

Municipality Of Chatham-Kent
Infrastructure and Engineering Services
Public Works

To: Mayor and Members of Council

From: Ryan Brown, P.Eng.
Director of Public Works

Gabriel Clarke, MES, BA
Environmental Planner I

Date: April 28, 2021

Subject: Amendments to Long Grass and Weeds By-Law 56-2020

Recommendations

It is recommended that:

1. The attached by-law to regulate and prohibit long grasses and weeds be approved.
2. By-Law Number 56-2020, the former bylaw to regulate and prohibit long grasses and weeds be repealed.

Background

At the September 14, 2020 meeting, Council approved the following Motion:

“Chatham-Kent’s Long Grass and Weed By-law (By-law # 56-2020) was introduced to implement a minimum outdoor landscaping maintenance standard that prohibits overgrown grasses and weeds on private properties. Similar to long grass by-laws in other communities, Chatham-Kent’s By-law maintains community aesthetics and prevents landscape abandonment. The by-law applies to all grass and weed species listed in the Government of Ontario’s Publication 505 ‘Ontario Weeds’ and requires that they be kept under 20cm in height through regular mowing, or be subject to enforcement.

However, it is also a community strategic objective to enhance natural areas in the Municipality and there is a conflict that exists with the long grass by-law in meeting these objectives. Specifically, there are challenges that the current grass cutting by-law poses with respect to legitimate tall grass prairie environmental naturalization activities on private lands and despite the positive intent of the by-law, the way it is currently written can be used to reverse these environmental stewardship activities that the Municipality has otherwise identified as desirable.

Therefore, be it resolved that Administration prepare a report with recommendations on how the by-law could be altered so that it maintains its initial policy intent while also recognizing the community benefits realized through appropriate naturalization activities.”

The purpose of this report is to provide Council with recommended alterations to the Long Grass and Weeds By-law to authorize appropriate naturalization activities in keeping with the intent of the motion referenced above.

Comments

In the fall of 2020, Council approved the above motion asking for recommendations for altering Chatham-Kent’s Long Grass and Weeds By-law that would allow appropriate environmental naturalization activities on private lands. In this case, naturalization is defined as activities that return a portion of a private yard to a “natural state” using combinations of plants that are native to Chatham-Kent’s Carolinian eco-region.

The Motion required that any recommendations maintain the original policy intents of Chatham-Kent’s existing Long Grass and Weeds by-law, which was implemented to:

1. Ensure a minimum level of aesthetics throughout the community,
2. Prevent landscape abandonment (i.e. unmanaged, unmaintained or abandoned yards)
3. Ensure Municipal alignment with the [Ontario Weed Control Act](#)

The intent of the Ontario Weed Control Act, initially introduced in 1990 and updated regularly since then, is to reduce

1. The infestation of noxious weeds that negatively impact on agriculture and horticulture lands.
2. Plant diseases by eliminating plant disease hosts such as common barberry and European buckthorn.
3. Health hazards to livestock and agricultural workers caused by poisonous plants.

Community Engagement Process

In order to integrate the community’s views into the attached recommendations, administration held an online community engagement process from March 5 to March 21 2021 through the [Let’s Talk Chatham-Kent](#) platform. A press release was issued on March 8, 2021 and a news article announcing the survey was published in the Chatham Daily News on March 9, 2021.

The goals of the public engagement process were three-fold:

1. To gauge the public's opinions towards the concept of naturalization on private properties in general
2. To understand if the public has concerns with naturalization activities depending on where the project is located (i.e. urban residential areas, rural residential areas, agricultural areas)
3. To ask the public what form the by-law amendment should take.

Participants were provided with a document library that contained Chatham-Kent's existing Long Grass and Weeds by-law along with real-world by-law examples from the cities of London and Toronto to illustrate two ways that Chatham-Kent's by-law could be altered to integrate appropriate naturalization activities without compromising the original intents of the by-law.

Survey Results

Input was collected through a 5 question survey that employed a combination of yes or no answers, multiple choice answers and comment boxes to collect additional comments. In total, 455 participants completed the survey.

