLE 7 FEES AND REFUNDS**

### **7.1 Determination of Fees**

- (1) The Chief Building Official shall determine the required fees for the work proposed calculated in accordance with Schedule "A" of this By-Law and the applicant shall pay such fees. Fees are due and payable upon submission of an application for a permit. No permit shall be issued until such fees are paid in full. Where application is made for a conditional permit, fees shall be paid for the complete project.
- (2) Where the fees payable in respect of an application for construction, demolition, change of use and on-site sewage system permit under subsection 8(1) of the Act or a conditional permit under subsection 8(3) of the Act are based on the cost of valuation of the proposed work, the cost of valuation shall be the Actual Value of Construction.
- (3) The Chief Building Official may place a valuation on the cost of any proposed work for the purpose of establishing the required permit fee as an Estimated Value of Construction. Where disputed by the applicant, the applicant shall pay the required fee under protest and within six months after completion of the project, shall submit an audited statement of the actual costs. Where the audited costs are determined to be less than the Estimated Value of Construction, the Chief Building Official shall issue a refund for the difference.
- (4) Fees shall be indexed annually based on the CPI as approved by the Council of the Corporation.

### **7.2 Damage and Security Completion Deposit**

Where it is anticipated that heavy vehicles will be involved in the work for which the permit is issued, the Chief Building Official shall determine the required Damage and Security Completion Deposit calculated in accordance with Schedule "A" and the applicant shall pay such deposit. No permit shall be issued until the required deposit has been paid in full. Upon completion of all work authorized by the permit and provided that such work has passed a final inspection, the Damage and Completion Security Deposit may be refunded. The Corporation reserves the right to use such deposit or any other portion thereof to repair any damage to its infrastructure or to complete any required work.

### **7.3 Construct Without Permit**

Every person who commences construction, demolition or changes the use of a building either before submitting an application for a permit or, where an application for a permit has been submitted but no permit been issued, before ten (10) working days have

elapsed from the date of which the application for a permit was accepted by the Corporation, shall in addition to any other penalty imposed under the Act, Building Code or By-Law pay an additional fee equal to 100% of the amount calculated as the regular permit fee but in no case shall the additional fee exceed \$5000.00.

#### **7.4 Refunds**

In the case of withdrawal of an application or the abandonment of all or a portion of the work, or refusal of a permit, or the revoking of a permit, the Chief Building Official shall determine the amount of paid permit fees that may be refunded to the applicant, if any, in accordance with Schedule "C" of this By-Law

### **ARTICLE 8 TRANSFER OF PERMITS**

#### **8.1 Application**

A permit may be transferred if the new land owner completes the permit application in accordance with the requirements of Article 3 of this By-Law.

#### **8.2 Fee For Transfer**

A fee shall be payable on an application for a transfer of permit as provided in Schedule "A" of this By-Law.

### **ARTICLE 9 REVOCAION OF PERMITS**

#### **9.1 Notice of Revocation**

Prior to revoking a permit under subsection 8(10) of the Act, the Chief Building Official may serve a notice by personal services or registered mail at the last known address of the permit holder. If on the expiration of thirty (30) days from the date of such notice, the grounds for revocation continue to exist, the permit may be revoked without further notice, and all submitted plans and all other information may be disposed of and a refund for permit fees paid back in accordance with Article 7.4 above.

#### **9.2 Deferral of Revocation**

A permit holder may within thirty (30) days from the date of service of a notice under this Article, request in writing, the Chief Building Official to defer the revocation by stating reasons why the permit should not be revoked. The Chief Building Official having regard to any changes to the Act, Building Code or other applicable law may allow the deferral, in writing.

## **ARTICLE 10 NOTICE REQUIREMENTS FOR INSPECTIONS**

### **10.1 Notice**

The permit holder shall notify the Chief Building Official or a Registered Code Agency where one is appointed, of each stage of construction for which a mandatory notice is required under Article 2.4.5.1 of the Building Code. In addition to the notice of completion as prescribed by Section 11 of the Act, the permit holder shall provide another mandatory notice after the completion of demolition work to ensure the completion of site grading and other and other works described in Article 3.2 of this By-Law.

### **10.2 Effective**

A notice pursuant to this Part of the By-Law is not effective until such notice (whether written, electronic or oral) is actually received by the Chief Building Official or Registered Code Agency, as the case may be.

### **10.3 Time Periods**

Upon receipt of proper notice, the inspector or a Registered Code Agency, if one is appointed, shall undertake a site inspection of the building to which the notices relates in accordance with the time periods stated in Article 2.4.5.3 of the Building Code and section 11 of the Act.

## **ARTICLE 11 LIMITING DISTANCE AGREEMENTS**

### **11.1 Conditions for Limiting Distance Agreements**

The Chief Building Official is authorized to enter into and sign limiting distance agreements under the Building Code when the following conditions are met:

- (1) No land owned by the Corporation is affected by the agreement; and
- (2) The agreement does not impose any obligations on the Corporation;

## **ARTICLE 12 VALIDITY**

### **12.1 Severability**

In the event that any provision of this By-Law is declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remaining provisions of this By-Law.

**ARTICLE 13  
REPEAL**

**13.1 By-Laws**

By-Law 164-2012 and all of its amendments are hereby repealed.

**13.2 Effective Date**

This by-law shall become effective on the date of final passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 20th day of July, 2020.

\_\_\_\_\_  
MAYOR – Darrin Canniff

\_\_\_\_\_  
CLERK – Judy Smith

**SCHEDULE "A"**

This is Schedule "A" to By-Law \_\_\_\_\_-2020 respecting

**CLASSES OF PERMITS AND FEES****Minimum Permit Fee**

A minimum fee of \$90.00 shall be charged for all work, unless otherwise indicated in Table 'A'.

TABLE 'A'

|   |  |
|---|--|
| Group A (Assembly)  | \$16.90 per \$1,000.00 construction value up to \$10,000,000.00<br>\$1.50 per \$1,000.00 construction value thereafter   |
| Group B (Institutional)                                     |  |
| Group C (Residential) – addition/renovation only            |  |
| Group D (Business & Personal Service)                       |  |
| Group E (Mercantile)  |  |
| Agricultural Buildings                                      |  |
| Greenhouses   |  |
| Demolition Permit   |  |
| Accessory Structures  |  |
| Sign Permit   |  |
| Plumbing  |  |
| Change of Use Permit  | \$90.00  |
| Group F (Industrial Manufacturing)                          | \$14.05 per \$1,000.00 construction value (cap of \$20,000 permit fee)   |
| Group C (New Residential)                                   | \$1.12/sq ft floor area (above grade)<br>\$ .56/sq ft finished floor area (below grade) **<br>\$ .15/sq ft unfinished floor area (below grade)<br>\$ .20/sq ft attached garage |
| ** Finished is defined as drywall on walls                  |  |
| On-Site Sewage System - New                                 | \$797.50   |
| Replacement Septic Tank or Septic Bed                       | \$401.05   |
| Sewer Replacement/Repair or Septic Bed Repair (max. 2 runs) | \$131.90   |
| Sanitary Connection - (conversion from septic)              | \$274.20   |
| New Service Connection                                      | \$90.00  |
| Damage & Security Completion Deposit (refundable)           | \$1000.00 (bldg. area > 538 sq ft)<br>\$500.00 (bldg. area <= 538 sq ft)   |
| Pool Fence Permit   | \$90.00  |
| Transfer of Permit  | \$90.00  |
| Right of Entry Permit                                       | \$90.00  |
| Zoning Reviews – Reports/Work Orders Letters                | \$107.65   |
| Phone-in Zoning Requests                                    | \$33.15  |
| Septic Compliance Reviews                                   | \$90.00  |
| Fast Track Building Permit (24 hour turnaround)             | Additional 25% of permit fee   |
| Re-Inspection Fee   | \$100.00   |
| Re-Inspection Fee for Property Standards                    | \$88.10  |
| Fee to Appeal Property Standards Order                      | \$101.80   |
| Fee for a Property Standards Letter of Compliance           | \$53.95  |

\*Water Certificates -- \$275.00

**Interpretation**

The following explanatory notes are to be observed in calculation of fees.

