

The Corporation of the Town of Essex

By-Law Number 2211

Being a by-law to require the abatement of interior greenhouse light emissions

WHEREAS Section 128(1) of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, 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 129 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, provides that a municipality may prohibit and regulate with respect to outdoor illumination, including indoor lighting that can be ~~emitted seen~~ outdoors;

AND WHEREAS it is the opinion of the Council of The Corporation of the Town of Essex that without proper abatement of interior greenhouse light, the effects of such unabated light could become or cause a public nuisance;

NOW THEREFORE be it resolved that the Council of The Corporation of the Town of Essex hereby enacts as follows:

1.0 SHORT TITLE

1.1 This By-Law may be referred to as the "Greenhouse Light Abatement By-Law".

2.0 DEFINITIONS

2.1 "Alternative Compliance Plan" means a plan for the abatement of light emitting from the interior of a Greenhouse that has been duly authorized by Council and entered into by the Owner of the Greenhouse and the Town.

2.12.2 "Barrier" means a barrier permanently installed and maintained so ~~that based upon the manufacturer's specifications as to~~ prevents or blocks ~~ninety-nine percent (99%) of direct~~ light emitting from the interior of a Greenhouse from escaping to the exterior of the Greenhouse ~~onto adjoining land(s) or into the night sky~~, which may be permanently affixed to a wall, ceiling, or permanently affixed to a system which permits the barrier to extend or retract by mechanical or manual means.

2.22.3 "Council" means the Council of The Corporation of the Town of Essex.

2.32.4 "Greenhouse" means a structure ~~or group of structures on a property~~ exceeding five hundred (500) square metres in gross floor area that is made of plastic or glass and used for growing plants, including, but not limited to, fruits, vegetables, flowers or cannabis in regulated temperatures, humidity, and ventilation.

2.42.5 "Lights" means any manufactured lighting ~~that emits photometric light~~ used for the purposes of inducing plant growth, including, but not limited to, incandescent, halogen, fluorescent, metal halide, induction, light emitting diode, laser, or ~~high pressure~~ high-pressure sodium lights.

2.52.6 "Officer" means any Person authorized, assigned, or appointed by the Town to administer or enforce the provisions of this By-Law.

2.62.7 "Owner" means the registered owner, lessee, ~~or~~ occupant, or Person having control of a Greenhouse.

2.72.8 "Person" means any individual, corporation, partnership, or association.

~~2.82.9~~ **“Town” or “Town of Essex”** means The Corporation of the Town of Essex or the geographical area of the Town of Essex, as the context may suggest.

3.0 APPLICATION AND SCOPE

- 3.1 This By-Law applies to all ~~p~~Persons, lands, and properties in the Town of Essex.
- 3.2 The provisions of this By-Law may be enforced by an Officer.
- 3.3 References in this By-Law to any legislation or by-law means as may be amended or replaced from time to time and include any regulations thereunder.

4.0 LIGHT ABATEMENT REQUIREMENTS

~~4.1 — An Owner of a Greenhouse that utilizes Lights shall ensure that Barriers are installed at or near the sidewalls and endwalls of the Greenhouse and maintained in good practice, so the Barriers cover the entirety of the sidewalls and endwalls of the Greenhouse from sunset to sunrise, which times shall be determined by the sunrise/sunset calculator of the National Research Council of Canada.~~

4.1 An Owner of a Greenhouse that utilizes Lights shall ensure that Barriers are installed at or near the ceiling of the Greenhouse and at or near the sidewalls and endwalls of the Greenhouse, and maintained in good practice, so that the Barriers cover:

- a) A minimum of ninety percent (90%) of the ceiling, sidewalls, and endwalls of the Greenhouse between the hours of 5:00 p.m. and 10:00 p.m. EST;
- b) The entirety of the ceiling, sidewalls, and endwalls of the Greenhouse between the hours of 10:00 p.m. and 2:00 a.m. EST; and
- c) A minimum of ninety percent (90%) of the ceiling, sidewalls, and endwalls of the Greenhouse between the hours of 2:00 a.m. and 8:00 a.m. EST.