A summary of responses from the survey is attached as Appendix A. Due to overwhelming public response, it was not possible to include all the feedback or comments received in this report, but the entire 139 page survey response report can be provided to Council upon request.

Naturalization Activities

The majority of respondents voted in support of naturalization activities on private property, in both residential and agricultural areas.

The most prominent themes appearing in comments from those in support of naturalization activities included various benefits to the environment such as:

- reduced pesticide and fertilizer use
- enhancements to pollinator habitats, native biodiversity and local ecosystems
- increased water retention, reduced nutrient runoff and erosion, enhanced soil health
- the link between pollinators and food production
- protecting wildlife and endangered native plant species

There were also a few notable comments on the current restrictions infringing upon property rights as well as benefits generated by small urban naturalized areas and diversifying beyond "dated" notions of Victorian lawn aesthetics.

For those against naturalization activities, the most prominent themes included: concerns about conventional aesthetics, unmanaged, unmaintained and abandoned yards, weeds, enforcement, and pests.

By-Law Modifications

Respondents were given three options to consider for by-law modification:

- Option 1: Do not change – continue to prohibit naturalization
- Option 2: Include a definition of acceptable naturalization activities and an exemption for naturalization activities in Chatham-Kent's existing Long Grass and Weed By-law. No permit would be required to complete naturalization projects and enforcement would be complaint-driven. The Cities of London, Sarnia, and Windsor employ this approach. Unmanaged, unmaintained or abandoned yards would continue to be prohibited, adherence to the Provincial Weed Control Act would continue to be required.
- Option 3: Introduce a permitting process – you need to apply for a municipal permit before being authorized to naturalize portions of your property. This would be done similar to how you currently need to apply for a dog tag. The City of Toronto employs a more vigorous variation of this approach that requires the submission of a plan as part of the permit application process. CK would require a description of planned activities but would not require a plan submission as part of the permit process. Enforcement would be complaint driven, unmanaged, unmaintained or abandoned yards would continue to be prohibited, and adherence to the Provincial Weed Control Act would continue to be required.

Over half of respondents voted in support of Option 2, to include a definition of acceptable naturalization activities and an exemption for naturalization activities in Chatham-Kent's existing Long Grass and Weed By-law.

Administration has carefully reviewed all input received through the consultation process, and developed a proposed draft by-law (Appendix B) that introduces a definition and exemption for naturalization activities and integrated a number of considerations meant to address various points raised internally and by the community.

Summary of Recommended Changes to the By-Law

Side and Rear Yards

In keeping with the aesthetic considerations that form the basis of the Long Grass and Weeds by-law, the conversion of majority portions of a yard to naturalized areas are to be limited to the side and rear yards of properties and are not allowed on front yards. Naturalization activities on front yards may occur, but are to be limited to flower bed areas – which in this case is defined as a strip of land no wider than 1.5 meters that directly abuts a building.

Buffer Strip

In order to reduce the risk that naturalization activities may encroach on adjacent properties, residents who undertake naturalization activities must maintain a 1 metre mowed and weed-free buffer strip between the naturalization project and the property lines of adjacent properties.

Rodents

The establishment of naturalized areas, particularly those that feature native tall grasses, provide a form of habitat that may become attractive to vermin, rodent and/or insect infestations over time. Chatham-Kent's Clean and Clear By-Law (By-Law 90-2020) contains a provision on this matter stating that "No owner shall fail to keep his or her land free and clear of infestation" (Section 2.2.) and further defines "infestation" to "mean the overrunning of a property by vermin, rodents and insects" (Section 1.3). Failure to control infestations that become established in naturalization projects will lead to enforcement and orders under the Clean and Clear By-Law, which may include eliminating the naturalization project and returning the area to mowed grass.