- Floor area is measured to the outer face of exterior walls and to the centre line of party walls (excluding attached garages)
- No deductions are made for openings within the floor area (e.g. stairs, elevators, shafts etc.)
- The occupancy categories in Table 'A' correspond with the major occupancy classifications in the Ontario Building Code. For mixed occupancy floor areas, the fee for each of the occupancy categories shall be used except where occupancy category is less than 10% of the floor area.

## **SCHEDULE "B"**

This is Schedule "B" to By-Law\_\_\_\_-2020 respecting

### **LIST OF PLANS REQUIRED TO BE SUBMITTED WITH APPLICATION**

Site Plan  
Foundation Plan  
Floor Plan (each floor)  
Elevations  
Framing Plans  
Sections & Details  
Roof Plan  
Reflected Ceiling Plan  
Plumbing Plans  
HVAC Plans  
Electrical Plans

### **EXCEPTION**

- 1.1 The Chief Building Official may waive the requirement for multiple copies and any required information specified in this schedule due to limited scope of work, applicable law, Building Code requirements or the sufficiency of an Electronic Submission.
- 1.2 The Chief Building Official may also require additional documents, copies and drawings in addition to any required information specified in this schedule due to the scope of work, in order to ensure compliance with applicable law, the Act, the Building Code and this By-Law.

**SCHEDULE "C"**

This is Schedule "C" to By-Law \_\_\_\_\_-2020 respecting

**REFUNDS**

| <b><u>Status of Permit Application</u></b>                             | <b><u>Percentage of Fees Eligible for Refund</u></b> |
|--|--|
| Application filed<br>No processing or review of plans submitted        | 80 %   |
| Application filed<br>Plans reviewed & permit issued                    | 60%  |
| Additional deduction for each field inspection that has been performed | as determined<br>by Chief Building Official          |

NOTE:

If the calculated refund is less than the minimum fee applicable to the work, no refund shall be made of the fees paid.





**Municipality of Chatham-Kent**  
*Building Development Services*

315 King St. West  
 P.O. Box 640 Chatham, ON N7M5K8  
 Tel: (519) 360-1998 Fax: (519) 436-3215

**GENERAL REVIEW COMMITMENT CERTIFICATE**  
 (In accordance with Division C, Section 1.2.2. of the Ontario Building Code)

Office Use Only

Permit No: \_\_\_\_\_

Roll No.: **3650** \_\_\_\_\_

Description of Work \_\_\_\_\_

Project Address \_\_\_\_\_

(This part must be completed by all consultants retained for General Review)

The undersigned hereby certifies that he/she has been retained to provide General Review of the following parts of construction.

**ARCHITECT**

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Address: \_\_\_\_\_  
 Street City Province Postal Code

BCDN \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

**ENGINEER  
(Structural)**

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Address: \_\_\_\_\_  
 Street City Province Postal Code

BCIN \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

**ENGINEER  
(Mechanical)**

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Address: \_\_\_\_\_  
 Street City Province Postal Code

BCIN \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

**ENGINEER  
(Electrical)**

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Address: \_\_\_\_\_  
 Street City Province Postal Code

BCIN \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

(This part must be completed by Owner or Agent authorized by Owner)

**THE OWNER**, being the person who intends to construct, or have constructed, a building, has agreed to have each of the retained architect(s) and professional engineer(s) complete, properly authorize, and return to the Building Development Services Department the General Review Commitment Certificate(s) prior to and as a condition of permit issuance, and authorizes the retained architect(s) and professional engineer(s) to forward directly to the Chief Building Official all written reports arising out of the required General Review undertaken pursuant to Section 2.3 of Ontario Regulation 413/90 by the retained architect(s) and/or professional engineer(s).

REGISTERED OWNER \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
 Street City Postal CodeI the undersigned, \_\_\_\_\_ am the Owner/Agent on behalf of the Owner have read and agree to the above.  
 (Please Print)

Signature \_\_\_\_\_

Date \_\_\_\_\_

**SCHEDULE "E"**

**MUNICIPALITY OF CHATHAM-KENT**

***DEMOLITION***

I have notified the following Utilities of my intention to demolish a building located at:

---

|                         | <u>PHONE</u>                  | <u>NOTIFIED</u>          | <u>NOT NOTIFIED</u>      |
|-------------------------|-------------------------------|--------------------------|--------------------------|
| Union Energy            | 1-888-718-6466                | <input type="checkbox"/> | <input type="checkbox"/> |
|                         |                               | Signed: _____            |                          |
| Union Gas               | 1-888-774-3111                |                          |                          |
| Hydro One               | 1-888-664-9376                | <input type="checkbox"/> | <input type="checkbox"/> |
|                         |                               | Signed: _____            |                          |
| Chatham-Kent PUC        | 519-352-6300                  | <input type="checkbox"/> | <input type="checkbox"/> |
|                         |                               | Signed: _____            |                          |
| Bell Telephone          | 866-310-2355<br>(Res. Bldg.)  | <input type="checkbox"/> | <input type="checkbox"/> |
|                         |                               | Signed: _____            |                          |
|                         | 866-310-2355<br>(Comm. Bldg.) | <input type="checkbox"/> | <input type="checkbox"/> |
|                         |                               | Signed: _____            |                          |
| Cogeco Cable Television | 1-800-267-9000                | <input type="checkbox"/> | <input type="checkbox"/> |
|                         |                               | Signed: _____            |                          |

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**NOTE:**

**In addition to the above notifications, please ensure proper utility locates are obtained.**

**Also note utility locates obtained by the Ontario One Call # do not constitute notification for the purpose of this form, please use the numbers listed above.**

By-law Number \_\_\_\_\_  
Of The Corporation  
of the Municipality of Chatham-Kent

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

Finally Passed the \_\_\_\_ day of \_\_\_\_\_, 2020.

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 the Corporation of the Municipality of Chatham-Kent recognizes that standing and stagnant water contributes toward certain health risks related to communicable diseases;

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 445 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that if a municipality is satisfied that a contravention of a By-law passed under

the *Municipal Act, 2001*, S.O. 2001, c. 25 has occurred, the municipality may make an order requiring the Person who contravened the By-law or caused or permitted a contravention or the owner or occupier of the Land on which the contravention occurred to do work to correct the contravention;

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;

And Whereas Council of the Corporation of the Municipality of Chatham-Kent ("Council") so passed By-law No. 79-2020, being a by-law to provide for the maintenance of land in a clean and clear condition;

And Whereas Council deems it advisable to amend certain provisions of By-law 79-2020;

And Whereas Council so passed By-Law No. 101-2004, being a by-law to regulate standing water;

And Whereas Council deems it advisable to amend certain provisions of By-Law 101-2004;

And Whereas it is deemed more expedient to repeal said by-laws and replace it with a new consolidated document which incorporates the sought amendments together;

Be it Therefore Enacted by the Municipal Council of the Municipality of Chatham-Kent as follows:

## 1. DEFINITIONS

In this By-law unless otherwise defined, the words and phrases used in this by-law have their normal and ordinary meaning. In this by-law the following specific terms have the defined meanings:

- 1.1 “*building*” shall have the meaning as defined in the *Building Code Act S.O. 1992, c. 23*, as amended or any successor legislation.
- 1.2 “*By-law*” shall mean this by-law.
- 1.3 “*infestation*” shall mean the overrunning of a property by vermin, rodents and insects;
- 1.4 “*land*” shall not include buildings for the purpose of this *By-law*;
- 1.5 “*Municipal By-law Enforcement Officer*” shall mean (i) a Municipal By-law Enforcement Officer as appointed by Council or (ii) Chatham-Kent Police Officer or (iii) a Public Health Inspector;
- 1.6 “*Municipality*” shall mean the Corporation of the Municipality of Chatham-Kent;
- 1.7 “*Natural Body of Water*” refers to a creek, stream, bog, marsh, river, pond, or lake created or maintained by the forces of nature and which contains water; also, man-made ponds;
- 1.8 “*owner*” shall mean the registered owner, occupant, tenant, or 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;
- 1.9 “*Person*” means natural person, firm, partnership, association, corporation or organization of any kind;
- 1.10 “*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.

