

Municipality of Chatham-Kent
Infrastructure and Engineering Services
Drainage, Asset and Waste Management

To: Mayor and Members of Council

From: Tim Dick, C.E.T.
Director of Drainage, Asset and Waste Management

Date: August 23, 2018

Subject: Grass Clippings in Chatham-Kent - Notice of Motion

Recommendation

It is recommended that:

1. The attached amendment to the Municipal Littering Bylaw (Appendix A), to include provisions for leaf and yard waste, be approved.

Background

At the June 25th meeting, Chatham-Kent Council passed a motion that administration report on the best method of dealing with the dumping of organic yard waste, specifically grass clippings, into the water systems within Chatham-Kent. The motion also suggested possible future education methods that could be used to inform communities.

The motion originated from complaints received by a Councillor regarding deteriorating grass remnants creating unsightly, odorous conditions in various areas including downtown Wallaceburg. Business Improvement Area (BIA) groups have requested that some action be taken to address this issue.

Comments

As part of a similar initiative in 2007, administration assembled a draft littering by-law for public consideration. Six public meetings were held in various communities across Chatham-Kent. No input was received regarding the littering by-law at any of the sessions.

In 2007, a report (Appendix B) was brought forward by administration regarding the littering matter. That report included a draft littering by-law. Council debated and ultimately passed the littering bylaw on July 9, 2007.

Since a municipal littering bylaw is already in place and the nature of dumping leaf and yard waste is very similar to dumping litter, a simple amendment to the littering bylaw to include the dumping of grass clippings is recommended to address this matter. Legal services has reviewed the bylaw and prepared an amendment (Appendix A) to accommodate the inclusion of leaf and yard waste, including grass clippings, in water ways. For ease of reference, Appendix C to this report shows the changes that this amendment will make to the littering by-law.

Education and Promotion

The other part of the motion asked for an education/promotion campaign to educate property owners. This is most easily, and practically, done through the curbside collection calendar. The calendar is distributed to some 34,000 households each year. Waste and Recycling Services will be adding an educational piece to the “Grasscycling” section of the calendar.

In addition, it is proposed that two media releases per year be issued specifically dealing with the dumping of grass clippings. These releases would be spring and fall coinciding with the high volume yard waste seasons.

Areas of Strategic Focus and Critical Success Factors

The recommendation in this report supports 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 recommendation in this report supports 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 reviewed the current littering bylaw and has prepared an amendment to address leaf and yard waste, including grass clippings.

Financial Implications

There are no financial implications.

Prepared by:

Reviewed by:

Tim Dick, C.E.T.
Director
Drainage, Asset and Waste Management

Thomas Kelly, P. Eng., MBA
General Manager
Infrastructure and Engineering Services

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

Dave Taylor
Manager, Legal Services

Attachment: Appendix A - Draft Amending Bylaw
Appendix B - 2007 anti-littering report
Appendix C- Consolidated Bylaw

C: Manager, Legal Services

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BY-LAW NUMBER _____-2018
OF THE CORPORATION OF THE
MUNICIPALITY OF CHATHAM-KENT

A By-law to amend
By-Law Number 141-2007 being:

A BY-LAW PROHIBITING THE LITERING AND/OR DUMPING ON PRIVATE
AND MUNICIPAL PROPERTY IN THE MUNICIPALITY OF CHATHAM-KENT

FINALLY PASSED the _____ day of August, 2018.

WHEREAS the Corporation of The Municipality of Chatham-Kent did enact By-law 141 2007 for the purpose of prohibiting littering and/or dumping refuse or debris within the Municipality of Chatham-Kent;

AND WHEREAS The Corporation of the Municipality of Chatham-Kent now deems it expedient to amend certain provisions contained in By-law 141-2007.

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

1. That By-law 141-2007 be amended by removing section 1.a)i. and adding section 1.a)i. as follows:

“Accumulations, deposits, leavings, litter, remains, rubbish, and trash.”

2. That By-law 141-2007 be amended by adding section 1.a)x. as follows:

“Grass and yard clippings, tree and garden cuttings, brush and leaves.”

