

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

BY-LAW 2002 - 185

A BY-LAW TO ESTABLISH A FIRE DEPARTMENT FOR THE CITY OF KAWARTHA LAKES

RECITALS

1. Subsection 2(1) of the *Fire Protection and Prevention Act, 1997* requires every municipality to establish a program in the municipality which must include public education with respect to fire safety and certain components of fire prevention, and to provide such other fire protection services as it determines may be necessary in accordance with its needs and circumstances.
2. Subsection 2(2) of the *Fire Protection and Prevention Act, 1997* permits a municipality, in discharging these responsibilities, to establish a fire department.
3. Subsection 5(1) of the *Fire Protection and Prevention Act, 1997* requires a fire department to provide fire suppression services and permits the fire department to provide other fire protection services in the municipality.
4. Paragraph 210(31) of the *Municipal Act* permits the municipality to pass a by-law for providing for fire-fighting and fire protection services and for establishing, operating, promoting and regulating life and property saving companies.
5. The City's fire department shall be established in the place of the fire departments of the City's predecessor municipalities.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2002-185.

ARTICLE 1.00: DEFINITIONS AND INTERPRETATION

- 1.01 **Definitions:** Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in this Section 1.01. Where any word appears in ordinary case, its regularly applied meaning in the English language is intended.
- (a) **"By-law"** means this By-law, as it may be amended from time to time. The Recitals to, and the Schedules attached to this By-law are considered integral parts of it.
 - (b) **"Chief Administrative Officer"** means the employee within the City's administration who fulfills the function of the chief administrative officer for the City.
 - (c) **"City"** means The Corporation of the City of Kawartha Lakes.
 - (d) **"Community and Emergency Services Committee"** means the standing committee of the Council which bears that name, and includes any successor standing committee of Council to which the Fire Department's operational reports are directed prior to presentation to Council.
 - (e) **"Council"** means the elected municipal council for the City.
 - (f) **"Deputy Fire Chief"** means a person appointed by Council to act as Fire Chief of the Fire Department in the case of an absence or a vacancy in the office of Fire Chief.
 - (g) **"Division"** means an operating unit of the Fire Department as provided for in this By-law.
 - (h) **"Fire Chief"** means the person appointed by Council to act as fire chief of the Fire Department for the City and is ultimately responsible to Council as defined in the *Fire Protection and Prevention Act, 1997*.

- (i) **“Fire Department”** means the fire department of the City established pursuant to this By-law. The Fire Department may also be known as the “Emergency Services Department” of the City. The term includes the employees and Volunteers, as well as the administrative support staff to the department, where the context allows.
- (j) **“Fire Protection and Prevention Act, 1997”** means the *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4*, as may be amended from time to time, or any successor legislation, and includes any and all regulations made under that statute, including the Ontario Fire Code.
- (k) **“Fire Protection Services”** include: fire suppression, fire prevention, fire safety education, communication, training of persons involved in the provision of Fire Protection Services, Rescue and Emergency Services and the delivery of all those services.
- (l) **“Firefighter”** means a person employed in, or appointed to, the Fire Department, whether on a full time or part time basis, and assigned to undertake Fire Protection Services and includes Volunteer Firefighters and Officers, but does not include administrative support staff.
- (m) **“Kawartha Lakes”** means the geographical area under the jurisdiction of the City.
- (n) **“Officer”** means the Fire Chief, a Deputy Fire Chief, an Assistant Deputy Fire Chief, a Division chief, a senior divisional chief, a platoon chief, a district chief, a captain and any other employees that are formally designated as Officers from time to time by the Council.
- (o) **“Owner”** means a person who is shown as the assessed owner or tenant of the building or yard in the assessment rolls for the City and includes the registered owner, or a mortgagee in possession of the property in question, and includes a person in actual occupation of the land on which the building is situated or that constitutes the yard. In the case of a condominium building, the term means the condominium corporation having control of the common elements of the building. Where there is more than one Owner, the term includes all of them, jointly and severally.
- (p) **“Rescue and Emergency Services”** include any life or property saving activity that is unrelated to fire suppression and fire prevention.
- (q) **“Volunteer Firefighter”** means a Firefighter who provides Fire Protection Services either voluntarily or for a nominal consideration, honorarium, training or activity allowance.

