

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2023-046

A By-law to Regulate Downspout Connections in the Town of Amherstburg

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

AND WHEREAS Section 11 (3) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, affords a municipality the authority to pass by-laws respecting matters pertaining to drainage and flood control;

AND WHEREAS the downspout connections are regulated for the better regulation of sewerage and drainage;

NOW THEREFORE the Council of the Corporation of the Town of Amherstburg hereby enacts as follows:

Short Title

This By-law may be referred to as the “**Downspout By-law**”.

Definitions

In this By-law,

“**Agricultural**” means any real property for which its present or post-remediation use is for growing agricultural crops for food or feed either as harvested crops, cover crops or as pasture;

“**Chief Building Official**” means the person appointed by Council pursuant to the Building Code Act or an employee of the Town who acts at the directions of the Chief Building Official in the enforcement of this by-law;

“**Clerk**” means the Clerk of the Corporation of the Town of Amherstburg as appointed under By-law by the Town;

“**Construct**” means to build, reconstruct, or repair when such activity affects any engineered component of a facility;

“**Council**” means the council for the Town of Amherstburg;

“**Commercial**” means property used primarily for business, retail, governmental or professional purposes;

“**Clean Out**” means a device that has a removable cap and is incorporated into a drain pipe to permit the insertion of steel sewer rod pipe cleaning apparatus;

“**Development**” means the construction, erection or planning of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof;

“**Downspout**” means the pipes that take the collected roof runoff in your eavestroughs down to the ground;

“**Drainage**” means the movement of water to a place of disposal, whether by way of the natural characteristics of the ground surface or by artificial means;

“**Duplex dwelling**” means the whole of a dwelling other than a converted dwelling that is divided horizontally into two separate dwelling units, each of which has an independent entrance either directly from the outside or through a common vestibule;

“**Dwelling**” means a building or structure or part of a building or structure, occupied or capable of being occupied, in whole or in part for the purpose of human habitation;

“Industrial” means a Property that is used for manufacturing, processing, warehousing or retail purposes;

“Institutional” means a property that is used for manufacturing, processing, warehousing or retail purposes;

“Maintain” means construct, reconstruct, install, inspect, test, repair, replace, operate, patrol, maintain, use, modernize, expand, upgrade, or other similar activities;

“Officer” means a Police Officer or a Municipal By-Law Enforcement Officer appointed under any federal or provincial statute or regulation or Town by-law or any other person assigned or appointed by the Town to administer or enforce this By-Law and includes a person employed by the Town whose duties are to enforce this By-Law;

“Owner” includes a mortgagee, lessee, tenant, occupant, a person entitled to a limited estate in land, a trustee in whom land is vested, a committee of the estate of a mentally incompetent person, an executor, an administrator and a guardian;

“Residential” means property refers to all land and structures intended for private dwelling purposes, whether on a permanent or a temporary basis;

“Roof Water Leader” means a pipe inside or outside of a building, that conveys storm water from the roof of a building to a place for disposal;

“Town” means the municipal corporation of the Town of Amherstburg.

“Unlawful Downspout Connection” shall mean any connection, installed or maintained, constructed or cause to permit, drainage from any roof water leader or downspout that conveys storm water from any new or reconstructed residential, industrial, commercial or institutional buildings directly or indirectly to a sanitary, combined or storm sewer connection for the purpose of storm water drainage.

Restrictions

1. No person shall construct, install or maintain, or cause or permit to be constructed, installed or maintained, drainage from any roof water leader or downspout that conveys storm water from any new or reconstructed residential, industrial, commercial or institutional buildings directly or indirectly to a sanitary, combined or storm sewer connection for the purpose of storm water drainage with the exception of one (1) as determined by the Chief Building Official in a residential area as defined.
2. The Town may disconnect any building drainage system connected in contravention of section 1 from a municipal sewer – or any sewer system tributary thereto – and no such disconnection shall be subsequently reconnected except with the written consent of the Town.
3. Where there has been subsequent reconnection without the Town’s written consent, the Town may without notice disconnect the building drainage system from any municipal sewer – or any sewer system tributary thereto – with all associated costs, fees and charges for the disconnection being borne by the owner of the respective property. The costs will be added to the tax roll for the respective property and collected in the same manner as taxes.
4. Notwithstanding any other provisions of this By-law, where compliance with this By-law would have hazardous repercussions, the owner of property may request temporary exemption from this By-law’s provisions in the form and manner specified by the Town.

Exemptions

5. This By-law does not apply to properties zoned (A) agricultural as defined in the Town's Zoning By-law 1999-52 as amended from time to time.
6. In accordance with section 4, if the owner believes that section 1 will have hazardous repercussions, they may appeal to the order to Town Council by filing an appeal with the Clerk within fourteen (14) days of the date of the notice.

Enforcement

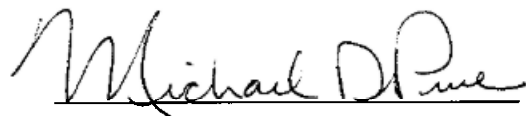
7. No person shall prevent, hinder or obstruct, or attempt to hinder or obstruct an Officer who is exercising a power or performing a duty under this By-law.
8. If an Officer is satisfied that a contravention of this By-law has occurred, he or she may make an order requiring the person who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity.
9. An order under section 8 shall set out:
 - (a) reasonable particulars of the contravention adequate to identify the contravention and the location on the land on which the contravention occurred; and
 - (b) the date by which there must be compliance with the order.
10. If an Officer is satisfied that a contravention of this By-law has occurred, he or she may make an order requiring the person who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred, to do work to correct the contravention.
11. An order under section 10 shall set out:
 - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - (b) the work to be completed: and
 - (c) the date by which the work must be complete.
12. An order made under sections 8 or 10 may be served personally or by registered mail to the last known address of:
 - (a) the person who caused, created or permitted the offence; and
 - (b) the owner or occupier of the lands where the contravention occurred.
13. Where an owner or occupier of the land on which the contravention occurred, who has been served with an order and fails to comply with the order, then an Officer, or any authorized agent on behalf of the Town may enter on the land at any reasonable time and complete the work required to bring the land into compliance with the provisions of this By-law as set out in the order.
14. Where the work required to bring the land into compliance with the By-law has been performed by or for the Town, the costs incurred in doing the work may be collected by action or the costs may be added to the tax roll for the land and collected in the same manner as taxes.

15. An Officer may enter on land, and into buildings, at any reasonable time for the purpose of carrying out an inspection to determine whether any provision of this By-law or an order made under this By-law is being complied with, although an Officer may not enter into a private residence or dwelling unit.

Offence and Penalty

16. Every person who contravenes any provision of this By-law is guilty of an offence and shall, upon conviction, be subject to a penalty under the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.
17. Any person other than a corporation who contravenes any provision of this By-law or who fails to comply with an order made under this By-law or who obstructs or attempts to obstruct an Officer in carrying out his or her duties under this By-law is guilty of an offence and on conviction is liable to a maximum fine of \$5,000 for a first offence, and a maximum fine of \$10,000 for a subsequent offence.
18. Any corporation which contravenes any provision of this By-law or who fails to comply with an order made under this By-law or who obstructs or attempts to obstruct an Officer in carrying out his or her duties under this By-law is guilty of an offence and on conviction is liable to a maximum fine of \$50,000 for a first offence and \$100,000 for any subsequent offence.
19. This By-law shall come into force and take effect on the day of the final passing thereof.

Read a first, second and third time and finally passed this 27th day of March, 2023



MAYOR – Michael Prue



CLERK – Kevin Fox