Burning of Tall Grass Prairies

Tall grass prairie naturalization projects will naturally lead to the accumulation and buildup of thatch (i.e. dead plant matter) over time. One approach for eliminating thatch accumulation and buildup includes undertaking prescribed burnings (i.e. the intentional application of fire to vegetation). However, the practice of prescribed burning of tall grass prairies also creates a high risk and potential for uncontrolled fires and unintentional fire spread. Therefore, in order to eliminate the risks posed by the practice of prescribed burnings to persons and property in urban areas, the burning of tall grass prairies is strictly prohibited in all urban areas without exception. In urban areas, alternative methods that do not involve fire (such as mechanical removal) must be pursued to manage thatch buildup. In rural residential and agricultural areas, any activities involving the prescribed burnings of built up thatch shall conform to Chatham-Kent's Open Air Burning By-Law (By-Law 107-2016), including but not limited to obtaining proper permits, restricting fire sizes, observing burning restrictions during dangerous conditions, complying with burn bans, ensuring adequate fire supervision, and maintaining setbacks from buildings, wooden structures and combustibles etc. For additional information on applicable regulations regarding prescribed burnings in Chatham-Kent, please refer to Chatham-Kent's [Open Air Burning By-law 107-2016](#) available on the Chatham-Kent website.

Enforcement

It is anticipated that the introduction of provisions in the Long Grass and Weeds By-law to allow naturalization activities on private properties will have a net-neutral impact on the demands for and costs of enforcement activities.

The introduction of enabling provisions are expected to reduce the number of enforcement calls currently being received for naturalization activities that have not been allowed under

the existing by-law. However, it is also anticipated that calls will be received to enforce provisions related to naturalization activities, such as the side and rear yard, buffer strip, rodent and open burning provisions, which do not occur under the existing Long Grass and Weeds By-law.

Recognizing that every enforcement activity places a cost on the Municipality, administration will closely monitor any impact and report back to Council if demand for enforcement changes substantially.

Drains and Municipal Property

Municipal drains and their working corridors are subject to Drainage Act legislation which defines the necessity of unobstructed flow. Opened right-of-ways need to be kept free and clear of obstructions and visibility impairments for the safe travel of motorists and pedestrians, efficient winter control activities and proper road drainage.

For these reasons, all naturalization activities on municipal land will be led by the municipality.

Areas of Strategic Focus and Critical Success Factors

The recommendations in this report support 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 recommendations in this report support 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

In total, 455 members of the public participated in the survey.

Planning Services, Public Works, Fire Services, and Legal Services were consulted in the development of this report.

Financial Implications

There are no financial implications resulting from the recommendation.

Prepared by:

Gabriel Clarke, MES, BA
Environmental Planner I

Prepared by:

Ryan Brown, P.Eng
Director, Public Works

Reviewed by:

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

Reviewed by:

Bruce McAllister, MCIP, RPP
General Manager
Community Development
Director, Planning Services