1.11 "*Standing or Stagnant Water*" means any water that is not continuously filtered or in movement by mechanical means and is found either on the ground or in any object or debris (which includes but is not limited to a catch basin, refuse, or any object or depression, whether man made or natural) for more than four

days but does not include a Natural Body of Water or water contained within a municipal drain, municipal catch basin or storm water management facility.

## 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*.

2.3. Between the dates of May 15 and September 30 in any calendar year, no *owner* shall permit any Standing or Stagnant Water on his or her land. Without limiting the foregoing, no *owner* shall:

- a) Permit Standing or Stagnant Water to accumulate including in or on debris, deep ruts and holes, excavations, depressions or any unprotected or unused wells;
- b) Permit a swimming pool, swimming pool cover, hot tub, wading pool or artificial pond to contain Standing or Stagnant Water.

## 3. NON-APPLICATION TO INTERIOR SPACE

3.1. This By-law does not apply to the interior space of any Building. For greater clarity this By-law does apply to the exterior portion of any Building, which for the purposes of this By-law includes any exterior structure that may be accessed without entering through a doorway or other entryway mechanism that is reasonably designed to exclude access to individuals from the Building.

## 4. ENFORCEMENT

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

4.2. 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.

4.3. 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.

4.4. 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*.

## 5. NOTICE OF VIOLATION

5.1. 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.

5.2. 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.

5.3. 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.

5.4. 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 13.2.1 days after mailing.

5.5. 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.

#### 5.6. APPEAL

- a) An appeal of a notice given pursuant to this By-law shall lie to the Municipal By-law Appeal Committee.
- b) A person who appeals a notice given pursuant to this By-law shall submit a Request for a Hearing in the time frame and in the manner prescribed in By-law Number 22-2015 and the By-Law Appeal Committee Rules of

Procedure, both as amended, and shall submit any applicable fees established under the Municipality's User Fees By-law, as amended, for the processing of the Appeal.

- c) Every decision or order of the By-Law Appeal Committee is final, without any further right of appeal.

## 6. PENALTY

6.1. Any person who contravenes any provision of this by-law is guilty of an offence and, upon conviction, is liable to a set fine pursuant to the *Provincial Offences Act*, as set out in Schedule "A" attached hereto.

6.2. If a notice of contravention has been issued under this By-law or by the court, and has not been complied with, the contravention shall be deemed to be a continuing offence for each day or part of a day that the order is not complied with.

6.3. The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

## 7. General

7.1. 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.

8. REPEAL

8.1. By-Law 79-2020 and any amendments thereto are hereby repealed.

8.2. By-Law 101-2004, being a By-Law of The Corporation of the Municipality of Chatham-Kent to Regulate Standing Water and all of its amendments is hereby repealed.

This By-law shall come into full force and effect upon the final passing thereof.

Read a First, Second and Third Time this \_\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Mayor – Darrin Canniff

\_\_\_\_\_  
Clerk - Judy Smith

## Schedule "A"

## THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

PART I – *Provincial Offences Act*

By-law Number \_\_\_\_\_

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

| Item # | COLUMN 1<br>Short Form Wording  | COLUMN 2<br>Provision for creating<br>or defining offence | COLUMN 3<br>Set Fine |
|--------|---|---|----------------------|
| 1      | Fail to keep land free and clear of refuse or anything that is an eyesore | 2.1   | \$200.00             |
| 2      | Fail to keep land free and clear of infestation                           | 2.2   | \$200.00             |
| 3      | Permit Standing or Stagnant Water   | 2.3   | \$200.00             |
| 4      | Hinder or obstruct, or attempt to hinder or obstruct, inspection          | 4.4   | \$200.00             |

THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

BY-LAW NUMBER \_\_\_\_\_-2020

A BY-LAW TO PROHIBIT AND REGULATE FORTIFICATION AND PROTECTIVE ELEMENTS OF LAND

**WHEREAS** section 10 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended or replaced (*Municipal Act, 2001*) provides that a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

**AND WHEREAS** sections 8, 9, 10 and 133 of the *Municipal Act, 2001* authorize The Municipality of Chatham-Kent to enact by-laws to regulate or prohibit excessive fortification and protective elements in respect of land and land use;

**AND WHEREAS** access and escape from land, buildings and structures may be required both by emergency service responders for rescues and protection of property in cases of emergencies, and by the public, which access and escape may limit personal danger and property loss during emergencies;

**AND WHEREAS** Part XIV of the *Municipal Act, 2001* includes sections 425, 429, 435 – 440 and 444-446, which provides for enforcement of by-laws and powers attenuate to enforcement;

**NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT** enacts as follows:

**ARTICLE 1**

**SHORT TITLE**

- 1.1 This By-law may be cited as the "Fortification of Land By-Law".

**ARTICLE 2**

**DEFINITIONS**

For the purposes of this By-law:

- 2.1. "Apply or Application" means the erection, installation, extension or material alteration or repair of or application to Land and includes Construction;
- 2.2. "Building Code" means the regulation made under Section 34 of the Building Code Act, S.O. 1992, c. 23, as amended or any successor legislation.
- 2.3. "Chief Building Official" means the officer or his or her designate, appointed by Council as the Chief Building Official pursuant to Section 3 of the Building Code;
- 2.4. "Construct" means to do anything in the erection, installation, extension or material alteration or repair of a building and includes the installation of a building unit

fabricated or moved from elsewhere and "Construction" has a corresponding meaning;

- 2.5 "Council" means the Municipal Council for the Corporation of the Municipality of Chatham-Kent;
- 2.6 "Emergency Services Personnel" means any individual employed by a Police Service, Fire Service (including volunteer Fire fighters), or Ambulance Service in Ontario who is acting in accordance with the obligations imposed upon them (whether by statutory or common law duty) by their position and includes any person who is directed by emergency services personnel to do or refrain from doing anything and who acts on those directions;
- 2.7 "Excessive Fortification and Excessively Fortify" means the Construction of devices, barriers, or materials in a manner designed to hinder, obstruct or prohibit access to or from Land or have the effect of hindering, obstructing or prohibiting access to or from Land and include but is in no manner limited to:
- a) The application of steel plates, steel bars, bullet-proof shutters or heavy gauge wire mesh to window and other openings on any and all levels of any structures on land with the sole exclusion of basement windows or openings;
  - b) The application of concrete block, brick, or other masonry or similar product to partially or completely obstruct or seal any doorway, window, or other exterior entrance or egress to Land;
  - c) The application of steel sheeting or plates or other similar products to the interior or exterior walls of Land such as to reinforce walls or create a secondary wall such as to protect against firearms, artillery, explosives, vehicle contact, shock, and the like;
  - d) The application of bullet resistant/proof material or glass to windows or doors;
  - e) Armour plated or reinforced doors (exterior or interior) designed to resist against impact of firearms, artillery, explosives, battering rams, shock or vehicle contact;
  - f) The Construction of pillars, cones or barriers out of concrete, steel, or any other building material that are designed to obstruct, hinder, restrict, or deny access onto any land by conventional means of access or modes of transportation;
  - g) The Construction of an observation tower designed to enable the visual observation of surrounding areas beyond the perimeter of the land actually owned or leased/rented by the occupant whether the tower is occupied by an individual or a surveillance camera or like equipment;
- 2.8 "Excessive Protective Elements" means devices, objects, material components, or any contrivance designed to control, hinder, restrict, or deny access to or from

