

THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

BY-LAW NUMBER 39-2004

A By-Law to regulate and prohibit overgrown and long grass and weeds on any property within the Municipality of Chatham-Kent where such lands are not subject to the provisions of the Weed Control Act, R.S.O. 1990, chapter W.5 and amendments and regulations thereto

WHEREAS the Municipal Act, 2001, S.O. 2001, c.25 as amended, Section 128 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 Section 128(2) of the said Act states that the opinion of Council under Section 128 of the said Act, if arrived at in good faith, is not subject to review by any court;

AND WHEREAS Section 127 of the Municipal Act 2001, Statutes of Ontario 2001, chapter 25 and amendments thereto provides that the municipality may require the owner or occupant of land to clean and clear the land, not including buildings, and to clear refuse or debris from the land, not including buildings and to define "Refuse" for the purposes of this section.

AND WHEREAS Section 427 (1) to (4) of the said Act authorizes municipal remedial action, entry onto land, recovery of costs and addition of costs to the tax roll;

AND WHEREAS Section 427 (6) of the said Act provides that remedial work done under Section 431 (c) and (d) of the said Act does not require the Municipality to have the work performed undone, and does not require the Municipality to provide compensation as a result of the remedial work done.

AND WHEREAS Council of the Corporation of the Municipality of Chatham-Kent deems it necessary and expedient to require the cutting of grass and weeds on lands in the municipality whenever the growth of grass or weeds exceeds 20 cm in height where such lands in the municipality are not subject to the Weed Control Act, R.S.O. 1990, chapter W.5 and amendments and regulations thereto.

NOW THEREFORE, THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT ENACTS AS FOLLOWS:

DEFINITIONS:

- a) "Municipality" shall mean the Corporation of the Municipality of Chatham-Kent, its employees and their agents and person(s) accompanying them.
- b) "Officer" shall mean a Municipal By-law Enforcement Officer, Property Standards Officer or any other person so appointed or directed by Council for the enforcement of the bylaws of the Municipality.
- c) "grass" shall mean all forms, types and species of grasses. Grasses shall include all turf grasses including Red Fescue, Kentucky Blue Grass, Perennial Rye Grass plus all grasses listed in Publication 505 'Ontario Weeds'.
- d) "weeds" shall mean all weeds listed in the Weed Control Act of Ontario as noxious and all weeds posing a human health hazard including but not limited to ragweed and poison ivy or any other weed.
- e) "Weed Control Act" shall mean the Weed Control Act R.S.O. 1990 chapter W.5 and amendments and regulations thereto.

- f) “overgrown” or “long” shall mean a height of 20 centimetres or greater.
- g) “Council” shall mean the Council of the Corporation of the Municipality of Chatham-Kent.
- h) “remedial action” shall mean the cutting of long grass and weeds by the Municipality or their Contractor.
- i) “remedial work” shall have the same meaning as remedial action.
- j) “Human Health Hazard” includes but is not limited to allergic reactions and responses or potential exposure to bacteria, virus, or disease.
- k) “Person”, in addition to its regular meaning, includes a business, corporation or any director, officer or manager of a business or corporation, and includes the owner or tenant or lessee or person in charge or collecting the rent of any property or any other person who is the occupier of the property.
- l) “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 costs and ending on the day the costs, including interest, are paid in full, and may include an administrative surcharge the amount of such surcharge as to be determined from time to time by the Municipality and may include the addition of all such monetary expense including all surcharges to Municipal Taxes.
- m) “Structure” shall mean any building or accessory building on any property or any part thereof, or any part of whole of any structure or building not actually used as a dwelling house.
- n) “Building” shall have the same meaning as structure.
- o) “Refuse” for the purpose of this by-law shall mean any debris, brush and any other items that would prohibit the safe cutting of long grass and weeds.

1. REQUIREMENTS

Every Owner of lands not subject to the “Weed Control Act”, shall cut the grass and weeds on such land whenever the height of such grass or weeds exceeds twenty centimetres (20 cm) and shall remove the cuttings from the Premises.