Attachments: Appendix A – Summary of Survey Results
Appendix B – Draft By-Law

Long Grass By-Law Survey

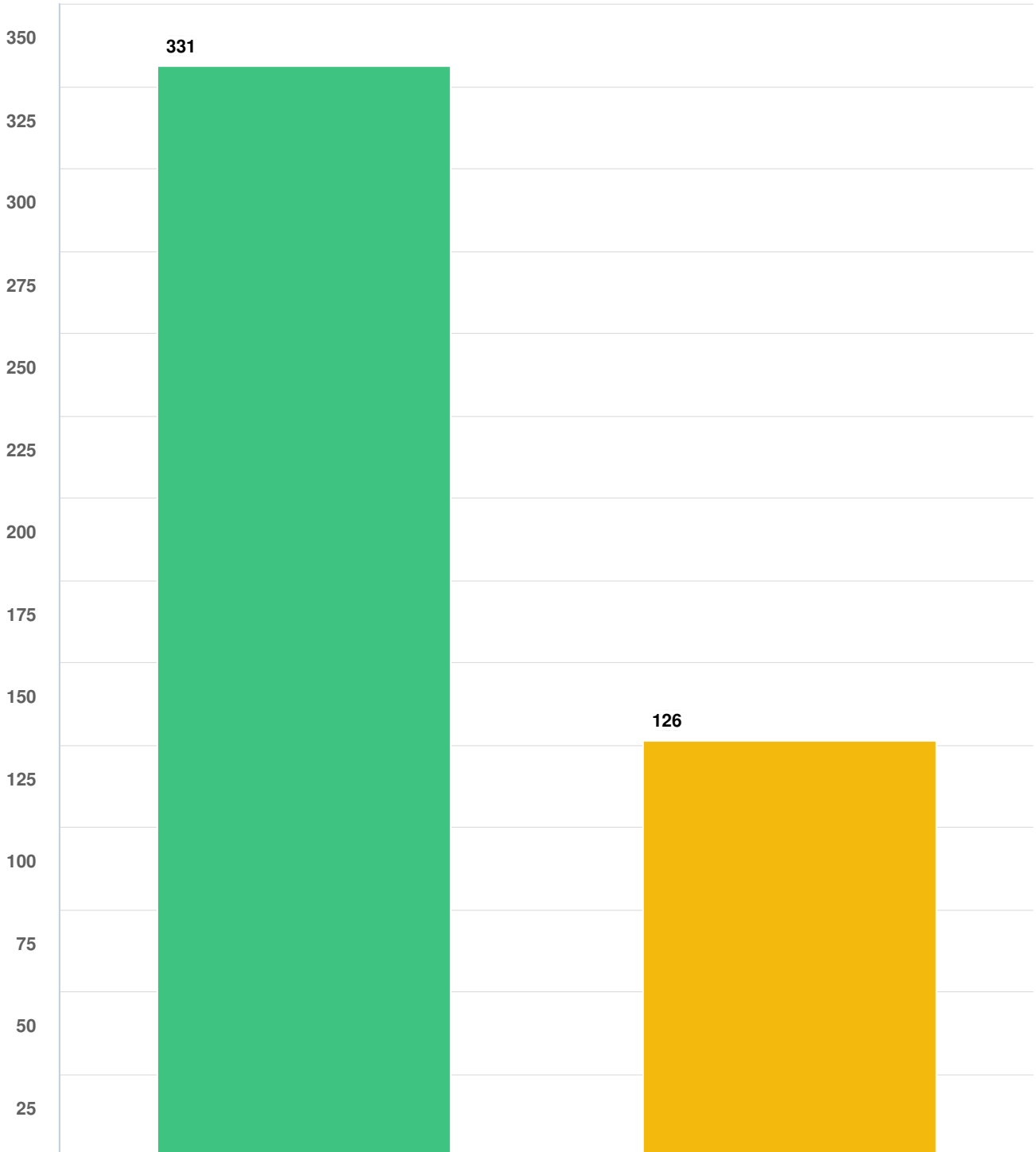
SURVEY RESPONSE REPORT

22 November 2017 - 21 March 2021

PROJECT NAME:

**Modifying Chatham-Kent's Long Grass and Weeds Bylaw to Allow
Environmental Naturalization Activities on Private Lands**

Q1 Do you support naturalization activities on private properties in Chatham-Kent that do not lead to unmanaged, unmaintained or abandoned yards or violations of the provincial weed control act?