Land or have the effect of controlling, hindering, restricting, or denying access to or from the Land and includes but is in no manner limited to:

- a) The application of perimeter warning devices such as "laser eyes" or other types of advanced warning systems be it electronic or otherwise designed to forewarn of the encroachment onto the perimeter of land from adjoining lands or roadways but excluding similar applications to forewarn of entry into a structure located on land.
- b) The application of electrified fencing or any similar perimeter barrier including hidden traps, electrified doors or windows, land mines or other explosive devices or any weapon or thing that may become a weapon when triggered or activated on encroachment to land whether designed to, or by application in such manner is, likely to cause death or serious injury;
- c) The application of visual surveillance equipment, including video cameras, 'night vision' systems, or electronic listening devices capable of permitting either stationary or scanned viewing or listening, by an operator or viewer or listener of that equipment, beyond the perimeter of the land actually owned, leased or rented by the occupant.

2.9 "Fire Code" means Ontario Regulation 213/07 as amended and as passed under the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended or any successor legislation.

2.10 "Fortification and Fortify" means the Construction of devices, barriers, or materials in a manner designed to hinder, obstruct or prohibit access to or from Land or have the effect of hindering, obstructing or prohibiting access to or from the Land and includes Excessive Fortification.

2.11 "Land" means land, including buildings, mobile homes, mobile buildings, mobile structures, outbuildings, fences, erections, physical barriers and any other structures on the land or in any structure on the land;

2.12 "Law Enforcement Officer" includes a Police Officer as defined in Section 2 of the Police Services Act, R.S.O. 1990, Chapter P.15, as amended, and a Municipal Law Enforcement Officer appointed pursuant to either Section 227 of the *Municipal Act, 2001*, or pursuant to Subsection 15(1) of the Police Services Act, R.S.O. 1990, Chapter P.13, as amended, and a "Chief Building Official" appointed under Section 3 of the Building Code Act, 1992, as amended from time to time, and a "Building Inspector" appointed under Section 3, 3.1, 4, 32 or 32.1 of the Building Code Act, 1992, as amended, and a "Fire Inspector" including the Fire Marshall, an assistant to the Fire Marshall or a Fire Chief for the purpose of s.19(1) of the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4; as amended, and includes a Property Standards Officer.

2.13 "Municipality" means either The Corporation of the Municipality of Chatham-Kent or the Municipality of Chatham-Kent, whatever the context requires.

- 2.14 "Occupier" means a person residing on or in immediate possession of land, or of a part of land where relevant to notice of entry to the land or part.
- 2.15 "Owner" in relation to land means a person who has registered title to the land, and includes the heirs, executors, administrators or successors and assigns or other legal representative of such person.
- 2.16 "Person" means any natural person and any corporation incorporated pursuant to the Ontario Business Corporations Act, R.S.O., 1990, chapter B. 16 and amendments thereto, any corporation incorporated by equivalent legislation in any other provincial or state jurisdiction or the Canada Business Corporation Act, R.S.C. 1985, chapter C.44 and amendments thereto.
- 2.17 "Property Standards Officer" means an officer appointed by Council pursuant to the Building Code Act, 1992, who has been assigned the responsibility of administering and enforcing property standards By-laws passed under section 15.1 of the Building Code Act, 1992, who may, upon producing proper identification, enter upon any land at any reasonable time without a warrant for the purpose of inspecting the Land to determine:
- a) whether the Land conforms with the standards prescribed in this By-law; or
  - b) whether an order made under the authority of this By-law has been complied with.
- 2.18 "Protective Elements" means devices, objects, material components, or any contrivance designed to control, hinder, restrict or deny access to or from Land or have the effect of controlling, hindering, restricting or denying access to or from the Land and includes Excessive Protective Elements.

### **ARTICLE 3**

#### **GENERAL PROHIBITION**

- 3.1 No person shall:
- a) Excessively Fortify any Land;
  - b) Apply Excessive Protective Elements to Land; or,
  - c) In any manner hinder, obstruct or attempt to hinder or obstruct, any Person including, without limiting the generality of the foregoing any Emergency Services Personnel, exercising a power or performing a duty under this By-law.

### **ARTICLE 4**

#### **EXEMPTIONS**

- 4.1 Sections 3.1(a) and 3.1(b) do not apply to:



- a) Financial institutions as identified and listed in Schedules I, II, and III of the *Bank Act*, S.C. 1991, c. 46 as amended from time to time and that is zoned municipally for such use;
- b) Detention centers and correctional facilities permitted by law;
- c) Lands, wherever situated, owned or occupied by the Ontario Provincial Police, the Royal Canadian Mounted Police, Chatham-Kent Police Services or an Ontario Municipal Police Service in accordance with the *Police Services Act*;
- d) Lands, wherever situated, owned or occupied by Canada (Department of Defence);
- e) Other commercial, business, industrial or institutional establishment where the nature of the undertaking necessitates particular elements of excessive fortification or excessive protective elements and where such use is permitted by the Zoning By-Law 216-2009 as may be amended or replaced, or provided such use is otherwise lawfully permitted by statute or legislation, but only to the extent necessary having consideration for the nature of the undertaking upon approval granted herein upon application for exemption in accordance in Articles 6, 7 and 8 of this By-law;
- f) A private dwelling where the nature of the lawful use of the dwelling necessitates particular elements of excessive fortification or excessive protective elements, but only to the extent necessary having consideration for the nature of such use upon approval granted herein following application for exemption in accordance with Articles 6, 7, and 8 of this By-law.
- g) Electrified fencing used by agricultural operations for the purpose of controlling movement of livestock or other normal farm practice carried on pursuant to the *Farming and Food Protection Act, 1998*;
- h) The use by public authorities of bollards or similar barriers to motor vehicles to limit access by vehicles on public properties, recreational trails or recreational properties at entrances to such trails or properties;
- i) The establishment and use of a single panic room in a residential dwelling unit, provided:
  - i. the single panic room is interior to the building, without either use of exterior walls or direct access to the exterior of the building;
  - ii. the single panic room does not exceed an interior area of ten (10) square meters; and,
  - iii. the single panic room does not contain any fuel fired appliances or plumbing fixtures, and otherwise complies with the ventilation and other requirements of the Building Code.

## **ARTICLE 5**

### **SCOPE AND LIMITATION OF BY-LAW**

- 5.1 Sections 3.1(a) and 3.1(b) do not operate to prohibit:
- (a) The use or application of commercially marketed household security devices designed and applied to provide reasonable fortification and protection from theft or other criminal activity against the person or property of an individual;
  - (b) The use of protective elements such as "laser eye" or other advanced warning devices on windows or doors of a dwelling house for the purpose of providing a warning to the occupants of that dwelling house or structure or to dispatch Emergency Services Personnel where an actual entry into a dwelling house has occurred;
  - (c) Common household alterations or renovations where the location or style of a door or window may be altered for purely aesthetic reasons and meets Building Code and Fire Code requirements and have received any permit required to complete such alteration or renovations.
  - (d) Use of protective elements that are not Excessive Protective Elements for any reasonable residential or commercially reasonable purpose.