1.02 Interpretation Rules:

- (a) Wherever this By-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.
- (b) References to items in the plural include the singular, as applicable.
- (c) The word “include” is not to be read as limiting the phrases or descriptions that precede it.

1.03 Statutes: Specific references to laws in this By-law are printed in italic font and are meant to refer to the current laws applicable within the Province of Ontario as at the time the By-law was passed, unless otherwise specified. For Provincial laws, the reference is to the relevant chapter of the R.S.O. 1990 edition, as amended from time to time, including successor legislation.

1.04 Severability: If a court or tribunal of competent jurisdiction declares any portion of this By-law to be illegal or unenforceable, that portion of this By-law will be considered to be severed from the balance of the By-law, which will continue to operate in full force.

ARTICLE 2.00: ESTABLISHMENT & COMPOSITION

- 2.01** **Establishment:** The Fire Department is established under the direction of the Fire Chief to provide Fire Protection Services for the City, and replaces the fire departments of the City's predecessor municipalities: The Bexley Fire Department, The Bobcaygeon/Verulam Fire Department, The Carden/Dalton Fire Department, The Eldon/Woodville Fire Department, The Fenelon Fire Department, The Laxton Digby Longford Fire Department, The Lindsay/Ops Fire Department, The Manvers Fire Department, The Mariposa Fire Department, The Omemee/Emily Fire Department and The Somerville Fire Department.
- 2.02** **Composition:** The Fire Department shall consist of: the Fire Chief, Assistant Fire Chiefs, Deputy Fire Chiefs, Assistant Deputy Fire Chiefs, captains and other Officers, and administrative staff, including an executive assistant to the Fire Chief, as may be authorized or considered necessary from time to time by the Council in order to allow the Fire Department to perform Fire Protection Services for the City efficiently and effectively.
- 2.03** **Employees:** The Fire Chief may recommend to the Chief Administrative Officer the employment in, or the appointment to, the Fire Department, as the case may be, of any person, as an Officer or as administrative support staff, who meets the qualifications and, if applicable, completes successfully criteria (which may include training courses and physical, skills and other examinations) and otherwise satisfies any hiring policies, practices or procedures established or approved by the Council or the Chief Administrative Officer for employment or appointment.
- 2.04** **Terms and Conditions of Employment:** Subject to the *Fire Protection and Prevention Act, 1997*, the remuneration and other terms and conditions of employment or appointment of the Officers and administrative support staff that comprise the Fire Department shall be determined by the Council or by the Chief Administrative Officer acting in accordance with policies and programs established or approved by the Council. Persons appointed as members of the Fire Department to provide Fire Protection Services shall be on probation for a period of twelve (12) months, during which period they shall take such special training and examination as may be required by the Fire Chief.
- 2.05** **Departmental Organization:** The Fire Department shall be organized into Divisions at the discretion of the Fire Chief, with the approval of the Chief Administrative Officer, such as:
- (a) Fire Prevention & Public Safety,
 - (b) Fire Suppression,
 - (c) Training,
 - (d) Mechanical and Maintenance,
 - (e) Communications, and
 - (f) Administrative Services.
- 2.06** **Authority Regarding Organization:** The Fire Chief, with the prior approval of the Chief Administrative Officer, may re-organize or eliminate Divisions or establish other Divisions or may do all or any of these things or any combination of them as may be required to ensure the proper administration and efficient operation of the Fire Department and the effective management of Fire Protection Services for the City. The Fire Chief may assign or re-assign such Officers to a Division to assist him or her in the administration and operation of that Division.

ARTICLE 3.00: RESPONSIBILITIES AND AUTHORITY OF FIRE CHIEF

- 3.01** **The Fire Chief:** The Fire Chief is the head of the Fire Department and is ultimately responsible to Council, through the Chief Administrative Officer, for its proper administration and efficient operation.
- 3.02** **Reporting to Council:** For administrative purposes, the Fire Chief shall report to the Chief Administrative Officer, and through that person to the Community and Emergency Services Committee, and through that Committee to the Council, on

matters pertaining to the Fire Department (with the exception of its budget) unless otherwise directed by the Council or provided for in this By-law. With respect to the budget for the Fire Department, the Fire Chief shall report to the Chief Administrative Officer, and through that person to the Committee of the Whole, and through that Committee to the Council. In situations of emergency, or in other special circumstances, the Fire Chief shall report in accordance with established policy. Pursuant to provincial law (the *Fire Protection and Prevention Act, 1997*), the Fire Chief is directly responsible to the Council.

