

MUNICIPALITY OF SOUTHWEST MIDDLESEX

BY-LAW NO. 2022/022

NUISANCE LIGHTING BY-LAW

Being a by-law to regulate Lighting including

Nuisance Lighting in the

Municipality of Southwest Middlesex

WHEREAS the *Municipal Act, 2001*, S.O 2001, c. 25 authorizes a municipality to pass by-laws regulating lighting devices including Greenhouse lighting;

AND WHEREAS the *Municipal Act, 2001* provides that a municipality may enter land and pull down or remove a lighting device including Greenhouse lighting if it is installed in contravention of a by-law respecting same;

AND WHEREAS it is deemed desirable to establish regulations governing lighting devices including Greenhouse lighting in the Municipality of Southwest Middlesex.

NOW THEREFORE the Council of the Municipality of Southwest Middlesex enacts as follows:

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1.0 TITLE

- 1.1 This By-law shall be known as a by-law for the regulation of lighting including nuisance lighting in the Municipality of Southwest Middlesex and may be cited by its short title; namely, the "Nuisance Lighting By-law".

2.0 DEFINITIONS

For the purpose of this By-law:

2.1 Direct Light

shall mean a light that is emitted directly from the lamp, off the reflector or luminaire.

2.2 Fixture

shall mean the assembly that houses the lamp or lamps and can include all or some of the following parts: housing, reflector, mounting bracket or pole socket.

2.3 Luminaire

shall mean a complete lighting system, including a lamp or lamps and a Fixture.

2.4 Glare

shall mean a light emitting from a luminaire with intensity great enough to reduce a viewer's ability to see, to produce a sensation of discomfort and in extreme cases causing momentary blindness.

2.5 Indirect Light

shall mean light that has been reflected or has scattered off other surfaces.

2.6 Flood or Spot Light

shall mean any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

2.7 Grandfathered Luminaires

shall mean luminaires not conforming to this code that were in effect prior to the passage of this by-law.

2.8 Height of Luminaire

shall mean the height of a luminaire as calculated by the vertical distance from the ground directly below the centreline of the luminaire to the lowest direct-light-emitting part of the luminaire.

2.9 Light Trespass

shall mean the shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

2.10 Motion-Sensor Activated Lighting

shall mean lighting products equipped with a sensor that detecting activity will switch on the luminaire and then switch it off again after an interval of no activity detection.

2.11 Outdoor Light Fixtures

shall mean outdoor artificial illuminating devices, installed or portable, used for flood lighting, general illumination or advertisement.

2.12 Nuisance

shall mean anything that is injurious to health, offensive to any of the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

2.13 Wall-Pack Light Fixture

shall mean light fixtures on exterior walls of buildings.

2.14 Person

shall include, and not be limited to, an individual, sole proprietorship, partnership, association or corporation.

2.15 Special Event

shall mean festivals, carnivals, entertainment or advertising, which includes, but is not limited to that which may require the Municipality's approval for specific event components, such as compliance with zoning regulations as well as related road access.

2.16 Greenhouse

shall mean a structure made of plastic or glass that is used for growing plants including but not limited to fruits, vegetables, flowers or any other plant grown in regulated temperatures, humidity and ventilation.

2.17 Greenhouse Light

shall mean any light that is used for the purpose of inducing plant growth including, but not limited to, Incandescent, halogen, Fluorescent, Metal-Halide, Induction, Light Emitting Diode or High Pressure Sodium lights.

2.18 Curtains

shall mean a 'blackout' curtain or shade that blocks one hundred percent (100%) of light emitting from the Greenhouse.

2.19 Owner

shall mean registered owner, tenant, lessee or occupant of a property or business.

2.20 By-law Enforcement Officer

shall mean Municipal By-Law Enforcement Officers appointed by Council from time to time to enforce this By-Law.

2.21 Municipality

shall mean the municipal corporation of the Municipality of Southwest Middlesex, or the geographic area over which that corporation has territorial jurisdiction as the context requires.

2.22 Act

shall mean the the *Municipal Act*, 2001, S.O 2001, c. 25, as amended or replaced.

2.23 Council

shall mean the Council of the Municipality of Southwest Middlesex.

3.0 GENERAL REGULATIONS

3.1 No person shall install outdoor lighting on private property within the boundaries of the Municipality unless it is in compliance with this By-law. If conflict arises between this By-Law and other by-laws regarding control and maintenance of outdoor lighting, this By-Law shall be the governing document.

3.2 No person shall install any of the following:

- a) Direct or Indirect Light from private property identified as causing Glare or Light Trespass, and not in compliance with the provisions of the By-Law;
- b) Direct or Indirect Light emitted from Wall-Pack Light Fixtures on private property identified as causing Glare or Light Trespass, and not in compliance with the provisions of the By-Law; and
- c) Direct or Indirect Light in such a location or such an angle on private property which would block, cast a Glare or interfere with traffic on municipal roads.

