

MUNICIPALITY OF CHATHAM-KENT

BY-LAW NUMBER 42-2010

Being a By-Law respecting derelict or unlicensed vehicles on private property

WHEREAS the Council of the Corporation of the Municipality of Chatham-Kent may receive complaints relating to derelict or unlicensed vehicles;

AND 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 derelict or unlicensed vehicles are 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:

1.0 SHORT TITLE

1.1 This by-law may be cited as the "Derelict or Unlicensed Vehicle(s) By-law."

2.0 DEFINITIONS AND INTERPRETATION

2.1 In this by-law,

"Agricultural equipment" means implements and machinery commonly used for farming;

"Building" includes a garage, shed, barn, or similar enclosed structure but does not include a carport, tarp or covering for a vehicle;

"Derelict vehicle" means a motor vehicle, tractor, trailer, truck, camper, boat, motorcycle, demolition endurance vehicle, motorized snow vehicle, mechanical equipment, machinery or parts thereof, or any vehicle drawn, propelled or driven by any kind of power or any part thereof, but does not include agricultural equipment, that

- (i) is not in an operating condition and is discarded, rusted, deflated tires, wrecked or partly wrecked, or is dismantled or partly dismantled;

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

"Occupant" means any person or persons over the age of eighteen years in possession of a property;

"Owner" means the registered owner or any person, firm or corporation having control over, or possession of any portion of the building or property and includes the persons occupying the building or property;

"Person" includes an individual, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau and agency;

"Private property" means any privately-owned land, including vacant property, within the Municipality of Chatham-Kent except

- (i) a property that is licensed or authorized to conduct or operate a scrap yard or used material yard, and then only in an arrangement such as to prevent an unsafe or unsightly condition.

"Property Standards Officer" means a person designated as such by a resolution or bylaw of Council of the Municipality of Chatham-Kent;

“Unlicensed vehicle” means a motor vehicle, tractor, trailer, truck camper, boat, motorcycle, demolition endurance vehicle, motorized snow vehicle, or any vehicle drawn, propelled or driven by any kind of power or any part thereof, that

- (i) is not insured and registered in accordance with The Highway Traffic Act and does not have a current, valid license plate attached to it, but does not include a derelict vehicle;

3.0 APPLICATION

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

4.0 STORING DERELICT VEHICLES

4.1 No person shall park, store or leave a derelict vehicle(s) on private property, except as provided in Section 4.4.

4.2 No owner or occupant of private property shall permit a derelict vehicle(s) to be parked, stored or left on his or her private property, except as provided in Section 4.4.

4.3 No person shall park, store or leave a derelict vehicle (s) on vacant property, except as provided in Section 4.4.

4.4 There is no limit to the number of derelict vehicles that may be parked or stored in a building on private property.

5.0 STORING UNLICENSED VEHICLES

5.1 An owner or occupant of private property may permit one (1) unlicensed vehicle to be parked, stored or left on his or her property in a designated driveway or parking space.

5.2 No person shall park, store or leave an unlicensed vehicle(s) on vacant property, except as provided in Section 5.3.

5.3 There is no limit to the number of unlicensed vehicles that may be parked or stored in a building on private property.

6.0 NOTICE TO COMPLY

6.1 A Property Standards Officer who finds a contravention of this by-law shall give written notice to the owner or occupant of the property requiring compliance with this by-law within fourteen (14) days after the notice is given.

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 there is evidence that the owner of the derelict or unlicensed vehicle(s) is not the registered property owner or occupant of the property, the notice shall be served on the registered property owner, the person in possession of the property and the owner of the derelict or unlicensed vehicle(s). In the case of the owner of the derelict or unlicensed vehicle(s), the notice shall be forwarded to the last address registered for that vehicle at the Motor Vehicle Branch.

6.5 If the address of the owner is unknown or the Municipality is unable to effect service on the owner or occupant 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.

7.0 FAILURE TO COMPLY

7.1 If an owner or occupant fails to comply with a notice given under Section 6.0, the Municipality may enter upon the owner’s property or occupant’s property at any reasonable time for the purpose of removing the derelict or unlicensed vehicle(s).

7.2 Costs incurred by the Municipality in removing the derelict or unlicensed vehicle(s) will be recovered through means as provided for in Section 446 of the Municipal Act as amended.

8.0 OFFENCES

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.

9.0 NOTICE OF REMOVAL

9.1 Within 72 hours after removing the derelict or unlicensed vehicle(s), the Property Standards Officer or designate shall notify in writing

- (i) the owner of the derelict or unlicensed vehicle(s), if known, and
- (ii) the owner or occupant of the private property on which the derelict or unlicensed vehicle(s) was situated

of the removal. Notification will be delivered in person or by registered mail or delivery to the last known address.

9.2 The notice of the removal of the derelict or unlicensed vehicle(s) shall

- (i) describe the derelict or unlicensed vehicle(s) and the location from which it was removed;
- (ii) identify the location to which it has been removed

10.0 REDEMPTION OF DERELICT OR UNLICENSED VEHICLE(S)

10.1 The owner of the derelict or unlicensed vehicle(s) may redeem it by providing proof of ownership to the location to which it has been removed.

11.0 VALIDITY AND SEVERABILITY

11.1 If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the By-law, and it is hereby declared that the remainder of the By-law shall be valid and shall remain in force.

11.2 Where a provision of this By-law conflicts with the provision of another by-law in force within the municipality, the provisions that establish the higher standards to protect the health, safety and welfare of the general public shall prevail.

12.0 EFFECTIVE DATE

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

13.0 REPEAL OF BY-LAW 18-2008

13.1 Upon passage of this By-law, By-law 18-2008 and any amendments thereto are hereby repealed.

READ A FIRST, SECOND AND THIRD TIME this 1st day of February, 2010.

ORIGINAL SIGNED BY:

MAYOR – Randy R. Hope

ORIGINAL SIGNED BY:

CLERK – Ellinor Mifflin