3. That By-law 141-2007 be amended by adding section 1.d)i. as follows:

“Grass and yard clippings, tree and garden cuttings, brush or leaves.”

4. By-law 141-2007 of the Corporation of the Municipality of Chatham-Kent is ratified and confirmed, as amended.

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 August, 2018.

Mayor - Randy R. Hope

Clerk – Judy Smith

Municipality of Chatham-Kent
Infrastructure and Engineering Services
Drainage, Environmental and Fleet Division

To: Mayor and Members of Council
From: Tim Dick, C.E.T.
Director, Drainage, Environmental and Fleet Division
Date: June 25, 2007
Subject: Anti-Littering Notice of Motion

Recommendation

It is recommended that:

1. The attached draft Anti-Littering By-Law, originally prepared in 2003, be received for information.

Background

As part of a public consultation process held around the Municipality in 2003, administration assembled the attached draft anti-littering by-law. As part of the same process, draft by-laws were also considered for signage, fencing and standing water.

In all, six public meetings were held across Chatham-Kent. Drainage, Environmental and Fleet Division staff attended all six sessions. No one came forward to express concerns on littering at any of the six public sessions. In addition, it is important to note that Environmental Services has received only a handful of inquiries regarding littering over the past six years.

Considering our current practice regarding policies that deal with cleaning up unwanted refuse, coupled with very few inquiries received and the serious challenges that exist in enforcing a by-law of this nature, administration has not recommended finalizing the draft anti-littering by-law.

Comments

Current Practice

The definition of litter is very broad and means many things to many people. It varies from cigarette butts to truckloads of building materials dumped along the roadside. The

current manner in which it is dealt with depends on the nature and specific location of the complaint.

The majority of complaints find their way to Environmental Services. When the issue involves dumping, our practice is to either respond directly or solicit assistance from other municipal departments to both assess and/or clean up the problem. By-law 220-2003, the "Cost Recovery By-Law", allows municipal costs to be recovered when clean ups of this nature are required. In these instances, we make every effort to identify the guilty party, through such means as the vehicle they are driving or by searching the trash for discarded envelopes or packaging. We then contact the party and allow them a period of time to remove the debris. Failing that, arrangements are made for the clean up ultimately transferring any costs back to the violator. This policy provides for both the clean up of the debris and the recovery of municipal costs when incurred and this process has worked very well overall.

Violations on private property are handled through the Building Enforcement and Licensing Services Division. The Property Standards By-Law is designed specifically to deal with the clean up of waste and refuse on private property. As referred to above, this by-law also provides for any necessary clean up as well as cost recovery in these situations.

Chatham-Kent Police has the authority to issue citations under the Highway Traffic Act (HTA) along any road allowance as well as under the Environmental Protection Act (EPA) on private property. HTA violations involving licensed motor vehicles allow the fine to be "attached" to the vehicle, eventually leading to collections via the Provincial Offenses Act (POA). In cases where an officer attempts to issue a citation directly to an individual, difficulties exist when the perpetrator refuses to provide his/her name or simply ignores the officer. It is our understanding that this type of behaviour is a "non-arrestable offense", in effect leaving the officer powerless. A littering by-law would do nothing to change this fact.

Windsor's Experience

Due to the tight timelines available in preparing this report, we did not poll a number of other Municipalities. We did however speak in depth with the City of Windsor, who enacted their anti-littering campaign 10 years ago.

The anti-littering hotline was conceived as part of the "Clean Cities Program". The system allows citizens to report "litterbugs" to the City's main 311 phone number. Individuals observed littering are subsequently mailed a "shame on you" postcard for their illicit actions. We did confirm however, that there is currently no specific mechanism in place to either clean up the litter or charge the violator for the cleanup.

There is currently one full-time staff working under the guise of the Public Works Department. The position is purely administrative in nature. The total budget for the littering area is about \$70,000 including the wages of the staff member and \$13,000 earmarked for advertising.