## **ARTICLE 6**

### **APPLICATION FOR PARTIAL OR COMPLETE EXEMPTION**

- 6.1 Any person who is either the Owner of Land, or an Occupier of Land with the written permission of the Owner to apply, and who wishes to make application for partial or complete exemption from the provisions of this By-law shall file with the Chief Building Official, in any manner permitted by the Chief Building Official including any approved electronic method, the following:
- (a) An application for partial or complete exemption from any provision(s) of this By-law shall be signed and in writing and directed to the Chief Building Official together with any application fee established by the Municipality of Chatham-Kent's Fees and Services By-Law;
  - (b) Complete details of the location of the Land, including municipal address, type, number, and nature (residential, commercial, farm), and a recent survey of the Land and structures shall accompany the application;
  - (c) A detailed explanation shall be included of the exemption(s) requested and the rationale for requesting such an exemption(s). This shall include details of proposed Fortification or Application of Protective Elements being considered along with an explanation of how that Fortification or Application of Protective Elements is rationally connected to the purpose for which the exemption is being sought.

(d) Such other information the Chief Building Official may require, with or after submission of the application, as deemed necessary or relevant to this By-law in their sole discretion, and at the expense of the applicant, including but not limited to:

- i. requests for clarification, further details and documents from the applicant;
- ii. the making of inquiries to, and supplying of responses from the owners or occupants of the land, the suppliers or manufacturers of the materials, equipment or system proposed to be installed, and from local, Provincial or Federal government offices or agencies relevant to the application or consideration of same;

6.2 All applications will be reviewed by the office of the Chief Building Official who may make any further inquiries deemed necessary and relevant and may require the provision of any additional information that shall be provided at the expense of the applicant, including, but not limited to:

- 6.2.1 Requests for further details or documentation from applicant,
- 6.2.2 Requiring the provision of any further or other documents considered by the Chief Building Official to be necessary or relevant to the investigation of the application,
- 6.2.3 Making inquiries of any department of local, Provincial or Federal Government considered necessary and/or relevant to the investigation of the application,
- 6.2.4 Signed written consent form(s) to make inquiries, collect or obtain information, pursuant to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M56, as amended, from such persons or agencies as the Chief Building Official may require, including but not limited to the collection of information from police agencies on the history of break-ins or other security incidents involving the applicant's land, and investigations of same, and the Chatham-Kent Fire Services or other public sector agencies that may have comments or concerns on the application, and covering the provision of information on the application to such persons as is required under this By-law.

## **ARTICLE 7**

### **GROUNDS FOR EXEMPTION**

7.1 Upon review of the documentation required or requested pursuant to Sections 5.1 and 5.2, the Chief Building Official may issue a complete or partial exemption if:

- a) the applicant is a Person;

- b) there is proven to exist a rational connection between the necessity and rationale provided for the exemption and the nature and extent of exemption requested;
- c) the nature and extent of authorized exemption does not exceed that which is rationally proven to be necessary;
- d) the necessity of access to Emergency Services Personnel and/or Law Enforcement Officers is not unreasonably interfered with or limited considering the need, necessity and rationale provided for the exemption, and
- e) The application would not result in any contravention of any other applicable law including, without limiting the generality of the foregoing, the Building Code, the Municipality's Official Plan and Zoning By-laws.
- f)

7.2 An authorized partial or complete exemption provided to a successful applicant will reference this By-law and bear the signature of the Chief Building Official.

7.3 A true copy of any authorization issued under this By-Law shall be forwarded immediately by the office of the Chief Building Official to the attention of the Chief of Police, the Fire Chief and the Paramedic Chief of the Municipality.

## **ARTICLE 8 APPEALS**

8.1 Where the Chief Building Official refuses an application for a complete or partial exemption made pursuant to the provisions of section 6 the Chief Building Official shall notify the applicant in writing of such decision and the said notice shall set out the grounds upon which the application for exemption has been refused and shall state that the applicant may appeal such decision to the By-Law appeals committee.

8.2 Where an appeal is filed, the By-Law Appeals Committee shall proceed in conformance with By-Law No. 22-2015, as amended or replaced.

## **ARTICLE 9 ADMINISTRATION AND ENFORCEMENT**

9.1 This By-law applies to the entire Municipality of Chatham-Kent.

9.2 A Law Enforcement Officer or the Chief Building Official may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- a) this By-law;

b) a direction, authorization, requirement, condition or order made under this By-law; or

c) an order made under section 431 of the *Municipal Act, 2001* in respect of a contravention of this By-law.

9.3 An Officer may, for the purposes of an inspection under this By-law:

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 from any person concerning a matter related to the inspection, including requiring expert or other examinations, testing, reports or as constructed plans to be obtained and provided; and

d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

9.3 A receipt shall be provided for any document or thing removed under section 9.2(b) and the document or thing shall be promptly returned after copies or extracts are made.

9.4 Any sampling done during an inspection shall be done in accordance with sections 436(3) and 436(4) of the *Municipal Act, 2001*.

9.5 No person shall obstruct any person when he or she is carrying out an inspection pursuant to this By-law.

9.6 Where a Law Enforcement Officer or the Chief Building Official is satisfied that a contravention of this by-law has occurred or that Excessive Fortification or Excessive Protective Elements have been established on any Land before this by-law came into force, the officer may make an order requiring work to be done to correct the contravention or to remove such Excessive Fortification or Excessive Protective Elements established before this by-law came into force and the order shall set out :

a) The municipal address or the legal description of the Land;

b) Reasonable particulars of the contravention and the work to be done and the period within which there must be compliance with the order; and

c) A notice stating that if the work is not done in compliance with the order within the period it specifies, work done may be at the expense of the owner.

9.7 If the work required by an order is not completed within the specified period, a Law Enforcement Officer or the Chief Building Official may, at any reasonable time, enter upon the Land or may make arrangements for municipal employees or a contractor retained for that purpose, to enter upon the Land to do the work at the expense of the owner and the Municipality may recover the expense incurred

in doing such work by action or the same may be recovered in like manner as municipal taxes against the Land.

- 9.8 The period described in Section 9.6(b) shall not be less than three months if the Excessive Fortification or Excessive Protective Elements were present on the Land on the day this By-law is passed.
- 9.9 No person shall remove an order, notice or direction posted on land indicating it was posted under this By-law, except an Officer.
- 9.10 An order issued pursuant to this By-law shall be served personally, left in the mail box or posted in a conspicuous place on the property of any person committing a contravention of this By-law.

#### **ARTICLE 10 OFFENCES**

- 10.1 Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a set fine for those contraventions listed in Schedule "B" to this Bylaw, or otherwise to a minimum fine of not less than \$50 and a maximum fine of not more than \$50,000.
- 10.2. In the case of a continuing offence by any person, for each day or part of a day that the offence continues, such person on conviction is liable to a fine not less than \$50 and not more than \$5,000. The total of all daily fines for the offence is not limited to \$100,000.
- 10.3. In the case of a multiple offence, a person found guilty of contraventions of this By-law is liable upon conviction, for each offence included in the multiple offence, to a fine of not less than \$50 and not more than \$10,000. The total of all daily fines for the offence is not limited to \$100,000.

#### **ARTICLE 11 CONFLICT**

- 11.1 Where a provision of this by-law conflicts with the provision of any other by-law of the Municipality, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

#### **ARTICLE 12 SEVERABILITY**

- 12.1. Each section of this By-law is an independent section, and the holding of any section or part of it to be void or ineffective for any clause is not deemed to affect the validity of any other sections of parts of it.