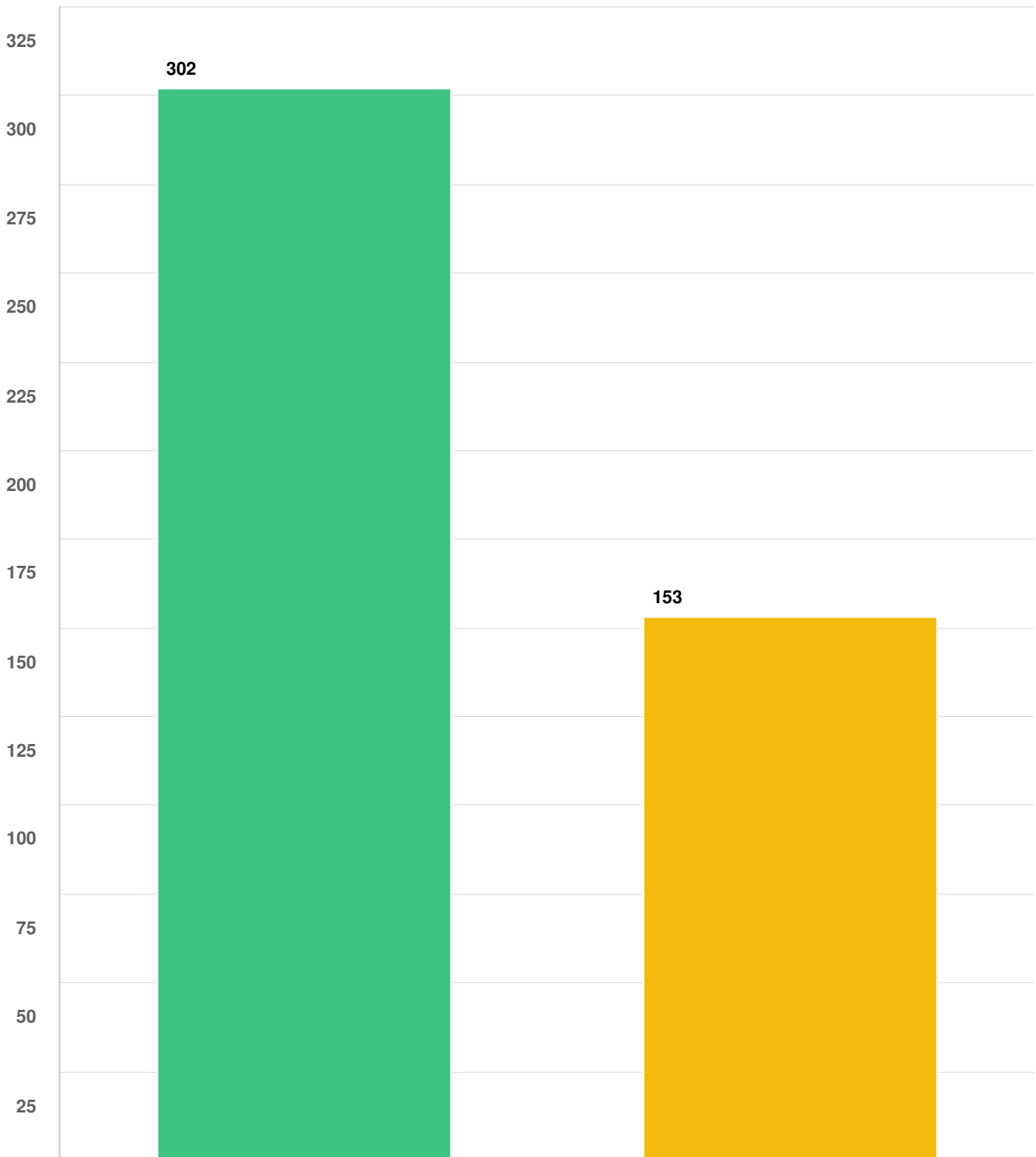


Question options

- Yes
- No

Mandatory Question (455 response(s))
Question type: Checkbox Question

Q4 Do you support naturalization activities in urban residential areas?