When dumping violations occur, the littering staff notifies the appropriate municipal department, albeit Public Works, Parks or Recreation, who responds to the location and removes the litter. It is important to note that these resources are funded from the individual departmental budgets and that they have no process currently in place to charge the violator in the event he/she refuses to clean up their mess. Windsor staff officials admitted that their program was really “promotional” in nature and posed some major enforcement challenges overall. Accordingly, they stressed the need for the advertising and promotional component. It is also important to note that the anti-littering program budget was reduced by approximately 50% for 2007 as part of the City’s budget process.

Enforcement

Enforcement of any prospective by-law is paramount in the consideration of whether or not to proceed with it. The Building Enforcement and Licensing Services Division, responsible for by-law enforcement, currently responds to and deals with complaints on private property through the Property Standards By-Law. In their case, as well as Police Services, there is an expectation that an enhanced level of service will result in the need for more resources.

To that end, the City of Montreal recently hired 10 new littering “inspectors” in an attempt to crack down on the trash and littering concerns there. By-laws dealing with litter have been in place for years although they have basically remained un-enforced. The additional staff in Montreal is financed through collection of the fines.

Chatham-Kent Police also expressed concern in having “civilian” staff placed in potentially confrontational situations when attempting to issue littering citations. Although the by-law would grant “civilian” staff member’s authority, they simply do not present the same presence as uniformed police officers.

Conclusion

As has been our experience with the implementation of the enhanced recycling and curbside bag limits, initiatives of this nature require a serious mindset change. Individuals are set in their ways and are simply accustomed to doing things in a certain manner. Education and information is key in changing old habits and advertising, promotion and the commitment of resources to a new policy or program such as a littering by-law is critical.

Our current policies have greatly leveraged our ability to not only force violators to clean up their waste, but to transfer municipal costs to those who refuse to co-operate. For the most part, this has allowed more substantial incidents to be cleaned up and the responsible parties held accountable. As mentioned, Windsor’s anti-littering campaign lacks this authority.

Finally, enacting an anti-littering campaign will require budget support. Resources, including staff and advertising dollars are required to properly promote and enforce the by-law. Neither are present within current departmental budgets.

Accordingly, we are recommending that the attached draft anti-littering by-law, originally prepared in 2003, be received for information.

Community Strategic Plan

The recommendation in this report supports the following objective and strategic direction:

C: Environment – We are a green community

C2: Establish standards for environmental excellence

Desired Outcome

- Reduce littering through education and enforcement

The recommendation in this report will not adversely impact on the remainder of the Community Strategic Plan.

Consultation

The Deputy Chief, Chatham-Kent Police, the Chief Building Official and the Manager of Environmental Services were consulted during the preparation of this report.

Financial Implications

There are no financial implications attached to the recommendation.

Prepared by:

Tim Dick, C.E.T., Director
Drainage, Environmental and Fleet Division

Reviewed by:

Reviewed by:

Leo Denys, P. Eng.
General Manager,
Infrastructure and Engineering Services

Gerry Wolting, B.Math, C.A.
Acting Chief Administrative Officer

c: Deputy Chief, Chatham-Kent Police
Chief Building Official
Manager of Environmental Services

Attachment: Draft Anti-Littering By-Law

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BY-LAW NUMBER 141-2007

OF THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

A by-law prohibiting the littering and/or
dumping on private and municipal property in
the Municipality of Chatham-Kent.

FINALLY PASSED on the 9th day of July, 2007.

