

**Municipality Of Chatham-Kent**  
**Infrastructure and Engineering Services**  
**Public Works**

**To:** Mayor and Members of Council  
**From:** Ryan Brown, Director of Public Works  
**Date:** April 8, 2020  
**Subject:** Long Grass and Weeds By-Law

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**Recommendation**

It is recommended that:

1. The attached by-law to repeal and replace By-Law Number 39-2004, being a by-law to regulate and prohibit long grass and weeds, be approved.

**Background**

The Municipality of Chatham Kent uses both the provincial Weed Control Act and Chatham-Kent's Long Grass and By-Law Number 39-2004 concerning long grass and weeds (the Long Grass and Weeds By-law) to control long grass and weeds on private property and to protect farming and horticultural industries by preventing the spread of noxious weeds.

The Weed Control Act applies to noxious weeds that are close enough to lands used for agricultural and horticultural purposes that they will interfere with those purposes. The Long Grass and Weeds By-law applies to all other properties.

In general, the current process is as follows:

- If a property is found by a weed inspector to be in violation of either the Weed Control Act or the Overgrown and Long Grass and Weeds by-law, a notice of infraction is issued to the property owner, allowing sufficient time to adequately maintain the property (7 days from the date of service (excluding holidays) under the Weed Control Act and 3 days under the Long Grass and Weeds By-law).
- After the 7 day or 3 day period has expired, a follow-up inspection is performed. If the property is still in violation, Public Works will arrange to have the property cut and all associated costs, plus an administration fee, are charged back to the property owner.
- Only one notice per property, per year is given. For any further violations in the year, Public Works will proceed straight to a property cut.

**Comments**

It has recently come to the attention of the Director of Public Works that the current by-law is not enforceable by all “Weed Inspectors”, does not include an appeal mechanism for property owners who may wish to appeal an order under the by-law, and does not provide sufficient methods for service of orders. The proposed by-law attached as Appendix “A” resolves these issues.

**Areas of Strategic Focus and Critical Success Factors**

The recommendation in this report supports the following areas of strategic focus:

Economic Prosperity:

Chatham-Kent is an innovative and thriving community with a diversified economy

A Healthy and Safe Community:

Chatham-Kent is a healthy and safe community with sustainable population growth

People and Culture:

Chatham-Kent is recognized as a culturally vibrant, dynamic, and creative community

Environmental Sustainability:

Chatham-Kent is a community that is environmentally sustainable and promotes stewardship of our natural resources

The recommendation in this report supports the following critical success factors:

Financial Sustainability:

The Corporation of the Municipality of Chatham-Kent is financially sustainable

Open, Transparent and Effective Governance:

The Corporation of the Municipality of Chatham-Kent is open, transparent and effectively governed with efficient and bold, visionary leadership

Has the potential to support all areas of strategic focus & critical success factors

Neutral issues (does not support negatively or positively)

**Consultation**

Legal Services has been consulted in preparation of the proposed by-law.

**Financial Implications**

There are no financial implications resulting from the recommendation.

Prepared by:

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Ryan Brown, P.Eng.  
Director, Public Works

Reviewed by:

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Thomas Kelly, P.Eng., MBA  
General Manager  
Infrastructure and Engineering Services

Consulted and confirmed the content of the consultation section of the report by:

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Emily Crawford  
Legal Officer, Legal Services

Attachment: Appendix A – Proposed By-law

c Legal Officer, Legal Services

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And Weeds Bylaw 39-2004.Docx

By-law Number \_\_\_\_\_  
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 \_\_\_\_ day of \_\_\_\_\_, 2020.

WHEREAS Council of the Municipality of Chatham-Kent enacted By-law No. 39-2004, 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) "Council" shall mean the Council of the Corporation of the Municipality of Chatham-Kent.
- c) "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'.
- d) "Human Health Hazard" includes but is not limited to allergic reactions and responses or potential exposure to bacteria, virus, or disease.
- e) "Long" shall mean a height of 20 centimetres or greater.
- f) "Municipality" shall mean the Corporation of the Municipality of Chatham-Kent, its employees and their agents and person(s) accompanying them.
- g) "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.

h) “person”, in addition to its regular meaning, includes a business, corporation or any director, officer or manager of a business or corporation.

i) “Remedial Action” shall mean the removal of Long Grass and Weeds by the Municipality and/or its contractor.

j) “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.

k) “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.

l) “*Weed Control Act*” shall mean the *Weed Control Act*, R.S.O. 1990 chapter W.5 and amendments and regulations thereto.

m) “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.

n) “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**

Every Owner of lands not subject to the *Weed Control Act* shall cut the Grass and Weeds on their lands whenever the height of such Grass or Weeds exceeds twenty centimetres (20 cm).

## **2. ORDER TO COMPLY**

### **a. First Contravention**

When, during April 1st to December 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**

As per 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. 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.

**10. REPEAL**

By-law 39-2004 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 \_\_\_\_ day of \_\_\_\_\_, 2020

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Mayor – Darrin Canniff

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Clerk - Judy Smith

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