3.03 **Administrative Policy & Procedure:** The Fire Chief is authorized to make such general orders, policies, procedures, rules, and regulations and to take such other measures as the Fire Chief may consider necessary for the proper administration and efficient operation of the Fire Department and the effective management of the Fire Protection Services for the City and for the prevention, control and extinguishment of fires, the protection of life and property, and the management of emergencies within the territorial jurisdiction of the City. These policies and procedures will include:

- (a) for the care and protection of all property belonging to the Fire Department;
- (b) for arranging for the provision of necessary and proper facilities, apparatus, equipment, materials, services and supplies for the Fire Department;
- (c) for determining and establishing the qualifications and criteria for employment or appointment and the duties of all Officers and administrative support staff of the Fire Department;
- (d) for the conduct and the discipline of Officers and administrative support staff of the Fire Department;
- (e) for preparing and, upon approval by the Council, implementing and maintaining an emergency fire service plan and program for the City;
- (f) for coordinating any emergency fire service plan and program adopted or to be adopted by the Council with (and assisting in the preparation, implementation and maintenance of same) any emergency plans, organizations, services or measures established or to be established by the City, alone or with others, and, if so requested or required, any emergency plan established or to be established by the Province of Ontario or the Government of Canada and for coordinating with and assisting any other public official in an emergency declared by the Mayor of the City, the Premier of Ontario or the Governor in Council;
- (g) for reporting to the appropriate crown attorney or other prosecutor or law enforcement or other officer the facts and evidence in any case in which there is reason to believe that a fire has been the result of criminal intent or negligence or in which there is reason to believe an offence has been committed under the *Fire Protection and Prevention Act, 1997* or any by-law of the City;
- (h) for keeping an accurate record, in convenient form for reference, of all fires, rescues and emergencies responded to by the Fire Department;
- (i) for keeping such other records as may be required by the Council;
- (j) for preparing and presenting the annual report of the Fire Department; and
- (k) for preparing and presenting the annual estimates of the Fire Department to the Committee of the Whole and the Council and for exercising control over the budget approved by the Council for the Fire Department.

All such general orders, policies, procedures, rules, regulations, and other measures must conform to the provisions of this By-law, all other applicable law, all by-laws and policies of Council, and the City's collective agreements.

3.04 **Law Enforcement:** The Fire Chief is responsible for the enforcement of this By-law and all general orders, policies, procedures, rules, and regulations made under this By-law and for the enforcement of any other by-laws or policies of the City respecting Fire Protection Services, and shall review periodically such laws and policies (and may for this purpose, establish an advisory committee consisting of such Officers and other persons (including members of the general public) as the Fire Chief may determine from time to time to assist him or her in the discharge of this duty) and, in the case of such by-laws (including this By-law), recommend to the Council such amendments as the Fire Chief considers appropriate and, in the case of general orders, policies, procedures, rules, and regulations made under this By-law, make recommendation for revision or termination of any of them if the Fire Chief considers it appropriate.

- 3.05** **Authority by Law:** The Fire Chief shall have all powers, rights and duties assigned to a fire chief under the *Fire Protection and Prevention Act, 1997*, including the authority to enforce compliance with the Fire Code made under that Act.
- 3.06** **Emergency Plan:** The Fire Chief shall have the duties and responsibilities as a member of the City of Kawartha Lakes Emergency Control Group for the purpose of the City's by-law 2001-123, "A By-law to adopt the City of Kawartha Lakes Emergency Plan", as amended or replaced from time to time.
- 3.07** **Employee Liaison:** The Fire Chief shall, in consultation with the City's Director of Human Resources, provide liaison with any union representing Officers or administrative support staff of the Fire Department.
- 3.08** **Provincial Liaison:** The Fire Chief shall provide liaison with the Office of the Fire Marshal of Ontario and any other office or organization as required by the Council or as considered necessary or advisable by the Fire Chief for the proper administration and efficient operation of the Fire Department and the effective management of the Fire Protection Services for the City.
- 3.09** **Assistance:** The Fire Chief may utilize such Officers and administrative support staff of the Fire Department as the Fire Chief may determine, from time to time, to assist in the performance of his or her duties.
- 3.10** **Recommending Citizens for Distinguished Service Awards:** A person who distinguishes himself or herself at a fire, rescue or emergency by performing a gallant or heroic act is eligible to receive a medal or other reward, as the Council may direct, on the recommendation of the Fire Chief.

