



Date: August 14, 2023

To: Mayor and Council

Author: Susan Hirota, Director of Legal, Building & By-Law Enforcement / Town Solicitor

RE: **By-law to Regulate Outdoor Illumination**

RECOMMENDED ACTION

1. That **By-law 52-2023**, being a by-law to amend Property Standards By-law 31-1999, be read three times and finally passed and the Mayor and Clerk be authorized to sign same.

BACKGROUND

On December 14, 2020, Council directed Administration to bring forward an outdoor illumination by-law that encompassed best practices from other municipalities.

On October 18, 2021, Administration presented a draft Lighting Guideline Policy to Committee of the Whole. The policy prescribed lighting standards for new development designed to limit excess outdoor lighting. The policy was recognized as a good first step and Administration was asked to review outdoor lighting by-laws from other municipalities and to bring forward a regulatory by-law for Council's consideration.

On July 11, 2022, Administration presented a draft regulatory by-law modelled after the Town of Huntsville's outdoor illumination by-law. Administration did not recommend adoption of the draft by-law due to its technical nature, its broad application and challenges with enforcement. The draft by-law was not adopted by Council.

On August 8, 2022, a motion was passed by Council to establish a lighting by-law working group composed of members of Administration, members of the community, and a member of Council as an optional member to make recommendations on an outdoor lighting by-law. Councillor Thomas Neufeld participated on the working group. Mayor Dennis Rogers has also attended working group meetings.

The lighting by-law working group was established and met from time to time. There was agreement among the working group members on the need for understanding in the wider community about the negative effects of light pollution. There was also agreement that the

draft policy on lighting for new development will be effective in reducing light pollution from new development going forward.

There was consensus on the working group on the approach to take with existing lighting. A community representative of the working group drafted an outdoor illumination control by-law (attached as Appendix "A") that has been reviewed by Administration. Administration does not support the adoption of the draft by-law for the same reasons the by-law modelled after the Town of Huntsville's outdoor illumination by-law was not recommended.

DISCUSSION

Administration does not support the creation of a technical, wide-reaching regulatory by-law that is difficult to enforce and prosecute. The Town receives very few lighting nuisance complaints per year. In 2023, six lighting nuisance complaints have been received; three were from the same individual related to exterior building lighting and three were related to greenhouse lighting. In 2022, eight lighting nuisance complaints were received; two were about exterior building lighting and six were about greenhouse lighting. Greenhouse lighting is already regulated by By-law 96-2020.

Administration can, however, support the amendment of the Town's existing Property Standards By-law 31-1999 to make it an offence to position exterior lighting in a manner that causes an impairment to the use or enjoyment of neighbouring properties. The Property Standards By-law already prohibits such lighting but only in relation to commercial and industrial properties. Administration recommends amending the Property Standards By-law to prohibit such lighting in all areas of Kingsville.

Administration also recommends amending the Property Standards By-law to require outdoor illuminated commercial signs to be turned off between the hours of 11:00 p.m. and 7:00 a.m.

It should be noted that this requirement to turn off illuminated outdoor commercial signs may be seen as heavy handed toward commercial property owners and businesses. Administration is making this recommendation only as a compromise to the working group members who wish to see a more technical, wide-reaching regulatory by-law that would be even more heavy-handed in the view of Administration.

The draft amendments to Property Standards By-law 31-1999 are attached as Appendix "B".

The benefit of utilizing a Property Standards By-law to regulate outdoor lighting is that individuals who object to receiving a Property Standards Order from the Town have a right of appeal to the Property Standards Committee by virtue of the *Building Code Act*. The Town's Committee of Adjustment and Appeals sits as the Property Standards Committee. The Property Standards Committee has the power to confirm, rescind or vary the Order. If the Property Standards Committee elects to rescind the Order, the By-law Enforcement Officer will discontinue the investigation and close the file. If the Property Standards Committee decides to confirm the Order or vary it by imposing conditions, the By-law

Enforcement Officer will follow up with a charge if voluntary compliance cannot be achieved. Having an intermediary step of a hearing before the Property Standards Committee may serve to reduce the number of prosecutions in the Provincial Offences Court.

It should be noted that new construction projects are reviewed by the Planning Department. Photometric (i.e. lighting) plans are an important component of site plan control reviews to ensure that any impacts of new development on neighbouring properties are limited. Such plans require that newly installed light fixtures must be “full cut-off” and “dark-sky compliant”. Currently, the practice is to require lighting plans for all commercial, industrial, multi-family residential, and greenhouse development applications, as well as some smaller developments.

FINANCIAL CONSIDERATIONS

The cost of enforcing a technical, wide-reaching outdoor lighting by-law is difficult to estimate. If the expectation is that every property in Town be fully compliant with the applicable lighting standard it will require additional By-law Enforcement Officers to investigate contraventions and lay charges.

ENVIRONMENTAL CONSIDERATIONS

Taking positive action to minimize light pollution should be encouraged. This is best accomplished through education rather than prosecution. The community representatives of the lighting by-law working group have expressed an interest in educating the public in this respect.

CONSULTATIONS

Senior Management Team
Rob Frias, Chief Building Official
Daryl Flacks, Senior By-law Enforcement Officer
George Robinson, Manager of Planning

PREPARED BY:



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REVIEWED BY:



John Norton

Chief Administrative Officer