

THE CORPORATION OF THE TOWN OF KINGSVILLE

BY-LAW 28-2025

A By-law to regulate the connection and discharge into Kingsville's Sanitary Sewer System by Greenhouses and Greenhouse Premises.

WHEREAS municipalities may pass bylaws respecting sanitary and storm sewage systems, pursuant to Section 11 of the *Municipal Act, 2001, S.O. 2001, c.25*

AND WHEREAS Sections 78 to 93 of the Municipal Act, 2001 as amended, provides municipalities with specific powers with respect to the provision of public utility services to the municipality;

AND WHEREAS section 87 of the *Municipal Act, 2001*, authorizes municipalities to enter onto land, at reasonable times, to inspect the discharge of any matter into the Municipality's sanitary and/or storm sewer systems, and may conduct tests and take samples for the purpose of evaluating compliance with this bylaw;

AND WHEREAS the Town of Kingsville has received recommendations from engineers and other experts, as of the date of passing this By-law, indicating that:

- i. The Ruthven sanitary sewer system and pump station have insufficient capacity for the current incoming peak flows, and
- ii. The Lakeshore West Wastewater Pollution Control Plant is operating at approximately 90% of its rated capacity and is experiencing high loads of phosphorus and other discharges, likely from greenhouses, which are having a negative impact on the Plant's technical operations and costs of treatment;

NOW THEREFORE the Council of The Corporation of the Town of Kingsville does hereby enact as follows:

1. DEFINITIONS

"Greenhouse" means a building or structure, enclosed by glass or plastic, used for the commercial growing of vegetables, shrubs, trees, plants, or flowers and may include the harvesting, transplanting, and replanting of the same.

"Greenhouse Premises" means a Greenhouse and any other real property on the same lot, and includes other structures or buildings for any other use, such as offices, residential housing, packing facilities, warehousing or storage;

"Operator" shall mean an Owner, Tenant, or an agent or employee thereof, in possession or having the charge, management or control of a Greenhouse or Greenhouse Premises;

"Owner" includes an individual, corporation, association, organization, or partnership that legally owns a Greenhouse or Greenhouse Premises;

"Permit" means an issued authorization by the Town that allows the Owner or Operator to connect to, and discharge into, the Sanitary Sewer, subject to terms and conditions.

"Pretreatment" means one or more treatment processes or devices designed to remove sufficient matter from discharges into the Town's Sanitary Sewer to enable compliance with the limits established in this By-law.

"Sanitary Sewer" shall mean a sewer owned and operated by the Town of Kingsville for the collection and transmission of pollution of any kind;

"Tenant" shall mean an individual, corporation, association, organization, or partnership that occupies a Greenhouse or Greenhouse Premises;

"Town" shall mean The Corporation of the Town of Kingsville, and, where the context so requires, means the area of land within the corporate boundaries thereof.

2. SANITARY SEWER PERMITS

- 2.1. Effective on the date that this By-law comes into effect, no Greenhouse or Greenhouse Premises shall create a new connection or commence discharging into the Sanitary Sewer without a Permit from the Town. Further, no Operator or Owner shall allow a new connection or commence discharging into the Sanitary Sewer by a Greenhouse or Greenhouse Premises without a Permit from the Town.
- 2.2. Any Greenhouse or Greenhouse Premises previously and lawfully connected to the Sanitary Sewer before the date that this By-law comes into effect, shall have until July 1, 2025, to obtain a Permit from the Town or shall disconnect and cease discharging into the Sanitary Sewer.
- 2.3. The Chief Administrative Officer and Director of Public Operations shall be authorized, jointly, to issue a Permit for the connection and release of discharge into the Sanitary Sewer, on terms and conditions as determined by them in their sole discretion, including but not limited to the following:
 - a) The payment of any fee associated with issuing a Permit, as approved by Council and amended from time to time;
 - b) The payment of any monthly or quarterly fee and any fees associated with the quantity and quality of discharge, as approved by Council and amended from time to time;

- c) Limits and restrictions on the quantity, quality, time of day, and frequency of any permitted discharge into the Sanitary Sewer;
- d) Requirements on the routine sampling and testing of discharge into the Sanitary Sewer;
- e) Requirements on the installation of any monitoring device at the point of origin on all connections to the Sanitary Sewer;
- f) Requirements for any Pretreatment prior to discharging into the Sanitary Sewer;
- g) Requirements on any reporting to the Town;
- h) Any additional charges to compensate the Town for its additional costs of operation, repair, replacement, or maintenance of the Sanitary Sewer and on other terms and conditions as may be deemed appropriate by the Town;
- i) Requirements on the Owner or Operator to repair, alter, remove, add to any existing connection or construction of a new connection;
- j) Require the Permit to be registered on title, at the expense of the Owner, of a Greenhouse or Greenhouse Premises through the Land Registry Office; and
- k) Provide that any Permit may expire on a specified date, or upon the occurrence of a specified event, after which the Greenhouse or Greenhouse Premises will immediately disconnect and no longer discharge into the Sanitary Sewer.

