

By-law Number 99-2021

Of The Corporation
of the Municipality of Chatham-Kent

A By-law of The Corporation of the Municipality of Chatham-Kent
to regulate and prohibit overgrown and long grass and weeds.

Finally Passed the 31st day of May, 2021.

Whereas Council of the Municipality of Chatham-Kent enacted By-law No. 56-2020, being a by-law to regulate and prohibit overgrown and long grass and weeds;

And whereas Council of the Municipality of Chatham-Kent deems it advisable to amend certain provisions contained in By-law 39-2004;

And whereas it is deemed more expedient to repeal said by-law and replace it with a new consolidated document which incorporates the sought amendments;

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

Definitions:

- a) "Act" shall mean the *Municipal Act, 2001*, S.O. 2001, c.25, and amendments and regulations thereto.
- b) "Buffer Strip" shall mean an area of cleared land measuring at least 1.0m in width between the side and/or rear property line, or at the edge of a Naturalized Area if it is not at the side and/or rear property line, that delineates a Naturalized Area.
- c) "Council" shall mean the Council of the Corporation of the Municipality of Chatham-Kent.
- d) "Flower Bed Area" shall mean a strip of land no wider than 1.5m that directly abuts a building
- e) "Grass" shall mean all forms, types and species of Grasses. Without limiting the generality of the foregoing, Grass shall include all turf Grasses including Red Fescue, Kentucky Blue Grass, Perennial Rye Grass plus all Grasses listed in Publication 505 'Ontario Weeds'.
- f) "Human Health Hazard" includes but is not limited to allergic reactions and responses or potential exposure to bacteria, virus, or disease.
- g) "Infestation" shall mean the overrunning of a property by vermin, rodents and/or insects.
- h) "Long" shall mean a height of 20 centimetres or greater.

- i) "Municipality" shall mean the Corporation of the Municipality of Chatham- Kent, its employees and their agents and person(s) accompanying them.
- j) "Naturalized Area" means a portion of a lot where a lawn previously maintained by an Owner has been allowed to re-establish a reproducing population of native species, through a combination of natural regeneration and deliberate plantings of native species;
- k) "Owner" shall mean and include any person who owns the lands, tenant, occupant, person in charge of the lands, or the person for the time being managing or receiving rent in respect of the lands whether on its own account or on account of an agent or any other person.
- l) "Person", in addition to its regular meaning, includes a business, corporation or any director, officer or manager of a business or corporation.
- m) "Remedial Action" shall mean the removal of Long Grass and Weeds by the Municipality and/or its contractor.
- n) "Remedial Costs" shall mean all monetary expense incurred by the Municipality during and throughout the process of Remedial Action, including interest charges as to be determined from time to time by the Municipality commencing on the day the Municipality incurs the Remedial Costs and ending on the day the Remedial Costs including interest are paid in full.
- o) "Structure" shall mean any building or accessory building on any lands or any part thereof, or any part of whole of any structure or building not actually used as a dwelling house.
- p) "*Weed Control Act*" shall mean the *Weed Control Act*, R.S.O. 1990 chapter W.5 and amendments and regulations thereto.
- q) "Weeds" shall mean all weeds listed in the *Weed Control Act* as amended, as noxious weeds, noxious weed seeds, and all weeds posing a Human Health Hazard.
- r) "Weed Inspector" shall mean a By-law Enforcement Officer appointed by Council, any of whom are hereby authorized to enforce the provisions of this bylaw and to act as the Area Weed Inspector in accordance with the provisions of the *Weed Control Act*.

1. Application

No Owner of lands that are not subject to the *Weed Control Act* shall permit Grass and/or Weeds on their lands to grow to a height exceeding twenty centimetres (20 cm).

2. Order to Comply

a. First Contravention

When, during April 1st to November 1st of a given year, any lands not subject to the *Weed Control Act* are not maintained in accordance with the requirements of this By-law, prior to the Municipality taking Remedial Action, a Weed Inspector shall serve an Order upon the Owner of the lands, directing the Owner to make the lands conform to the requirements of this By-law within seventy-two (72) hours after receipt of such Order.

b. Subsequent Contravention

Where an Order is issued in respect of a lands under this section 2, such an Order continues to be valid and enforceable in respect of any subsequent contravention of this By-law on those lands from the date of service until November 1st of the then current calendar year, and no further Order shall be served upon the Owner in respect of any subsequent contravention of this By-law on those lands during that time prior to the Municipality taking Remedial Action.

c. The Order shall be served:

- i. Personally on the person to whom it is directed, in which case it shall be deemed to have been received immediately;
- ii. by registered mail to the last known address of the person to whom it is directed, in which case it shall be deemed to have been received on the third business day after it is mailed;
- iii. by regular mail to the last known address of the person to whom it is directed, in which case it shall be deemed to have been received on the fifth business day after it is mailed;
- iv. where the person to whom it is directed has notified the Municipality in writing (whether by personal delivery, regular or registered mail, facsimile or electronic mail) that such method of service is acceptable, by facsimile or electronic mail to the person's last known facsimile number or electronic mail address, as the case may be, in either case it shall be deemed to have been received upon transmission; or
- v. If the name and/or address of the person to whom the Order is to be directed is unknown, or if the Municipality is otherwise unable to effect service on such person, the Order may be placed in a conspicuous location upon the lands and shall be deemed to have been received by the Owner upon such placement.

3. Failure to Comply and Remedial Costs

If an Order received under Section 2 is not complied with in the time allotted, the Weed Inspector may cause Remedial Action to be undertaken on the lands to bring the lands into compliance with this By-law, and in doing so, may charge those Remedial Costs incurred by the Municipality, together with an administrative fee as prescribed by the Municipality's User Fees By-law, as amended, against the Owner by action or by adding the Remedial Costs and administrative fee to the tax roll in respect of the lands and collecting them in the same manner as taxes. The Municipality may, prior to recovering by action or adding to the tax roll, invoice the Owner by requesting voluntary payment of said Remedial Costs and administrative fee.

4. Entry Onto Lands

The Municipality may, for the purposes of Remedial Action, enter upon any lands and into Structures, other than a dwelling house, at any reasonable time, without notice. Where a Municipality has a power of entry under the Act, the power shall be exercised by an employee or agent of the Municipality who may be accompanied by any person under his or her direction.

5. Enforcement

A Weed Inspector, or any other person so appointed or directed by Council for the enforcement of the By-laws of the Municipality, may enforce this By-law.

6. Obstruction

Pursuant to section 426(1) of the *Act*, no person shall hinder, interfere with or obstruct, either directly or indirectly, a Weed Inspector, employee or agent of the Municipality in the lawful exercise of power or duty under this by-law.

7. Offences

Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.

8. Force and Effect

This By-law shall be in full force and effect for the period of April 1st to November 1st in each calendar year within the boundaries of the Municipality of Chatham- Kent and is enforceable during the said period.

9. Exemptions

Despite section 1 of this By-Law, Naturalized Areas shall be exempt provided they meet the following conditions:

- a. Naturalized Areas shall adequately maintain a Buffer Strip around all sides to maintain aesthetics and prevent the spread of plant species and minimize impact of the area on adjacent land owners;
- b. The Owner must prevent and control infestations at all times; and,
- c. Any Naturalized Area shall comply with the Weed Control Act.

10. Appeal

- a. An appeal of an Order made pursuant to this By-law shall lie to the municipal By-law Appeal Committee.
- b. A person who appeals an Order made 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.

11. Repeal

By-law 56-2020 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 31st day of May, 2021.

Original signed by:

Mayor – Darrin Canniff

Original signed by:

Clerk - Judy Smith