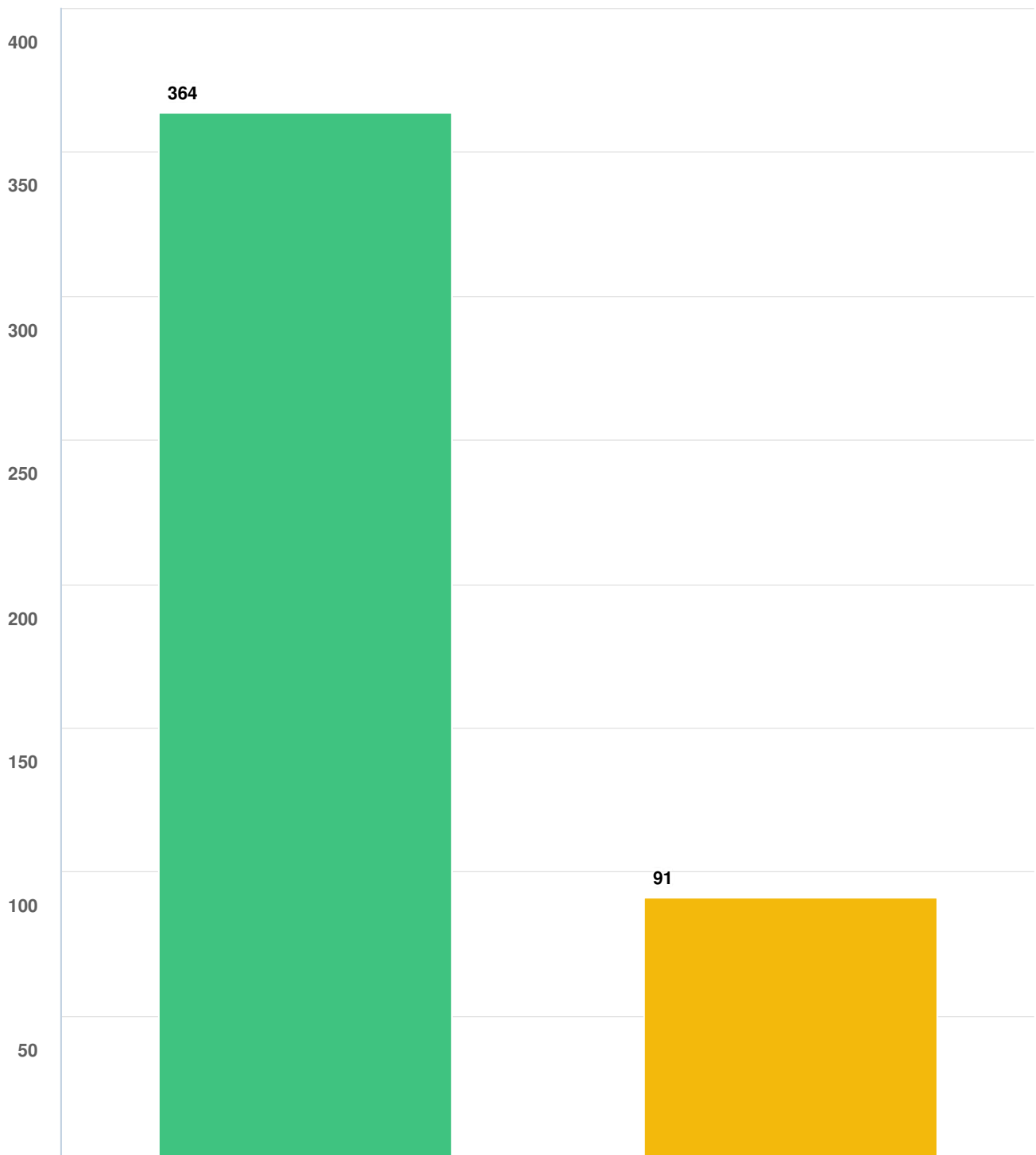
Question options

- Yes
- No

Mandatory Question (455 response(s))

Question type: Checkbox Question

Q7 Do you support naturalization activities in rural residential areas?