**ARTICLE 13**

**BY-LAW IN EFFECT AND REPEAL OF PREVIOUS BY-LAW**

- 13.1. This By-law will come into full force and effect on the date of passing.
- 13.2. By-Law No. 146-2003, Being a By-Law to Regulate the Fortification of Land and to Prohibit Excessive fortification of Land and to Prohibit the Application of Excessive Protective Elements to Land within the Municipality of Chatham-Kent is hereby repealed.

**THIS** by-law shall come into full force and effect upon the final passing thereof.

**READ A FIRST, SECOND AND THIRD TIME** this 20<sup>th</sup> day of July, 2020.

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Mayor - Darrin Canniff

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Clerk - Judy Smith

**BY-LAW NUMBER \_\_\_\_\_-2020**  
**OF THE CORPORATION OF THE MUNICIPALITY OF**  
**CHATHAM-KENT**

A by-law to establish policies with respect to the sale and other disposition of real property.

FINALLY PASSED the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Section 9 of the *Municipal Act, 2001*, S.O. 2001, ch. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

Section 270(1) of the *Municipal Act, 2001*, S.O. 2001, ch. 25, as amended, requires that a municipality adopt and maintain policies with respect to the sale and other disposition of land;

Now therefore the Municipal Council of the Corporation of the Municipality of Chatham-Kent enacts the following with respect to the sale and other disposition of land.

**Repealing Prior By-Laws**

1. By-law number 39-2019, "A By-law to establish policies for the disposition of real property", and all of its amendments thereto are hereby repealed.

**Definitions and Interpretation**

2. Headings are inserted for ease of reference only and are not to be used for interpretation aids.
3. In this by-law:
  - a. "Applicant" means a person requesting the closing and/or conveying of a road, highway or road allowance;
  - b. "Appraisal" means an independent written fair market valuation of the land that is satisfactory to the Manager;
  - c. "Corporation" means The Corporation of the Municipality of Chatham-Kent;
  - d. "Council" means the mayor and councillors of the Corporation;
  - e. "Disposition", "disposal" and "dispose" mean the sale, transfer, conveyance or exchange of the fee-simple interest in land or the granting of a lease for a term of twenty-one (21) years or longer, but does not include the granting of an easement or right of way;
  - f. "EMT" means persons assigned by the Chief Administrative Officer to be members of the Executive Management Team of the Corporation, regardless of titles of such persons, as amended from time to time;
  - g. "Land" means real property owned by the Corporation;
  - h. "Licensed Realtor" means a realtor licensed and in good standing with the Real Estate Council of Ontario and who normally conducts business in Chatham-Kent;



- i. "Manager" means the person within the administration of the Corporation that has been assigned responsibility for managing property disposition, regardless of his or her title as amended from time to time;
- j. "Municipal Roads" refers to alleys, highways, streets, and laneways owned by the Municipality of Chatham-Kent;
- k. "SMT" means persons assigned by the Chief Administrative Officer to be members of the Senior Management Team of the Corporation, regardless of titles of such persons, as amended from time to time; and
- l. "T.A.C." means the Technical Advisory Committee and includes persons assigned by the Chief Administrative Officer to be members of the Technical Advisory Committee, regardless of titles of such persons, as amended from time to time.

### **Decision to Dispose of Land**

- 4. The Corporation shall decide to Dispose of Land as follows:
  - a. The Manager shall prepare a list of Land to be Disposed;
  - b. The Manager shall obtain an Appraisal of the Land, either before or after Council or the Chief Administrative Officer has decided to Dispose of the Land. However, any property that has been vested into the Corporation's name by means of a failed tax sale or any property that has an assessed value of less than \$40,000, will not require an Appraisal;
  - c. The Manager shall circulate by email the list of Land to be Disposed to T.A.C. and SMT for the purpose of obtaining comments about whether the Corporation should Dispose of the Land;
  - d. The Manager shall sign and submit to the Chief Administrative Officer or EMT, either by email or at a meeting of EMT, any purchase and sale agreements from an interested party or a list of Land to be Disposed, and appraisals and comments obtained from T.A.C. and SMT;
  - e. The standard condition statements developed by Legal Services must be included in all purchase and sale agreements unless waived by Council as per section 4g.
  - f. The Chief Administrative Officer or EMT may make a recommendation to Council to Dispose of the Land with or without conditions, including but not limited to, a certain minimum price or intended use by the purchaser; and
  - g. The Council may declare Land available for Disposal, with or without conditions, including but not limited to a minimum price or intended use by the purchaser.
- 5. The Council may waive any of the requirements of section 4.
- 6. After Land has been declared available for Disposal, Council may declare Land no longer available for Disposal.

## **Exclusive Notice and Disposal to Certain Parties**

7. After Land has been declared available for Disposal, the Manager shall circulate a list of the Land available for Disposal:
  - a. For all properties having a value of over \$25,000, as estimated by the Manager, by email or written notice, to the following parties:
    - Crown in Right of Ontario;
    - Crown in Right of Canada;
    - Lower Thames Valley Conservation Authority;
    - St. Clair College – Chatham Campus;
    - University of Guelph – Ridgetown Campus;
    - Lambton Kent District School Board;
    - St. Clair Catholic District School Board;
    - Hospital boards operating within the Municipality of Chatham-Kent;
    - All commissions and boards of the Corporation;
    - All corporations owned wholly or partly by the Corporation in which the Corporation owns at least fifty percent of the common or controlling shares of the corporation; and
    - Any other public entity deemed appropriate by the Manager.
  - b. For all vacant residential properties of any value, by email or written notice to Habitat for Humanity Chatham-Kent, and other non-profit low income housing project providers that request to receive notice.
  
8. If within (30) days a party given notice pursuant to section 7 declares an interest to purchase the Land in writing to the Manager, the Land shall be Disposed as follows:
  - a. Where the assessed value of the Land exceeds \$40,000 or the purchase price offered for the Land exceeds \$20,000, the Chief Administrative Officer or EMT shall consider any reasonable offer and shall make recommendations to the Council to accept, reject or make any counter offer and the Council may, on its own initiative or on the recommendation of the Chief Administrative Officer or EMT, agree to Dispose of the Land on any terms; or
  - b. Where the assessed value of the Land is below \$40,000 and the purchase price offered for the Land is below \$20,000, the Chief Administrative Officer shall consider any reasonable offer and whether to accept, reject or make any counter offer and may, on his or her own initiative or on the recommendation of EMT, agree to Dispose of the Land on any terms.
  
9. The Council may waive any of the requirements of section 7 or 8.

## **Notice to the Public**

10. If after thirty (30) days no party given notice pursuant to section 7 (unless waived) has declared an intention to purchase the Land, the Manager shall give notice to the public of the Land available for Disposal pursuant to section 11.

11. Notice to the public shall include at least three of the following four methods:
  - a. Publication for at least one week in a local newspaper;
  - b. Publication for at least one week on the Corporation's website on a page dedicated for this purpose;
  - c. Posting a "For Sale" or "For Lease" sign on the land for at least one week;
  - d. Publication for at least one week on the websites Realty.ca, MLS.ca or other professional realty website.
12. The Council may waive the requirements of section 11.