WHEREAS Section 127, of the Municipal Act, S.O. 2001 authorizes a municipality to prohibit the throwing, placing or depositing of refuse or debris on private property or on property of the municipality of any local board thereof without authority from the owner or occupant of such property;

AND WHEREAS Section 75(1), of the Municipal Act, S.O. 2001 authorizes a municipality to prohibit or regulate and inspect the use of any land or structures within the municipality or any defined area or areas thereof for dumping or depositing of garbage, refuse, or domestic or industrial waste or any kind;

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

1. Definitions

a) "Domestic Waste" means any article, things, matter or any effluent belonging to or associated with a house or household or concerning or relating to the home or family that appears to be waste material; and for greater certainty, but not so far as to restrict the generality of the foregoing terms of this clause it is hereby declared that domestic waste extends to the following classes of waste material:

- i. Accumulations, deposits, leavings, litter, remains, rubbish, trash and dead branches;
- ii. Refrigerators, stoves, freezers or other household appliances, or any other parts thereof;
- iii. Furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks, or plumbing fixtures;
- iv. Inoperative motor vehicles; trailers, vehicle parts and accessories; v. Paper, cartons, fabrics and carpets;
- vi. Furniture; vii. Crockery; viii. Sewage;
- ix. Rubble, inert fill including but not limited to granular and/or soil materials
- x. Grass and yard clippings, tree and garden cuttings, brush and leaves.

b. "Garbage" has the same meaning as waste material

c. "Highway" means a common and public highway and shall include but not limited to the boulevards and sidewalks.

d. "Industrial Waste" means any article, thing, matter or any effluent belonging to or associated with industry or commerce or concerning or relating to manufacture or concerning or relating to any trade, business, calling or occupation that appears to be waste material; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this clause it is hereby declared that industrial waste extends to the following classes of waste material:

- i. Articles, things, matter, effluent which in whole or in part or fragments thereof, are derived from or are constituted from or consist of:
 - Agricultural, animal, vegetable, paper, lumber, or wood products,
 - Mineral, metal, or chemical products,
 - Whether or not products are manufactured or otherwise processed
 - Grass and yard clippings, tree and garden cuttings, brush and leaves.
- ii. Automotive parts, inoperative motor vehicles, trailers, vehicle parts, mechanical equipment, mechanical parts, accessories or adjuncts to the vehicles and mechanical equipment

iii. Piping, tubing, conduits, cable and fittings or other accessories or adjuncts to the piping, tubing, conduits or cable

iv. Containers or pallets of any size, type or composition v. Material resulting from or as part of, construction or demolition projects

vi. Rubble, inert fill including but not limited to granular and/or soil materials

vii. Bones, feathers, hides

viii. Sewage

e. "Municipality" means the Municipality of Chatham-Kent

f. "Refuse" has the same meaning as waste material

g. "Debris" has the same meaning as waste material

h. "Waste material" means material or effluent that

i. Appears to have been cast aside or discarded or abandoned; or

ii. Appears to be worthless or useless or of no practical value; or

iii. Appears to be used up, in whole or in part, or expended or worn out in whole or in part.

2. By-law Regulations

No person shall in the Municipality of Chatham-Kent, throw, place or deposit any refuse or debris on:

i. private property

ii. property of The Corporation of the Municipality of Chatham-Kent

iii. property of any local board of the Municipality of Chatham-Kent

iv. highways, except in receptacles provided for the purpose of depositing refuse.

without authorization from the owner or occupant of such property.

3. No person shall use any land or structure within the limits of the Municipality of Chatham-Kent for dumping or disposal of garbage, refuse, domestic, industrial, construction waste or waste material of any kind.

4. Section 2 of this by-law does not apply to:

i. land or structures used by the municipality for the purpose of dumping or disposing of garbage or refuse, or domestic or industrial waste during normal business hours

ii. land designated by a by-law of the municipality for the purpose of dumping or disposing of garbage or refuse, or domestic or industrial waste during normal business hours.

5. Enforcement

This by-law shall be enforced by Chatham-Kent Police and municipal By-law Enforcement Officers designated for the purposes of enforcing this By-law.

6. Penalty

Every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not more than five thousand dollars (\$5,000), exclusive of the costs and every such fine is recoverable under the Provincial Offences Act.

7. Repeal

That any prior resolution, the provision of any prior resolution or by-law inconsistent with the terms of this by-law be and they are 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 9th day of July, 2007

ORIGINAL SIGNED BY: _____

MAYOR – Randy R. Hope

ORIGINAL SIGNED BY: _____

CLERK – Elinor Mifflin