ARTICLE 4.00: RESPONSIBILITIES AND AUTHORITY OF THE DEPUTY FIRE CHIEFS

- 4.01** **Rank:** The Deputy Fire Chief is the second ranking Officer of the Fire Department and shall be subject to and shall obey all orders of the Fire Chief and shall perform such duties as are assigned to him or her by the Fire Chief. When the Fire Chief is not on duty, subject to Section 4.02, the Deputy Fire Chief has the powers to perform the duties of the Fire Chief.
- 4.02** **Rotations:** Where more than one Deputy Fire Chief has been appointed, when the Fire Chief is not on duty, the duties of the Fire Chief shall be performed by each of the Deputy Fire Chiefs from time to time on a rotating basis or such other basis as may be determined by the Fire Chief.

ARTICLE 5.00: GENERAL DUTIES AND RESPONSIBILITIES OF STAFF OF THE FIRE DEPARTMENT
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- 5.01** **Reporting:** The Firefighters and administrative support staff of the Fire Department, while on duty, shall be under the direction and control of the Fire Chief or the next ranking Officer present in any place. Each division of the Fire Department is the responsibility of the Fire Chief and is under the direction of the Fire Chief or a member designated by the Fire Chief. Designated members shall report to the Fire Chief on divisions and activities under their supervision and shall carry out all orders of the Fire Chief.
- 5.02** **Conduct:** Every Firefighter and administrative support staff person shall conduct himself or herself in accordance with general orders, policies, procedures, rules, and regulations made by the Fire Chief under section 3.03, and shall give his or her other attention while on duty to the efficient operation of the Fire Department (and, in particular, shall use best efforts to see that all fires are extinguished with the least possible injury to persons and damage to property and to prevent unnecessary damage to property by water and other fire suppression methods) and shall diligently, cheerfully and faithfully perform the duties assigned to him or her to the best of his or her ability and in accordance with the *Fire Protection and Prevention Act, 1997* and any collective agreement or other written agreement that may be applicable.
- 5.03** **Discipline:** The Fire Chief may reprimand, suspend or recommend dismissal of any member for infraction of any provisions of this by-law, policies, general orders and departmental rules that, in the opinion of the Fire Chief, would be detrimental to discipline or the efficiency of the Fire Department.

- 5.04** **Report:** Following the suspension of a member, the Fire Chief shall immediately report, in writing, the suspension and recommendation to the Chief Administrative Officer and to Council.
- 5.05** **Application of Termination Procedures:** The procedures for termination of employment prescribed in Part IX of the *Fire Protection and Prevention Act, 1997* shall apply to all firefighters defined in Part IX of the *Fire Protection and Prevention Act, 1997*.
- 5.06** **Hearing for Volunteers:** A Volunteer Firefighter shall not be dismissed without the opportunity for a review of termination, if he/she makes a written request for such a review within seven working days after receiving notification of the proposed dismissal. A person appointed by the City, who is not employed in the Fire Department, shall conduct the review.
- 5.07** **Fire Suppression:** The Fire Department may suppress any fire or other hazardous condition by extinguishing it or by other reasonable action.
- 5.08** **Demolition:** The Fire Department may pull down or demolish any building or structure when considered necessary to prevent the spread of fire.
- 5.09** **Request for Assistance:** The Fire Department may require other persons present at a fire to assist in,
- (a) extinguishing fires;
 - (b) pulling down or demolishing buildings or structures to prevent the spread of fire;
 - (c) crowd and traffic control; or,
 - (d) other reasonable ways.
- 5.10** **Emergencies other than Fires:** The Fire Department may respond to rescues and emergencies other than fires in accordance with standard operating guidelines and with the approval of the Fire Chief.
- 5.11** **Authority to Enter Property:** Such Firefighters of the Fire Department who have been appointed for this purpose are authorized to enter at all reasonable times upon any property to ascertain whether this By-law, the *Fire Protection and Prevention Act, 1997*, the Fire Code, or any other by-law of the City respecting Fire Protection Services is being obeyed, and to enforce or carry into effect those laws.
- 5.12** **Extra-Jurisdictional Fires & Emergencies:** Subject to any agreement entered into by the City under the *Fire Protection and Prevention Act, 1997*, and subject to any mutual aid plan established under the *Fire Protection and Prevention Act, 1997* or any predecessor legislation and still in force, and subject to any procedures established by the Fire Chief to deal with such situations, Firefighters may respond to fires and rescues and emergencies outside of Kawartha Lakes, or receive Fire Protection Services from a fire department situated outside of Kawartha Lakes. The provisions of this By-law apply to the Fire Department acting outside of Kawartha Lakes.