~~4.2 — a minimum of ninety percent (90%) the entirety of the ceiling of the Greenhouse from sunset to sunrise, which times shall be determined by the sunrise/sunset calculator of the National Research Council of Canada.~~

5.0 EXEMPTIONS

5.1 Section 4 of this By-Law shall not apply to a Greenhouse that utilizes Lights if the Lights are completely shut off and remain off between the hours of 5:00 p.m. and 8:00 a.m. EST, from sunset to sunrise, which times shall be determined by the sunrise/sunset calculator of the National Research Council of Canada, except between the hours of 5:00 p.m. and 10:00 p.m. EST and between the hours of 2:00 a.m. and 8:00 a.m. EST during which time the Barriers must cover a minimum of ninety percent (90%) of the ceiling of the Greenhouse.

6.0 ALTERNATIVE COMPLIANCE

6.1 Section 4 of this By-Law shall not apply to any Greenhouse that is the subject of an Alternative Compliance Plan that has been duly authorized by Council and entered into by the Owner of the Greenhouse and the Town, and with respect to which there is compliance by the Owner of the Greenhouse.

6.2 Any Greenhouse that is operated and maintains compliance with an Alternative Compliance Plan entered into pursuant to Section 6.1 above shall be deemed to be exempt from the requirements of Sections 4 of this By-Law. Any Greenhouse or portion of a Greenhouse that is the subject of an Alternative Compliance Plan but that ceases to remain in compliance with the terms of the applicable Alternative Compliance Plan entered into pursuant to Section 6.1 of this By-Law shall be subject to the terms of conditions of Sections 4 of this By-Law.

5.1

6-07.0 SEVERABILITY

7.1 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 remain in force.

8.0 DATE OF COMPLIANCE

8.1 On or before June 1, 2025, an Owner of a Greenhouse that utilizes Lights but has not, by such date, installed Barriers to cover the ceiling, sidewalls, and endwalls of the Greenhouse in accordance with Section 4 of this By-Law shall submit to the Town's Director of Legal and Legislative Services or his or her designate, in a form and in the manner as determined by the Town's Director of Legal and Legislative Services or his or her designate, the following:

- a) evidence that the Owner shall be in a position to install and maintain Barriers to cover the ceiling, sidewalls, and endwalls of the Greenhouse in accordance with Section 4 of this By-Law on or before December 1, 2025; or
- a)b) a statutory declaration in writing that pursuant to Section 5 of this By-Law, the Lights in the Greenhouse shall be completely shut off and remain off between the hours of 5:00 p.m. and 8:00 a.m. EST until at least the date on which Barriers are installed to cover the ceiling, sidewalls, and endwalls of the Greenhouse.

7-09.0 PENALTY

7-19.1 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.

7-29.2 Each calendar day on which a Person contravenes any provision of this By-Law shall be deemed to constitute a separate offence under this By-Law.

8-010.0 ENFORCEMENT

8-110.1 Pursuant to Section 447.1 of the Municipal Act, 2001 and in addition to any other penalty or remedy available to the Town, the Council may, on behalf of the Town with the consent of the local detachment commander of the Ontario Provincial Police or the chief of police of the municipal police force as the case may be, 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 it be proved on a balance of probabilities 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;
- 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; or

- d) a conviction for a contravention of this By-Law by a court of competent jurisdiction of a public nuisance in respect to the Greenhouse has been entered, and the conviction is not currently under appeal.

9.011.0 POWERS OF ENTRY

9.111.1 Pursuant to Section 436 of the Municipal Act, 2001 and in addition to any other powers of entry granted to the Town, the Town, 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 Town;
- b) any direction or order of the Town made under the Municipal Act, 2001 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.

10.012.0 POWERS OF INSPECTION

10.112.1 The Town may do any of the following for the purposes of an inspection:

- 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.

11.013.0 ENACTMENT

11.113.1 This By-Law shall come into full force and effect upon the final passing thereof.

Read a first and a second time on December 19, 2022March 3, 2025.

Mayor

Clerk

Read a third time and finally passed on March 17, 2025.

Mayor

Clerk