

By-Law Number _____-2023
Of The Corporation Of The
Municipality Of Chatham-Kent

Finally Passed the _____ day of _____, 2023.

Being a by-law requiring the abatement of interior greenhouse light.

Whereas, Section 128(1) of the Municipal Act, 2001, R.S.O. 2001, c. 25 (herein the “Act”) provides that a local 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 without proper abatement of interior greenhouse light, the effects of such unabated light could become or cause a public nuisance.

And Whereas after considering the matter of the proposed By-Law, Council authorized passage.

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

Interpretation

1. In this By-Law:

- a) “Council” means the Council of the Municipality of Chatham-Kent.
- b) “Curtains” shall mean a “blackout” curtain or shade that based upon the manufacturer’s specifications blocks ninety-nine percent (99%) of light from emitting from the Greenhouse.
- c) “Greenhouse” means a structure made of plastic or glass that is used for growing plants including but not limited to fruits, vegetables, flowers or cannabis in regulated temperatures, humidity and ventilation.
- d) “Lights” means any light that is used for the purpose of inducing plant growth including, but not limited to Incandescent, Halogen, Fluorescent, Metal halide, Induction, Light Emitting Diode or High Pressure Sodium lights.
- e) “Municipality” means The Corporation of the Municipality of Chatham-Kent.
- f) “Owner” means the registered owner, lessee or occupant of a Greenhouse.
- g) “Officer” means a Police Officer or a Municipal By-law Enforcement Officer appointed under any federal or provincial statute or regulation or Municipal 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 Municipality whose duties are to enforce this By-law.

Requirements for Greenhouse Curtains

- 2. Commencing December 1, 2024, an Owner of a Greenhouse that utilizes Lights shall install and maintain Curtains on the sidewalls and endwalls of the Greenhouse in accordance with section 4.
- 3. Commencing December 1, 2024, an Owner of a Greenhouse that utilizes Lights shall install and maintain Curtains on the ceiling of the Greenhouse in accordance with section 4.
- 4. Curtains shall be installed and maintained as follows:
 - (a) to the height of the top of the sidewalls and endwalls;
 - (b) such that the Curtain seals between the sidewalls and endwalls and ceiling ensuring that no light escapes.

5. Commencing December 1, 2024, an Owner of a Greenhouse that utilizes Lights shall ensure that:

(a) Curtains are closed completely on Greenhouse sidewalls and endwalls from Sunset until Sunrise;

(b) Curtains are closed completely on a Greenhouse ceiling from Sunset to Sunrise except:

- between the hours of Sunset and 10:00p.m.; and
- between the hours of 2:00a.m. and Sunrise;

during which time ceiling Curtains must be at least ninety percent (90%) closed, sunrise and sunset being determined by the National Research Council Canada's sunrise/sunset calculator.

6. Upon the coming into force of sections 2, 3, 4, 5 respectively, such sections shall not apply if Lights in a Greenhouse are shut off and remain off between Sunset and Sunrise.

7. Any planning application proposing to construct a new greenhouse that utilizes Lights that is received after the passage of this By-law shall be required to demonstrate, through appropriate drawings and schedules, adherence and conformity with the requirements set out in section 4, and shall comply with section 5 or section 6 upon the commencement of operations.

Severability

8. If a Court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such 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 remain in force.

Offence and Penalty

9. Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is subject to a fine pursuant to the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended from time to time.

(a) 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 an Officer in carrying out his or her duties under this By-law is guilty of an offense and on conviction is liable to a maximum fine of \$5,000 for a first offense, and a maximum of \$10,000 for a subsequent offence.

(b) 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 offense and on conviction is liable to a maximum find of \$50,000 for a first offence and \$100,000 for any subsequent offence.

Continuing Offence

10. Each calendar day a violation of section 2, 3, 4, or 5 continues is deemed to be a separate offence.

Enforcement

11. The provisions of this By-law may be enforced by an Officer.

12. 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.

13. An order under section 12 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 date or dates by which there must be compliance with the order.

14. 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.

15. An order under section 14 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;

(b) the work to be completed; and

(c) the date by which the work must be completed.

16. An order under sections 12 or 14 may require work to be done even though the facts which constitute the contravention of the By-law were present before this By-law came into force.

17. An order made under sections 12 or 14 may be served personally or by registered mail to the last known address of:

(a) the person who caused, created or permitted the offense; or

(b) the owner or occupier of the lands where the contravention occurred.

18. 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 Municipality 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.

19. Where the work required to bring the land into compliance with the By-law has been performed by or for the Municipality, 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.

20. In the event that a greenhouse operator has repeatedly contravened the provisions of this By-law, pursuant to section 447.1 of the Act and in addition to any other penalty or remedy available to the Municipality, the Council may, on behalf of the Municipality with the consent of the chief of police of the municipal police force, and with notice to the Attorney-General of Ontario, apply to the Superior Court of Justice for an order requiring all or part of a Greenhouse be closed for a period not exceeding two (2) years if, on the balance of probabilities, the Court is satisfied that:

(a) activities or circumstances on or in the Greenhouse constitute a public nuisance or cause or contribute to activities or circumstances constituting a public nuisance in the vicinity of the Greenhouse;

(b) the public nuisance has a detrimental impact on the use and enjoyment of property in the vicinity of the Greenhouse; and

(c) the Owner of the Greenhouse or part of the Greenhouse knew or ought to have known that the activities or circumstances constituting the public nuisance were taking place or existed and did not take adequate steps to eliminate the public nuisance.

Powers of Entry

21. Pursuant to section 436 of the Act and in addition to any other powers of entry granted to the Municipality, the Municipality, by its employees or agents, may enter into the Greenhouse 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 or any other by-law passed by the Municipality;

(b) any direction or order of the Municipality made under the Act or this By-law; or

(c) an order to discontinue or remedy a contravention of this By-law for which a conviction has been entered by a court of competent jurisdiction.

Powers of Inspection

22. The Municipality may do any of the following for the purposes of an inspection under section 18:

(a) require the production for inspection of documents or things relevant to the enforcement of this By-law;

(b) inspect and remove documents or things relevant to the enforcement of this By-law for the purpose of making copies or extracts;

(c) require information from any person concerning a matter relevant to the enforcement of this By-law; and

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

Effective Date

23. This By-law will take effect and come into force upon its enactment.

READ A FIRST, SECOND AND THIRD TIME this _____ day of _____, 2023.

Original signed by:

Mayor – Darrin Canniff

Original signed by:

Clerk – Judy Smith