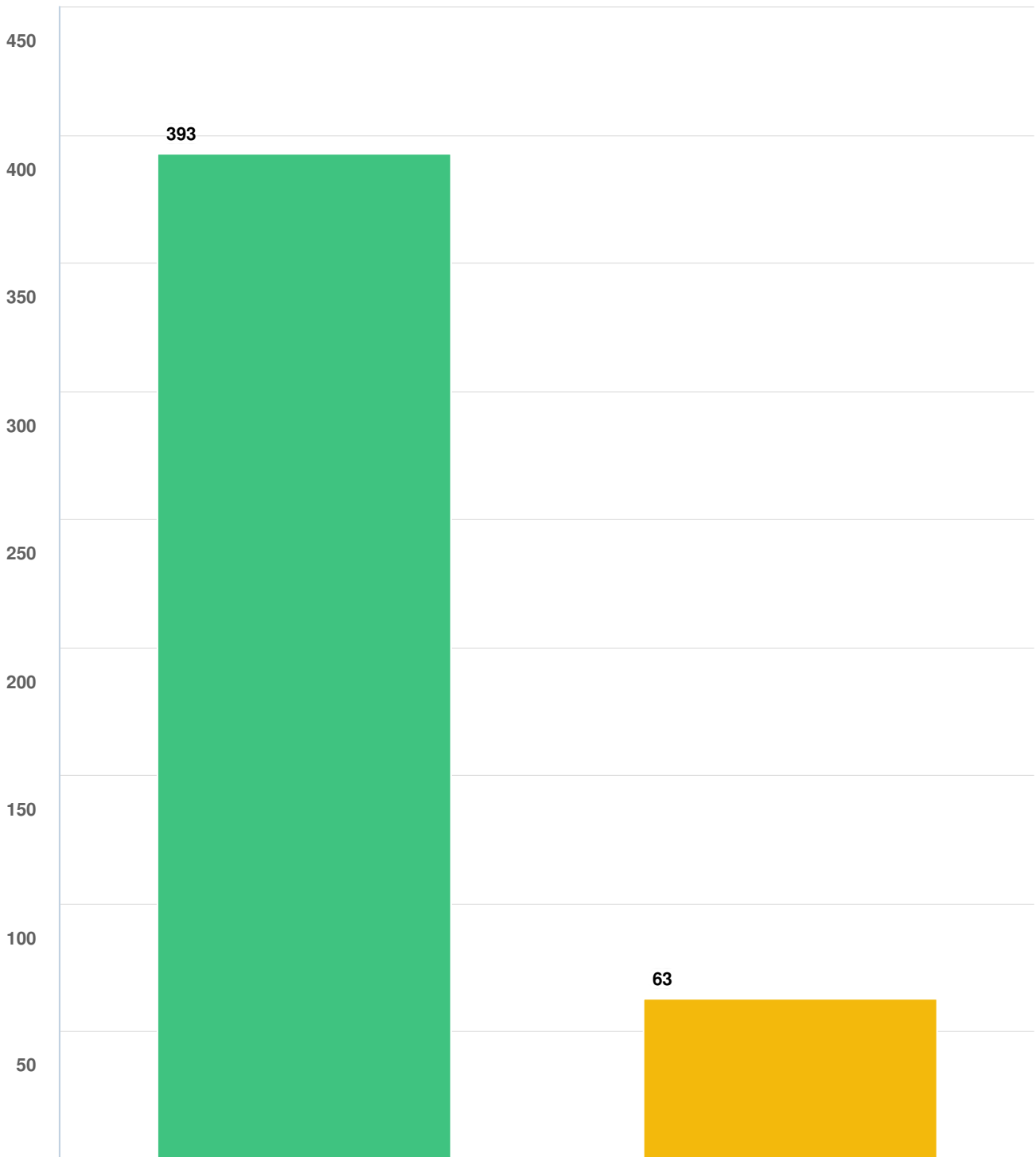
Question options

- Yes
- No

Mandatory Question (455 response(s))

Question type: Checkbox Question

Q10 Do you support naturalization activities in agricultural areas?