3.3 Nothing in this By-law shall affect the rights of any municipal employees from enforcing any other applicable laws or by-laws including the Property Standards By-Law 2019-078, as amended or replaced.

3.4 Nothing herein shall serve to relieve any person from the obligation to comply with any and all other applicable laws. Further, nothing in this By-Law shall limit the enforceability or applicability of the Property Standards By-Law 2019-078, as amended or replaced.

4.0 LIGHT NUISANCE

4.1 No person shall cause a Light Nuisance within the Municipality without limiting the generality of the foregoing:

- a) The use of strobe, twinkling or chasing lights for private purposes and for advertising or entertainment purposes on private property is prohibited, notwithstanding the exemptions set out in sections 6 and 7;

- b) The use of laser source light, searchlights, signal beacons, Flood or Spot Lights, flashing lights or any other similar high intensity Luminaire that projects light onto adjacent property is prohibited, notwithstanding the exemptions set out in sections 6 and 7; and
- c) No Direct or Indirect Light shall be used so that an unusual quantity or type of light creates a Glare or Light Trespass upon the land of others so as to be or cause a Nuisance to the public generally or to others residing or carrying on a business or trade in the vicinity.

5.0 GREENHOUSES

- 5.1 An Owner of a Greenhouse that utilizes Light shall install and maintain Curtains on the sidewalls and endwalls of the Greenhouse as follows:
 - a) to the height of the top of the sidewalls and endwalls covering the height;
 - b) such that the Curtains seals between the sidewalls and endwalls ensuring that no light escapes; and
 - c) ensure that the Curtains are closed completely on sidewalls and endwalls from half an hour prior to sunset to half an hour after sunrise.
- 5.2 An Owner of a Greenhouse that utilizes Lights shall install and maintain Curtains on the ceiling of the Greenhouse as follows:
 - a) sealing the space between the sidewalls, endwalls and ceiling ensuring no light escapes; and
 - b) ensure that the Curtains are closed completely on a Greenhouse ceiling from half an hour prior to sunset to half an hour after sunrise;
- 5.3 An Owner of a Greenhouse shall ensure that Curtains are closed completely on Greenhouse sidewalls and endwalls, and on a Greenhouse ceiling between the hours of 10 p.m. and 6 a.m.
- 5.4 An Owner of a Greenhouse shall ensure that Lights are shut off and remain off between the hours of 10 p.m. and 6 a.m.
- 5.5 Sections 5.1, 5.2, 5.3 and 5.4 shall not apply if Greenhouse Lights are shut off and remain off from half an hour prior to sunset and half an hour after sunrise.
- 5.6 Sunrise and sunset are to be determined by the National Research Council Canada's sunrise/sunset calculator.

6.0 GENERAL EXEMPTIONS

- 6.1 The Municipality is exempt from the requirements of this By-law.
- 6.2 Vehicular lights and all temporary emergency lighting needed by the Fire and Police Departments, or other emergency services shall be exempt from the requirements of this By-Law.
- 6.3 A contractor's identification light, provided it is located on the property where the work is being performed and only during the period of such work, is exempt from the requirements of this By-law.

6.5 The provisions of this By-law do not apply to any of the Special events or other activities set out below: Glencoe Fair held in September of every year, Events held at Arrowwood Farms, Music in the Park events and other approved events.

6.6 Motion-Sensor Activate Lighting may be left unshielded provided it is located in such a manner as to prevent Direct Lighting and Glare onto the properties of others, and provided the light is set to only go on when activated and to go off within five minutes after activation has ceased, and the light shall not be triggered by activity off the property.

7.0 TEMPORARY EXEMPTIONS

7.1 Any person may submit a written request on a form prepared by the Municipality for a temporary exemption to the requirements imposed by this By-law by way of an application to the Municipality.

7.2 The request for a lighting exemption for temporary events shall contain the following information:

a) specific exemption requested;

b) type and use of exterior light involved;

c) date/s of the event;

d) duration of time for requested exemption; and

e) proposed location, physical size, wattage and height of exterior light.

7.3 The Municipality may grant an exemption, in whole or in part, with terms and conditions, subject to the provisions of this By-Law.

7.4 In considering an application for any exemption, the Municipality shall take into account the following:

a) A time limit shall be specified if an exemption is granted, and exemption shall not exceed 10 days and may be extended at the discretion of the Municipality.

b) The proximity of the light to a residential area and the likelihood that the light for which an exemption is requested may negatively impact persons in a residential area;

c) The Municipality shall consult with the affected Ward Councillor(s) on an application for an exemption and the consultation shall include any terms and conditions that may be attached to an exemption;

d) Whether any negative impacts under clause b) or revealed as a result of consultation in clause c) can be reduced with the use of mitigation measures including limiting the light to certain days or times of the day

7.5 A breach by the applicant of any of the terms or conditions imposed by the Municipality in granting an exemption shall immediately render the exemption null and void.

