

# THE CORPORATION OF THE TOWN OF KINGSVILLE

## BY-LAW 85 - 2024

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### **Being a By-law to Prohibit and Regulate Public Nuisances related to Large Holiday Displays in the Town of Kingsville**

**WHEREAS** Section 11(2) of the *Municipal Act, 2001*, SO. 2001, c. 25, as amended (“*Municipal Act*”) provides that a municipality may pass by-laws for the economic and social well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property, including consumer protection;

**AND WHEREAS** Section 128 of the *Municipal Act* provides that a 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* provides that a municipality may prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors, may prohibit said matters unless a permit is obtained, and may impose conditions for obtaining, continuing to hold and renewing such permits including requiring the submission of plans;

**AND WHEREAS** the Council of The Corporation of the Town of Kingsville considers it in the public interest to regulate public nuisances related to large holiday displays;

### **NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF KINGSVILLE ENACTS AS FOLLOWS:**

#### **1. Definitions**

##### **1.1. In this By-law:**

**“Authorized Official”** means:

- a) any employee, officer or agent of the Town who is appointed and/or retained to enforce the by-laws of the Town in accordance with the *Community Safety and Policing Act, 2019*, R.S.O. 2019, c. 1, Sched. 1, or the *Municipal Act*;
- b) any employee, officer or agent of the Town who is appointed and/or retained to enforce the provisions of this By-law, or any other by-law related to building construction standards, in accordance with the *Building Code Act, 1992*, S.O. 1992, c. 23;
- c) the Clerk of the Town of Kingsville; and,
- d) any designate appointed by the foregoing.

**“Clerk”** means the Clerk of the Town or their designate.

**“Holiday Display Permit”** means a permit to allow a person to assemble and operate a Large Holiday Display.

**“Nuisance Impacts”** means causing or contributing to any of the following for residents in the vicinity of a Large Holiday Display:

- a) increase in pedestrian or vehicular traffic that interferes with the use of highways and other public and private properties;
- b) parking that obstructs the free flow of traffic or could interfere with the ability to provide emergency services;
- c) trespass to private property;

- d) off-site littering;
- e) significant increase in noise; and,
- f) directed outdoor illumination that spills onto other properties.

**“Large Holiday Display”** means an exterior display of lights and decorations that are temporarily installed on private property that can be reasonably expected to create or has previously created Nuisance Impacts in the sole discretion of the Clerk and the Supervisor of By-law Enforcement.

**“Town”** means The Corporation of the Town of Kingsville, and, where the context so requires, means the area of land within the geographical boundaries thereof.

## **2. Interpretation**

- 2.1. This By-law shall be known as the “Large Holiday Displays By-law.”
- 2.2. If any section, subsection, schedule, appendix or part, or parts of this By-law are declared by any Court of Law to be invalid, illegal or ultra vires, such section, subsection, schedule, appendix or part, or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.
- 2.3. If there is a conflict between the provisions of this By-law and any other by-law of the Town in force or a provincial or federal statute or regulation, the more restrictive provisions shall apply.
- 2.4. Headings are inserted for ease of reference only, form no part of this By-law, and shall have no affect in any way the meaning or interpretation of the provisions of this By-law.

## **3. General Regulations**

- 3.1. No person shall assemble, operate, or permit the assembly or operation of a Large Holiday Display without a permit issued by the Town.
- 3.2. No person shall operate or permit the operation of a Large Holiday Display:
  - a) on a day other than any Thursday, Friday, Saturday, Sunday, or January 1, October 31, December 24, December 25, and December 31; and,
  - b) outside the hours of 6:00 p.m. to 8:00 p.m.

## **4. Holiday Display Permit**

- 4.1. Any person may make an application to the Clerk for a Holiday Display Permit in accordance with the provisions of this By-law.
- 4.2. A Holiday Display Permit shall not be issued for a period of time longer than forty-five (45) continuous days.
- 4.3. An application for a Holiday Display Permit in a form determined by the Clerk and shall include the following:
  - a) the applicant’s name and prescribed contact information;
  - b) the dates, times, and location of the Large Holiday Display for which the permit is sought;
  - c) the name and prescribed contact information for the supervisor of the Large Holiday Display for which the permit is sought;

- d) if applicable, the method of publicizing or advertising the Large Holiday Display for which the permit is sought;
- e) a drawing of the property of the Large Holiday Display including the layout and location of the Large Holiday Display;
- f) a description of potential traffic impacts and mitigation measures of the Large Holiday Display for which the permit is sought;
- g) the number of expected visitors to the Large Holiday Display for which the permit is sought based on previous years of operation, if applicable;
- h) any other information requested by the Clerk.

4.4. In considering an application for a Holiday Display Permit, the Clerk shall have regard for:

- a) the reasonable expectation and potential for the Large Holiday Display to cause Nuisance Impacts;
- b) any benefits the issuance of the permit may have on neighbouring properties or on the Town;
- c) the location of the event or activity;
- d) any current or previous violations of Town by-laws; or,
- e) anything further that the Clerk considers relevant in the circumstances, acting reasonably.