## **Disposal of Land**

13. The Manager shall utilize one or more of the following methods of sale:
  - a. Public auction,
  - b. Tender process
  - c. Direct negotiation,
  - d. Listing with a licensed realtor.
14. Where the Manager chooses or is directed to list with a Licensed Realtor, the Manager will list the land for sale with a Licensed Realtor, determined through a competitive process for purchasing services in accordance with the Corporation's purchasing by-laws.
15. Where a real estate agent not under contract with the Corporation brings forward a client interested in purchasing industrial Lands, such real estate agent may receive the same financial commission percentage, at the discretion of the Director of Economic Development, as the real estate agent under contract with the Corporation at time of closing.
16. Where the Manager receives a reasonable offer, it shall be presented to the Chief Administrative Officer or EMT and the following shall apply based on the assessed value of the Land:
  - a. Where the assessed value of the Land exceeds \$40,000 or the purchase price offered for the Land exceeds \$20,000, the Chief Administrative Officer or EMT shall consider the offer and shall make recommendations to the Council to accept, reject or make any counter offer; or
  - b. Where the assessed value of the Land is below \$40,000 and the purchase price offered for the Land is below \$20,000, the Chief Administrative Officer shall consider the offer and whether to accept, reject or make any counter offer. Notwithstanding this authority of the Chief Administrative Officer, where an offer is made by, or the agent, realtor, or legal counsel acting for the person making the offer is:
    - i. a Councillor, member of a local board, or employee of the Corporation;
    - ii. a parent, child or spouse of: a Councillor, member of a local board, or employee of the Corporation; or

iii. a corporation owned by, or partnership including, a Councillor, member of a local board, employee of the Corporation or a Councillor, member of a local board, or employee's parent, child, or spouse; such an offer shall not be approved by the Chief Administrative Officer and shall be provided to Council for consideration through a Report to Council which discloses the relationship of the person making the offer and the corporation.

17. The Council or Chief Administrative Officer may agree to Dispose of Land on any terms.

### **Exempted Classes of Land**

18. The following classes of Land are exempt from the requirements of sections 4 to 17 inclusive:

- a. All Land that is zoned for industrial uses;
- b. All cemetery plots;
- c. Any Land transferred to the Corporation for security or for temporary roads or other works in connection with any agreement to which the Corporation is a party under the Planning Act, R.S.O. 1990, c. P. 13, as amended.
- d. Land 0.3 meters or less in width acquired in connection with an approval or decision under the Planning Act, R.S.O. 1990, c. P. 13, as amended;
- e. Land being repurchased by an owner in accordance with Section 42 of the Expropriations Act, R.S.O. 1990, c. E. 26, as amended.

19. All classes of Land listed in section 18, except Land that is zoned for industrial uses, shall be Disposed by the Corporation on any terms as approved by the Chief Administrative Officer or Council.

### **Road Closing Procedure**

20. Where an Applicant requests that the Corporation close and convey a Municipal Road, such request must include payment of all costs associated with title search and other administrative costs related to the request. Such amounts shall be determined by the Manager and conveyed to the Applicant. Following the initial request, the following process shall apply:

- a. The Applicant will be responsible for reimbursing the Corporation for all expenses incurred during the Municipal Road closing and conveying process;
- b. If more than one party requests a portion of the Municipal Road being declared as surplus, all expenses are to be shared proportionately by all parties;
- c. Once the title search has been completed to confirm the Corporation as the rightful owner, the application is forwarded to T.A.C. for review and comments;
- d. The application is also to be forwarded for review by:
  - i. Emergency Services
  - ii. Entegrus
  - iii. Cable TV (if applicable)
  - iv. Union Gas

- v. Bell Telephone
- vi. Hydro One

Should any of these parties raise concerns, the Manager shall attempt to resolve these or consider if the Municipal Road should not be closed and conveyed;

- e. The Manager shall negotiate with the Applicant to determine the purchase price for the Municipal Road. If the value of the Municipal Road cannot be agreed to, the application will be rejected. The Manager may seek an Appraisal if necessary;
- f. Where a price has been agreed to, the Manager shall bring a report to a Closed Session of Council for direction;
- g. Where Council directs administration to proceed with the sale, a Reference Plan of the Municipal Road providing the appropriate property description will be prepared, if necessary;
- h. An advertisement shall be placed in either a print or online newspaper having general circulation or coverage in the area of the Municipal Road, notifying the public of the Corporation's intention to close and sell the Municipal Road. The advertisement must provide that any person who claims that his/her land might be prejudicially affected by the selling of this Municipal Road will be heard in person or by his/her counsel at a Council meeting where the by-law will be considered;
- i. If no one appears before Council with an objection and Council has no objections to the closure, the By-Law will be approved;
- j. Should an objection be received, Council will provide Administration with direction on how to proceed with the application;
- k. Where the closing and conveying of a Municipal Road has been approved by Council, Legal Services shall take all steps necessary to register the necessary by-law on title and convey the Municipal Road to the Applicant;

### **Industrial Uses Lands**

- 21. All Land that is zoned for industrial uses shall be sold for the purposes of creating jobs, developing economic health and growing the property tax base.
- 22. All Land that is zoned for industrial uses shall be priced and marketed as follows:
  - a. The Manager shall maintain an inventory of Land zoned for industrial uses;
  - b. The Council, with a recommendation from the Chief Administrative Officer or EMT, shall annually set the price per acre at a meeting open to the public;
  - c. The price per acre shall be set by the Council annually, with consideration given to the following criteria such as:
    - i. Location;
    - ii. Type and quality of land;
    - iii. Level and type of servicing to the land;
    - iv. The underlying value of undeveloped agricultural or farm land;
    - v. Proximity to transportation services;
    - vi. The potential and need for job creation in the area;
    - vii. Economic development;

- viii. Potential for increase of the property tax base;
      - ix. Value of industrial land in nearby municipalities.
    - d. The inventory and price per acre shall be published on the Corporation's website on a dedicated webpage for the sale of Land zoned for industrial uses;
    - e. The Corporation may at any time decide not to sell Land, even after a written offer to purchase is received;
    - f. Notwithstanding the annual price per acre set by the Council, the Council may at its sole discretion decide to sell Land at a price different from the set price, based on the following criteria:
      - i. The commencement date of any construction by the buyer;
      - ii. The intended use of the land;
      - iii. The number and type of jobs that will be created or transferred;
      - iv. The growth of the underlying property tax base; and
      - v. The potential for any other economic development, direct or indirect.
23. The conditions for Disposition of Land for sale that is zoned for industrial uses, shall include:
- a. Sale of Land on an "as is, where as" basis;
  - b. The purchaser to complete and execute an offer to purchase in the form provided by the Corporation, accompanied by a deposit payable to the Corporation by cash or certified cheque equal to 10 percent of the total purchase price, and the balance shall be payable subject to usual adjustments upon completion of the transaction;
  - c. The purchaser to obtain all permits, licenses and permissions for construction and/or use of the lands;
  - d. The purchaser shall commence construction, renovation, enlargement, extension, or other construction, as the case may be, within one year of the registration of the deed or transfer and shall diligently complete construction or renovation of the building or structure, in default of which the purchaser shall in the sole discretion of the Corporation re-convey the land to the Corporation at the original purchase price, free and clear of all encumbrances, easements, and restrictions or covenants except those originally assumed by the purchaser from the Corporation;
  - e. The minimum coverage of the land by an intended or existing building or structure shall be 15 percent, except where the maximum coverage under the applicable zoning by-law is less than 15 percent;
  - f. The purchaser shall pay local improvement charges and any other special levies assessed at any time against the land on and after completion of the purchase;
  - g. The cost of service connections from the main to the property line is the responsibility of the purchaser;
  - h. The purchaser accepts the current condition of the site and the cost of removal of topsoil from the site if required; and
  - i. The transaction shall be completed within 90 days of the passing of the by-law accepting the offer to purchase or within such period as may be agreed between the Municipal Solicitor and the purchaser's solicitor.

24. Notwithstanding sections 21, 22 and 23, the Municipal Council may agree to Dispose of Land that is zoned for industrial uses on any terms.

This By-law shall come into full force and effect upon the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME this 20th day of July, 2020.