ARTICLE 6.00: UNSAFE CONDITIONS
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- 6.01** **Prohibition Against Unsafe Conditions:** It is an offence for an Owner to maintain, or to permit or allow to be maintained, any building or yard in a condition that increases the risk of fire, or other accident or danger.
- 6.02** **Notice:** Where the Fire Department finds that a building or a yard is in an unsafe condition as described in Section 6.01, it may give the Owner of the building or yard a notice in writing specifying the unsafe condition and directing remedial action within a reasonable time frame, as is specified in the notice.
- 6.03** **Offence:** It is an offence to fail to comply with a notice provided in accordance with Section 6.02 within the time specified in that notice, or within the time period prescribed by the Fire Chief in accordance with Section 6.04.

6.04 **Timing within the Notice:** The notice provided in accordance with Section 6.02 shall provide a time period that, in the opinion of the Fire Department, is reasonable for the remedial action required. However, in the event of an emergency, or of a situation of immediate danger, the notice under Section 6.02 may specify immediate compliance. In any event, the Fire Chief may amend the time period prescribed in the notice on terms and conditions as he or she deems reasonable.

6.05 **Delivery of the Notice:** Notices prepared in accordance with Section 6.02 shall be personally delivered to the Owner wherever possible. Where personal delivery is not possible, the notice shall either be:

- (a) sent by courier delivery service to the to the address of the Owner as revealed by the City's property assessment rolls (in which case, delivery is deemed to have been provided on the next business day after the day upon which it was delivered);
- (b) mailed, by regular mail, to the address of the Owner as revealed by the City's property assessment rolls (in which case, delivery is deemed to have been provided on the third business day after the business day upon which it was mailed);
- (c) transmitted by telephone facsimile transmission to the Owner (in which case, delivery is deemed to have been provided on the first business day after the business day upon which it was transmitted where proof of successful transmission is available); or
- (d) transmitted by electronic mail transmission to the Owner (in which case, delivery is only deemed to have been provided if the Owner responds by electronic mail, acknowledging receipt).

In situations of emergency, or in situations requiring immediate remedial action, where the Owner is not available to receive the notice, it is sufficient delivery of the notice to post it in a conspicuous place on the premises.

6.06 **Action by the Fire Department:** Where an Owner does not comply with the notice provided in accordance with Section 6.02, the Fire Department may take whatever action is considered necessary to remedy the unsafe or dangerous condition on the property in question. This includes the boarding up or barricading of any building or yard.

6.07 **Expenses for Notice Delivery:** Any expense incurred by the Fire Department for any action taken under Sections 6.05 or 6.06 shall be considered a fee imposed for services provided or done by or on behalf of the City under the *Municipal Act* and shall be billed as a fee for services to the Owner of the building or yard, as the case may be.

6.08 **Contents of Invoice:** Any invoice for services billed pursuant to Section 6.06 shall describe the service provided or done by the Fire Department, when and where the service was provided or done, the reason for the service, the fee for the service, the terms of payment of the fee prescribed in this By-law, and the consequences of failing to pay the invoice.

6.09 **Payment Methods:** The fee for services is payable to the City, by cash, money order, cheque or credit card, no later than thirty days from the date of the invoice for the service. The fee for services, plus any interest that may have accrued on the outstanding balance under Section 6.11, and together with any costs incurred by the City to collect the amount owed, together constitute a debt of the Owner to the City.