4.5. The conditions that the Clerk may impose on a Holiday Display Permit may include but are not limited to:

- a) the days during which the Large Holiday Display can occur;
- b) the times during which the Large Holiday Display can occur;
- c) noise and traffic mitigation measures to be implemented;
- d) that the surrounding neighbourhood be notified by the applicant and proof of such notification be provided to the Town; and
- e) that an Authorized Official monitor the event or other activity at the expense of the applicant as set out in the Town's Fees and Charges By-law, if deemed appropriate by the Clerk.

4.6. The Clerk shall have the authority to issue, with or without conditions, refuse to issue, suspend, or revoke a Holiday Display Permit.

4.7. A Holiday Display Permit granted by the Clerk shall be immediately revoked upon any breach of the terms or conditions of the permit.

## **5. Appeal**

5.1. An applicant for a Holiday Display Permit may appeal a decision of the Clerk to refuse to issue, suspend or revoke a Holiday Display Permit to the Committee of Adjustment and Appeals by providing written notice to the Clerk within ten (10) days of the Clerk's decision to refuse to issue, suspend or revoke the permit.

5.2. A person who is in receipt of an order made under this By-law who is not satisfied with the terms or conditions of the order may appeal to the Committee of Adjustment and Appeals by providing written notice to the Clerk within ten (10) days of being served with the order. In the event that no appeal is filed, the order shall be deemed to have been confirmed.

- 5.3. The Clerk will schedule a public meeting of the Committee of Adjustment and Appeals to hear the appeal.
- 5.4. The Committee of Adjustment and Appeals has the authority to confirm or amend the decision of the Clerk and confirm, modify or rescind an order, or extend the time for complying with the order, and such decisions of the Committee of Adjustment and Appeals shall be final and not subject to any further appeal.
- 5.5. A request to appeal does not act as a stay of the decision or order, including any terms, conditions or requirements imposed therein.

## **6. Enforcement**

- 6.1. This By-law may be enforced by an Authorized Official.
- 6.2. In accordance with Section 436 of the Municipal Act, an Authorized Official may enter on land, and into buildings, at any reasonable time for the purpose of carrying out an inspection to determine whether any provision of this By-law or an order made under this By-law is being complied with.
- 6.3. For the purposes of conducting an inspection pursuant to this By-law, an Authorized Official may:
  - a) require the production for inspection of documents or things relevant to the inspection;
  - b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - c) require information from any person concerning a matter related to the inspection; and
  - d) alone, or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
- 6.4. If an Authorized Official is satisfied that a contravention of this By-law has occurred, the Authorized Official may make an order requiring a person to discontinue the contravening activity or to do work to correct the contravention.
- 6.5. An order made under this By-law shall set out the following:
  - a) reasonable particulars of the contravention adequate to identify the contravention;
  - b) the location of the land on which the contravention occurred;
  - c) the work to be completed; and
  - d) the date(s) by which there must be compliance with the order.
- 6.6. An order under this By-law may require work to be done even though the facts which constitute the contravention of the By-law were present before this By-law came into force.
- 6.7. An order under this By-law may be served personally or by registered mail to the address of any person on file with the Town.
- 6.8. No person shall prevent, hinder or obstruct, or attempt to hinder or obstruct an Authorized Official who is exercising a power or performing a duty under this By-law.

## **7. Offences, Penalties and Other Remedies**

- 7.1. Every person who contravenes any provision of this By-law and/or fails to comply with an order made under this By-law is guilty of an offence.
- 7.2. A director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence and is liable to a fine, and such other penalties, in accordance with the *Municipal Act*, as amended.
- 7.3. 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 by the *Provincial Offences Act*, R.S.O. 1990, c. P. 33.
- 7.4. If a person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction, may make an order:
- a) prohibiting the continuation or repetition of the offence by the person convicted; and
  - b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

## **8. Enactment**

- 8.1. This By-law shall come into force and effect upon its final passage.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this  
4th day of NOVEMBER, 2024.**

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**MAYOR, Dennis Rogers**

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**ACTING CLERK, Angela Toole**

**Town of Kingsville**  
Part I Provincial Offences Act  
By-law 85-2024: Large Holiday Displays By-law

| ITEM | COLUMN 1<br>Short Form Wording  | COLUMN 2<br>Provision<br>Creating or<br>Defining<br>Offence | COLUMN 3<br>Set Fine |
|------|---|---|----------------------|
| 1    | (Assemble)(operate)(permit the assembly of)(permit the operation of) a Large Holiday Display without a permit   | s. 3.1  | \$750.00             |
| 2    | (Operate)(permit the operation of) a Large Holiday Display outside the permitted days                           | s. 3.2 a)   | \$750.00             |
| 3    | (Operate)(permit the operation of) a Large Holiday Display outside the permitted hours                          | s. 3.2 b)   | \$750.00             |
| 4    | (Prevent)(hinder)(obstruct) Authorized Official from (exercising a power) (performing a duty) under this By-law | s. 6.8  | \$750.00             |

NOTE: The penalty provision for the offences indicated above is Section 7.3 of By-law No. 85-2024, a certified copy of which has been filed.