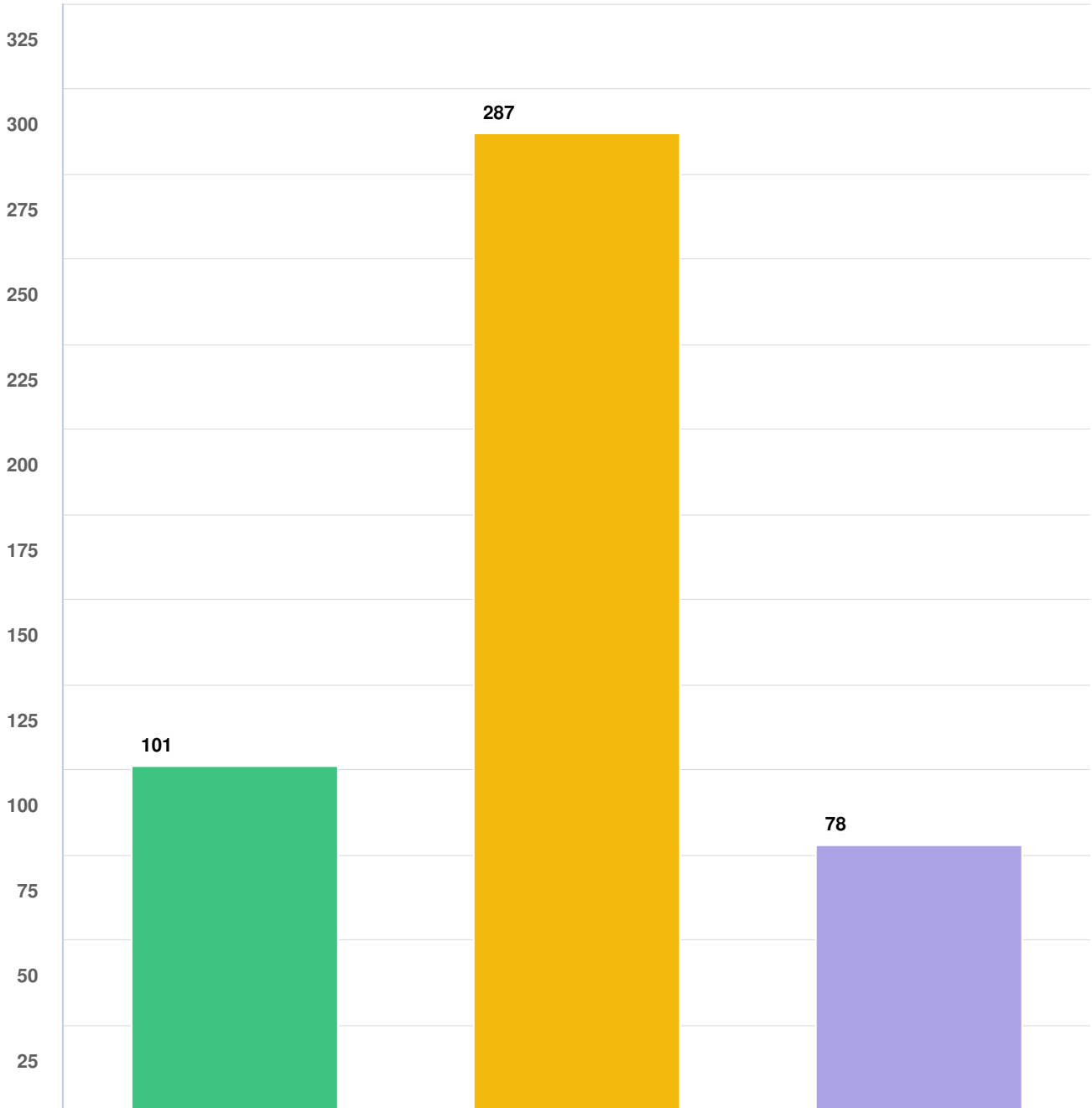
Question options

- Yes
- No

Mandatory Question (455 response(s))

Question type: Checkbox Question

Q13 How would you like to see the bylaw modified? Option 1: Do not change – continue to prohibit naturalization Option 2: Include a definition of acceptable naturalization activities and an exemption for naturalization activities in Chatham-Kent’s existi...



Question options

- Option 1: Do not change – continue to prohibit naturalization
- Option 2: Include a definition of acceptable naturalization activities and an exemption for naturalization activities in Chatham-Kent’s existing Long Grass and Weed Bylaw.
- Option 3: Introduce a permitting process – you need to apply for a municipal permit before being authorized to naturalize portions of your property.

Mandatory Question (455 response(s))
Question type: Checkbox Question

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 _____, 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) "Long" shall mean a height of 20 centimetres or greater.

- h) "Municipality" shall mean the Corporation of the Municipality of Chatham- Kent, its employees and their agents and person(s) accompanying them.
- i) "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;
- j) "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.
- k) "Person", in addition to its regular meaning, includes a business, corporation or any director, officer or manager of a business or corporation.
- l) "Remedial Action" shall mean the removal of Long Grass and Weeds by the Municipality and/or its contractor.
- m) "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.
- n) "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.
- o) "*Weed Control Act*" shall mean the *Weed Control Act*, R.S.O. 1990 chapter W.5 and amendments and regulations thereto.
- p) "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.
- q) "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 be limited to side and rear yards only, or within a Flower Bed Area in a front yard;
- b. 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;
- c. The Owner must prevent and control infestations at all times; and,
- d. 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 _____ day of _____, 2021.

Mayor – Darrin Canniff

Clerk - Judy Smith