8.0 LIABILITY

- 8.1 Any person installing or maintaining any Luminaire or illumination device on whose property a Luminaire or illumination device is located, shall be liable for such light device. The Municipality is hereby indemnified against all losses, damages, claims, actions, demands, suits, costs and interest arising directly or indirectly from the erection, maintenance, removal or falling of such light device or part thereof and anything done in connection with the performance of, outside of, or contrary to this By-law and whether or not in accordance with the Municipality's standards, inclusive of anything done on the public highway or other Municipality or public property.

9.0 POWERS OF ENTRY AND INSPECTION

- 9.1 Pursuant to section 436 of the Act and any other powers of entry granted to the Municipality, its employees, agents or By-Law Enforcement Officers may enter into a property, premises, business or 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 passed by the Municipality;
- b) any direction or order of the Municipality made under the Act or this By-law; and
- 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.

- 9.2 The Municipality may do any of the following for the purposes of an inspection:

- a) require the production for inspection of documents, things or samples relevant to the enforcement of this By-law;
- b) inspect and remove documents, things or samples 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.

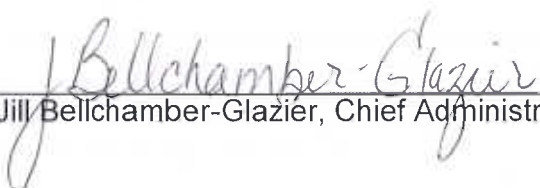
10.0 ADMINISTRATION AND ENFORCEMENT

- 10.1 Without notice, the Municipality may cause the immediate removal of a light that is, in the opinion of the Municipality, in violation of this By-law.
- 10.2 The Owner of a property on which a light that violates this by-law is found shall, upon written notice from the Municipality, remove the light or cause such light to be removed within five (5) days of issuance of the written notice. In the event that the Nuisance light is not removed within this time period, the Municipality or its agents may enter upon the subject property and carry out the removal of the light at the expense of the owner. Service of notice shall be written notice by registered mail or personal service to the owner and/or occupant of the premises requiring removal of the light.

- 10.3 Lights removed by the Municipality under the authority of this By-law shall be stored by the Municipality for a period of not more than thirty (30) calendar days, during which time the owner or his agent may be entitled to redeem such sign upon payment of the cost of removing and storing the light as set out by Southwest Middlesex.
- 10.4 Where a light has been removed by the Municipality and stored for a period of thirty (30) calendar days and has not been redeemed by the owner or his agent, such a light may be forthwith destroyed or otherwise disposed of by the Municipality and the owner of the light shall be liable to pay the Municipality the cost of the removal, storage and disposal of the light as provided by Southwest Middlesex.
- 10.6 The Owner of a Greenhouse that violates this By-Law shall, upon written notice from the Municipality, discontinue the contravening activity. If the By-law Enforcement Officer or an officer or agent of the Municipality discovers that the violating activity has continued at the Greenhouse, they would be charged and prosecuted under the appropriate municipal and provincial laws.
- 10.5 Any person who contravenes a provision of this By-law is guilty of an offence and is liable, upon conviction, to the maximum penalty as prescribed by the Provincial Offences Act, as amended or revised from time to time, and as set out in Schedule "A" attached hereto. All such fines shall be recovered under the Provincial Offences Act.
- 10.6 Any person who fails to pay for the removal, storage and disposal costs as set by Southwest Middlesex is guilty of an offence and, upon conviction, is liable to a fine as provided for in this By-law.
- 10.7 It is hereby declared that each and every part of the foregoing provisions of this By-law is severable. If any provision of this By-law should for any reason be declared invalid by any court, every one of the then remaining provisions herein shall remain in full force and effect.
- 10.8 Schedule "A" being the Set Fine Schedule and attached hereto shall constitute part of this By-law.
- 10.9 This By-law comes into full force and effect on the date of passing thereof.

Read a first and second time this 9th day of March, 2022

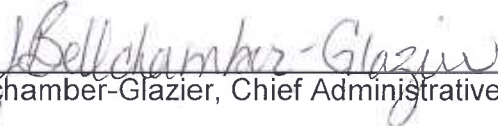

Allan Mayhew, Mayor


Jill Bellchamber-Glazier, Chief Administrative Officer/Clerk

Read a third time and finally adopted this 9th day of March, 2022



Allan Mayhew, Mayor



Jill Bellchamber-Glazier, Chief Administrative Officer/Clerk