3. ENTRY AND ENFORCEMENT

- 3.1. In accordance with Section 436 of the *Municipal Act*, a designated employee or agent of the Town may at any time enter a Greenhouse or Greenhouse Premises at any reasonable time without warrant for the purposes of carrying out an inspection to determine compliance with the provisions of this By-law or any Permit made under this By-law. This section does not apply to a building lawfully being used as a dwelling house in which instance section 437 of the *Municipal Act, 2001*, shall apply.
- 3.2. Every Owner or Operator shall permit, without hinderance, obstruction, or interference in any way, the Town, its agents, or employees with:
 - a) Entering in or upon any land or Greenhouse or Greenhouse Premises, except a building lawfully being used as a dwelling house, at any reasonable time without warrant;

- b) Conducting such examinations, investigations, inquiries, tests, and taking of samples; and
- c) Inspecting or observing any plant, machinery, equipment, processes, or documents for the purpose of determining whether there is compliance with this By-law.

3.3. For the purposes of an inspection, the Town 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 purposes of the inspection.

3.4. If a designated employee or agent of the Town is satisfied that a contravention of this By-law has occurred, the designated employee or agent may make an order requiring a person to discontinue the contravening activity or to do work to correct the contravention.

3.5. 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

3.6. 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.

3.7. 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 or by posting the notice on the land in a conspicuous place.

3.8. A designated employee or agent of the Town is authorized to shut off, disconnect and/or seal off connection to the Sanitary Sewer to any

Greenhouse and Greenhouse Premises which does not have a Permit, or is not in compliance with the terms and conditions of the Permit, as determined by the Chief Administrative Officer and Director of Public Operations acting jointly.

- 3.9. Any costs incurred by the Town for the purposes of ensuring compliance with this By-law are the responsibility of the Owner or Operator having control of the discharge, including all applicable hourly rates as approved by Council and amended from time to time. The Town may recover these costs by adding them to the tax roll and collecting them in the same manner as taxes.

4. PENALTIES AND REMEDIAL WORK BY TOWN

- 4.1. Every Owner or Operator 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 and subject to prosecution under the *Provincial Offences Act, R.S.O. 1990, c. P. 33*.
- 4.2. Every Owner or Operator that is not a corporation that is guilty of committing an offence and, upon conviction for a first offence, is liable to a fine of up to \$10,000.00 per offence, for each day or part of a day that the offence(s) occurs or continues. For each subsequent offence, that Owner or Operator is liable to a fine of up to \$25,000.00 for each day or part of a day that the offence occurs or continues;
- 4.3. Every Owner or Operator that is a corporation that is guilty of an offence, and upon conviction, is liable for every day or part thereof, upon which such offence occurs or continues to a fine of not more than \$50,000.00 for a first offence and \$100,000.00 for any subsequent conviction;
- 4.4. Any 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 this By-law, as amended.
- 4.5. In this By-law, subsequent offence means a conviction for an offence which occurs after the date of conviction for an earlier offence under this By-law or any predecessor By-law;
- 4.6. Where any Owner or Operator contravenes any provision of this By-law, such Owner or Operator shall be responsible for all costs directly related to the contravention that are incurred by the Town;

- 4.7. Where any Owner or Operator contravenes any provision of this By-law, the Town may direct such Owner or Operator to comply with this By-law within a specified time;
- 4.8. Every Owner or Operator directed to comply with this By-law pursuant to subsection 4.7 above shall comply with such direction without delay and within the time specified;
- 4.9. Where an Owner or Operator does not comply with a direction given pursuant to subsection 4.7 above, the Town may perform or carry out that which was required to be done or cause it to be performed or carried out at that Owner's expense and shall recover the costs of such remedial action by adding the costs to the tax roll and collecting them in the same manner as taxes.

5. APPLICATION OF BY-LAW

- 5.1. Nothing in this By-law is to be interpreted as to permit anything which by the provision of any applicable Statute or Regulation is prohibited, and where there is a conflict between provisions of the any applicable Statute or Regulation and the provisions of this By-law, the provisions of the Statute or Regulations are to prevail.
- 5.2. In the event that any provision of this By-law is found by a court of competent jurisdiction to be invalid or unenforceable, such provision shall be deemed severable, and the remainder of the By-law shall remain in full force and effect.
- 5.3. Where any conflict exists between the provisions of this By-law and any other By-law of the Town, this By-law shall prevail.

6. ENACTMENT

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

Read a first, second, and third time and finally passed this 5th day of May, 2025.

Mayor, Dennis Rogers

Acting Clerk, Angela Toole