2. VALIDITY AND SEVERABILITY

Should any section, sub-section, clause, paragraph, or provision of this By-law be declared by a Court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity of the enforceability of any other provision of this By-law, or of the By-law of the whole.

3. EXERCISE OF POWER

Where a Municipality has a power of entry under the said 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.

4. IDENTIFICATION

A person exercising a power of entry on behalf of the Municipality under this Act must, on request, display under his or her direction.

5. ENTRY ONTO LAND

The Municipality, for the purposes of Municipal remedial action, may enter upon land and into structures, other than a dwelling house, at any reasonable time, without notice.

6. PUBLIC NUISANCE

The Council of the Corporation of the Municipality of Chatham-Kent is of the opinion that long grass and weeds growing on any property within the boundaries of the Municipality of Chatham-Kent that is not subject to the “Weed Control Act”, constitute a public nuisance.

7. ENFORCEMENT

A Municipal By-law Enforcement Officer shall enforce this By-law, Property Standards Officer, or any other person so appointed or directed by Council for the enforcement of the By-laws of the Municipality.

8. NOTICE TO COMPLY

When any lands are not maintained in accordance with the requirements of this By-law, the Municipal By-Law Enforcement Officer may prior to taking remedial action give the Owner a notice either verbally, regular mail, or registered mail in writing. Such notice shall direct the Owner of the Premises to make the premises conform to the requirements of this By-law within seventy-two (72) hours after the giving such the notice.

9. PUBLIC NOTICE

The Municipality may give Notice of the Force and Effect of this by-law in a newspaper having general circulation within the Municipality, specifying the period of the Force and Effect of this By-law and its enforcement provisions.

10. OFFENCES

- a) No person shall cause, permit or otherwise allow long grass, weeds, or long grass and weeds to grow or remain on any property that are determined to be a nuisance.
- b) No person shall fail to cut or destroy long grass, weeds, or long grass and weeds when directed by an Officer of the Municipality of Chatham-Kent.
- c) No person shall fail to maintain any property within the boundaries of the Municipality of Chatham-Kent free from long grass, weeds or long grass and weeds.

11. INVOICE FOR COSTS PRIOR TO ADDITION OF COSTS TO MUNICIPAL TAXES

The Municipality may, prior to adding remedial action costs to Municipal Taxes, invoice persons described in this by-law requesting voluntary payment of said remedial action costs.

12. FORCE AND EFFECT

This By-law shall be in full force and effect for the period 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.

13. OBSTRUCTION

As per the provisions of the Municipal Act, 2001, S. O. 2001, c. 25 as amended, Section 426(1), no person shall hinder, interfere with or obstruct, either directly or indirectly an Officer, employee or agent of the Municipality in the lawful exercise of power or duty under this by-law.

14. MUNICIPALITY NOT LIABLE

The Municipality assumes no liability for property damage or injury resulting from the destruction of long grass and weeds by persons described in this by-law. Persons described in this by-law using “cutting” or “spraying” or any other method of long grass and weed destruction do so at their own risk giving full regard to applicable law including but not limited to the Pesticides Act and the amendments and regulations thereto. The Municipality assumes no liability for private contractors engaged in the destruction of long grass and weeds on behalf of the Municipality, with regard to personal injury to themselves or any person, or to damage to property of their own or any person.

15. PROOF OF LIABILITY INSURANCE

Any or all persons contracted to perform long grass or weed destruction duties on behalf of the Municipality shall first and prior to commencing any or all such duties, provide proof in hardcopy form, of a policy of liability insurance of their own possession in the amount of \$2,000,000.00 to engage in such duties. Proof of Liability Insurance as above shall be produced for inspection to the Clerk of the Municipality, before engaging in any or all long grass and weed destruction duties.

16. PENALTIES

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

17. EFFECTIVE DATE

This by-law shall come into force and effect, following its final passage by Council of Corporation of the Municipality of Chatham-Kent.

THIS By-law shall come into full force and effect upon the final passing thereof. Read a FIRST, SECOND and THIRD TIME this 16th, day of February, 2004.

SIGNED

Mayor – Diane Gagner

SIGNED

Clerk – Elinor Mifflin