

By-law Number 90-2020

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 20<sup>th</sup> day of July, 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 effected three (3) 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 20<sup>th</sup> day of July, 2020

Original Signed by:

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Mayor – Darrin Canniff

Original Signed by:

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Clerk - Judy Smith

Schedule “A”

THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

PART I – *Provincial Offences Act*

By-law Number 90-2020

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

Item #	COLUMN 1 Short Form Wording	COLUMN 2 Provision for creating or defining offence	COLUMN 3 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