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Mayor – Darrin Canniff

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Clerk – Judy Smith

**MUNICIPALITY OF CHATHAM-KENT  
BY-LAW NUMBER \_\_\_\_\_-2020**

**Being a By-Law to Prohibit Graffiti**

**WHEREAS** the Council of the Corporation of the Municipality of Chatham-Kent may pass by-laws to prohibit and regulate public nuisances, including matters that, in the opinion of the Municipality, are, or could become or cause public nuisances under Section 128 of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended;

**AND WHEREAS** it is the opinion of Council of the Municipality of Chatham-Kent that graffiti is or could become or cause a public nuisance;

**AND WHEREAS** section 446 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended from time to time, permits municipal Councils to enact by-laws that provide that where the municipality may lawfully direct or require that a matter or thing be done, the municipality may do such matter or thing at the expense of the person directed or required to do it if that person is in default of such direction or requirement;

**NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT** enacts as follows:

**ARTICLE 1  
SHORT TITLE**

1.1 This by-law may be cited as the "Graffiti By-law."

**ARTICLE 2  
DEFINITIONS AND INTERPRETATION**

2.1 It is declared that any section, subsection or part thereof be declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

2.2 Headings are inserted for convenience of reference purposes only, form no part of this by-law and shall not affect in any way the meaning or interpretation of the provisions of this by-law.

2.3 Unless otherwise defined, the words and phrases used in this by-law have their normal and ordinary meaning. In this by-law the following specific terms have the defined meanings:

**"Art Mural"** means a mural that has been made for the purpose of beautifying specific property;

**"Council"** means the Council of the Municipality of Chatham-Kent;

**"Graffiti"** means one or more letters, symbols, numbers, etchings, inscriptions, pictorial



representations, or other markings that disfigure or deface property, howsoever made on or otherwise affixed to the property, but does not include:

- (i) a sign authorized by the Municipality's Sign By-law 156-2004, as amended;
- (ii) a public notice authorized by law;
- (iii) a traffic control mark authorized by law; or
- (iv) an Art Mural;

**"Hate Graffiti"** means graffiti that is motivated by hate, bias or prejudice, based on race, nationality, ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, sexual identity or any similar Human Rights Code protected basis.

**"Interior Space"** means any space that is not visible from a highway or other public place;

**"Municipal By-Law Enforcement Officer"** means a person designated as such by a resolution or bylaw of Council, a police officer or a property standards officer of the Municipality;

**"Municipality"** means either The Corporation of the Municipality of Chatham-Kent or the Municipality of Chatham-Kent, whatever the context requires;

**"Owner"** means the registered owner or any person, firm or corporation having lawful control over, or lawful possession, of any portion of the building or property under consideration;

**"Property"** means a building or structure, or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile structures, outbuildings, fences and retaining walls, and erections thereon, whether heretofore or hereafter erected and includes vacant property;

**"Public Place"** means any place to which the public has access, as of right or by invitation, express or implied.

### **ARTICLE 3 APPLICATION**

3.1 This by-law shall apply to all lands within the geographic limits of the Municipality of Chatham-Kent.

#### **ARTICLE 4 GRAFFITI PROHIBITED**

4.1 No person shall place Graffiti or cause or permit Graffiti to be placed on any property.

4.2 Every owner of property shall at all times maintain the property free of graffiti.

#### **ARTICLE 5 APPLICATION TO INTERIOR SPACE**

5.1 Sections 4.1 and 4.2 do not apply to the interior space of any property.

#### **ARTICLE 6 NOTICE TO COMPLY**

6.1 A Municipal By-Law Enforcement Officer who finds a contravention of this By-law may give written notice to the owner of the property requiring compliance with this by-law within fourteen (14) days after the notice is given, unless the Graffiti is Hate Graffiti, in which case compliance is required within three (3) days.

6.2 The notice may be served personally on the person to whom it is directed or by registered mail to the last known address of that person, in which case the notice shall be deemed to have been given on the third day after it is mailed.

6.3 If there is evidence that the person in possession of the property is not the registered property owner, the notice shall be served on both the registered property owner and the person in possession of the property.

6.4 If the address of the owner is unknown or the Municipality is unable to effect service on the owner under subsection 6.3, a placard stating the terms of the notice and placed in a conspicuous place upon land on or near the property shall be deemed to be sufficient notice to the owner.

#### **ARTICLE 7 FAILURE TO COMPLY**

7.1 If an owner or occupant fails to comply with a notice given under Article 6.1, the Municipality, or its authorized agent, may enter upon the owner's property at any reasonable time for the purposes of removing the graffiti.

7.2 Costs incurred by the Municipality in doing any work required pursuant to this By-law be done to remove the graffiti may be recovered by action or adding the costs to the tax roll and collecting them in the same manner as taxes.

## **ARTICLE 8 OFFENCES & PENALTIES**

8.1 Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.

8.2 When a person has been convicted of an offence under this By-law,

1. the Ontario Court of Justice, or
2. any court of competent jurisdiction thereafter, may, in addition to any other penalty imposed on the person convicted, make an order prohibiting the continuation or repetition of the offence by the person convicted.

## **ARTICLE 9 REPEAL OF PREVIOUS BY-LAW**

9.1 By-Law No. 144-2007, Being a By-Law to Prohibit Graffiti and all of its amendments is hereby repealed.

## **ARTICLE 10 EFFECTIVE DATE**

**THIS** by-law shall come into full force and effect upon the final passing thereof.

**READ A FIRST, SECOND AND THIRD TIME** this 20<sup>th</sup> day of July, 2020.

\_\_\_\_\_  
Mayor Darrin Canniff

\_\_\_\_\_  
Clerk Judy Smith

CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

BY-LAW NO. \_\_\_\_\_-2020

**BEING A BY-LAW TO AMEND BY-LAW NO. 156-2004 TO REGULATE SIGNS AND OTHER ADVERTISING DEVICES WITHIN THE MUNICIPALITY OF CHATHAM-KENT**

**WHEREAS** Council of the Corporation of the Municipality of Chatham-Kent passed By-Law Number 156-2004 at its meeting on the 5<sup>th</sup> day of July, 2004;

**AND WHEREAS** Council of the Corporation of the Municipality of Chatham-Kent passed an amendment to By-Law Number 156-2004 by passing By-Law Number 123-2016 on the 3<sup>rd</sup> day of October, 2016.

**AND WHEREAS** Council of the Corporation of the Municipality of Chatham-Kent deems it expedient to amend certain sections of By-Law Number 156-2004;

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

1. By-Law 156-2004 is amended by replacing section 11 with the following:

11.0 **[Repealed]**

2. By-Law 156-2004 is amended by deleting Schedule "A" and re-lettering the remaining Schedule accordingly.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 20<sup>th</sup> day of July, 2020.

\_\_\_\_\_  
MAYOR – DARRIN CANNIFF

\_\_\_\_\_  
CLERK – JUDY SMITH

CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

BY-LAW NO. \_\_\_\_\_-2020

**BEING A BY-LAW TO REPEAL BY-LAW NO. 90-2015, A BY-LAW TO PRESCRIBE TO REGULATE DONATION/COLLECTION BINS**

**WHEREAS** Council of the Corporation of the Municipality of Chatham-Kent passed By-Law Number 90-2015 at its meeting on the 13<sup>th</sup> day of July, 2015;

**AND WHEREAS** Council of the Corporation of the Municipality of Chatham-Kent deems it expedient to repeal By-Law Number 90-2015;

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

1. By-Law 90-2015, being a By-Law to Prescribe To Regulate Donation/Collection Bins is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 20<sup>th</sup> day of July, 2020.

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MAYOR – DARRIN CANNIFF

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CLERK – JUDY SMITH