6.10 **Delivery of Invoice:** The methods of delivery described Section 6.05 have equal application to the delivery of invoices for services billed under Section 6.07.

6.11 **Non-Payment:** Where an invoice delivered pursuant to Section 6.07 remains unpaid, in whole or in part, for a period in excess of thirty days from the date of delivery of the invoice, the Owner shall pay, in addition to the outstanding balance of the fee, interest on the outstanding balance. Interest payable under this Section shall be calculated at a rate equal to the prime lending rate charged to the City by its banker from time to time plus one (1%) percent per annum.

- 6.12 **Addition of Debt to Tax Roll**: Where a fee payable pursuant to this By-law remains unpaid, in whole or in part, for a period in excess of ninety days, the amount owing may be added to the tax roll for any real property within the territorial limits of the City owned, in whole or in part, by the Owner, and collected in a like manner as municipal taxes.
- 6.13 **Prosecution or Action or Both**: Nothing in this By-law, and no action taken by the Fire Department under Section 6.06, prevents the City from prosecuting a contravention of Sections 6.01 or 6.02.
- 6.14 **Paramountcy of the Fire Protection & Prevention Act, 1997**: Nothing in this section derogates from any powers, rights or duties of the Fire Chief or his or her delegate under the *Fire Protection and Prevention Act, 1997*.

ARTICLE 7.00: GENERAL OFFENCES

- 7.01 **Use of Property**: It is an offence to apply any apparatus, equipment or other property of the Fire Department to any personal or private use without the approval of the Fire Chief or the Chief Administrative Officer or in accordance with policies approved by Council.
- 7.02 **Damage to Property**: It is an offence to damage or render ineffective or inoperative any apparatus, equipment or other property belonging to the Fire Department.
- 7.03 **Refusal to Assist**: It is an offence to refuse to respond to a request lawfully made pursuant to Section 5.05 of this By-law.
- 7.04 **Refusal to Leave the Scene**: It is an offence to refuse to leave the immediate vicinity of an emergency situation when requested to do so by the Fire Department.
- 7.05 **Interference**: It is an offence to impede, or interfere with, or hinder the Fire Department in the performance of its duties.
- 7.06 **Deemed Interference with Duties**: During an emergency situation, and for the time period after its resolution that is required to remove the apparatus and equipment of the Fire Department and render the location and vicinity safe, it is an offence to, either on foot or with a vehicle of any kind, enter or remain upon or within,
- (a) the portion of any street or lane upon which the site of the emergency abuts, or upon any street or lane for a distance of fifteen (15m) metres on each side of the site of the emergency; or,
 - (b) any other street or lane, or part of a street or lane, or any additional area in the vicinity of the emergency situation, as has been prescribed by the Fire Chief or the next ranking Officer present at the scene.
- 7.07 **Exemption**: The provisions of Section 7.06 shall not apply to a resident of any street or lane or within any prescribed additional limit or to any person so authorized to enter or remain by an Officer of the Fire Department or by a police officer.
- 7.08 **Interference with Communication**: It is an offence to prevent, obstruct or interfere in any manner whatsoever with the communication:
- (a) of a fire alarm to the Fire Department; or
 - (b) among the Fire Department responding to a fire alarm that has been activated.

ARTICLE 8.00: ENFORCEMENT

- 8.01 **Personnel**: The provisions of this By-law may be enforced by the Fire Chief and any person to whom the Fire Chief delegates enforcement duties, where those persons are, by operation of law or appointment by Council, authorized to enforce.
- 8.02 **Penalties**: Every person who is convicted of an offence pursuant to this By-law is liable to the penalties prescribed by the *Provincial Offences Act*.

ARTICLE 9.00: GENERAL

9.01 Conflicts: Where this By-law may conflict with any other by-law setting out the powers and duties of a municipal officer or a municipal department, this By-law shall supersede and prevail over that other by-law to the extent of the conflict.

9.02 Effective Date: This By-law shall come into force on the date it is finally passed.

By-law read a first, second and third time, and finally passed, this 26th day of November, 2002.

Mayor

Clerk