

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

BY-LAW 2010 - 087

A BY-LAW TO RECOVER EXPENSES FOR EMERGENCY SERVICES RESPONSE TO MOTOR VEHICLE ACCIDENTS

**Recitals**

1. Section 391 of the *Municipal Act*, 2001, S.O. 2001, c.25, authorizes municipalities to charge fees for its services and for the use of its property.
2. Council considers it expedient to charge users for the City's expenses incurred through the Emergency Services Department's activities in responding to motor vehicle accidents.

**Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2010-087.**

Section 1.00: Definitions and Interpretation

1.01 **Definitions:** In this by-law:

- (a) **"At-Fault Driver"** means the operator of a motor vehicle which was the cause of an Incident.
- (b) **"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.
- (c) **"City", "City of Kawartha Lakes" or "Kawartha Lakes"** means The Corporation of the City of Kawartha Lakes and includes its entire geographic area.
- (d) **"Council"** means the municipal council for the City.
- (e) **"Director of Emergency Services"** means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council;
- (f) **"Extreme Need"** describes an Incident where, in the opinion of the Fire Chief, it is necessary and reasonable to send more than three Fire Vehicles to respond to the Incident. An example would be a motor vehicle collision involving more than fifteen (15) motor vehicles.
- (g) **"Fire Fighter"** means a person employed by the City as either a full time fire fighter or a volunteer fire fighter, and includes any person within the City's employ whose duties and responsibilities include the suppression of fires.
- (h) **"Fire Vehicle"** means any vehicle equipped to be of assistance in the suppression of fires.
- (i) **"Incident"** means a motor vehicle accident to which the Emergency Services Department responds, whether it occurs on one of the City's highways, on other municipal property, or on private property.
- (j) **"Police Service"** means the entity with jurisdiction to provide policing services within Kawartha Lakes. Where there is more than one such entity, the term refers to the entity with jurisdiction over the geographic area particular to the circumstances.
- (k) **"Prescribed Fee"** means twenty (\$20.00) dollars per hour or part of an hour.

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:** References to laws in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.

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 shall be considered to be severed from the balance of the by-law, which shall continue to operate in full force and effect.

Section 2.00: Charges for the City's Emergency Response to Motor Vehicle Accidents

- 2.01 **Requirement to Pay:** The At-Fault Driver involved in an Incident is responsible to pay to the City the following fees:
- (a) Three hundred and fifty (\$350.00) dollars for the first hour that a Fire Vehicle is in active attendance at an Incident (to a maximum of three (3) Fire Vehicles except in situations of Extreme Need);
  - (b) One hundred and seventy-five (\$175.00) dollars for each additional half hour, or part of a half-hour, that a Fire Vehicle is in active attendance at an Incident (to a maximum of three (3) Fire Vehicles except in situations of Extreme Need);
  - (c) The Prescribed Fee for all Firefighters who attend and take active part in resolution of the Incident for the time that they are in attendance at the Incident;
  - (d) The City's expenses, if any, incurred pursuant to Section 2.06 of this By-law.
- 2.02 **Determination of At-Fault Driver:** At the scene of an Incident, or as soon as reasonable practicable afterward, the Director of Emergency Services shall obtain from the Police Service the identity of the At-Fault Driver and the details of that person's insurance policy, if any.
- 2.03 **Invoice:** The Director of Emergency Services shall cause an invoice for the fees applicable pursuant to Section 2.01 of this By-law to the At-Fault Driver and/or to his or her insurance company.
- 2.04 **Contents of Invoice:** Any invoice for services sent pursuant to Section 2.03 shall describe the service provided or done by the Emergency Services 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, the due date for the payment, and the consequences of failing to pay the invoice.
- 2.05 **Payment Methods:** The fee for services is payable to the City, by cash, money order, debit card, cheque or credit card, no later than thirty days from the date of delivery of the invoice for the service.
- 2.06 **Delivery of the Invoice:** Invoices prepared in accordance with Section 2.03 shall be:
- (a) personally delivered to the At-Fault Driver and/or his or her insurance company; or
  - (b) sent by courier delivery service to the to the address of the At-Fault Driver at the address provided by the Police Service, and/or to his or her insurance company at the address provided by the Police Service;
  - (c) mailed, by regular mail, to the address of the At-Fault Driver at the address provided by the Police Service and/or to his or her insurance company at the address provided by the Police Service;
  - (d) transmitted by telephone facsimile transmission to the At-Fault Driver and/or to his or her insurance company; or
- 2.07 **Deemed Delivery:** Invoices delivered are deemed to have been received by the addressee as follows:

| Where the Invoice was:                              | Delivery is deemed to have occurred: |
|---|--------------------------------------|
| (a) personally delivered in accordance with Section |                                      |

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| 2.06(a)...   | ...immediately upon personal delivery   |
| (b) delivered by courier service in accordance with Section 2.06(b)... | ...on the next business day after the day upon which it was delivered   |
| (c) mailed in accordance with Section 2.06(c)...                       | ...on the third business day after the business day upon which it was mailed  |
| (d) transmitted by facsimile in accordance with Section 2.06(d)...     | ...on the first business day after the business day upon which it was transmitted where proof of successful transmission is available |

- 2.08 **Debt to the City:** The amount of the invoice, together with any costs incurred by the City to collect the amount owed, together constitute a debt of the Owner to the City. The City may collect the debt through any method allowable at law.
- 2.09 **Paramountcy of the *Fire Protection & Prevention Act, 1997, S.O. 1997, c.4:*** Nothing in this By-law derogates from any powers, rights or duties of the City, the Director or his or her delegates under the *Fire Protection and Prevention Act, 1997, S.O. 1997, c.4.*

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| Section 3.00: Administration and Effective Date |
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- 3.01 **Administration of the By-law:** The Director of Emergency Services is responsible for the administration of this by-law.
- 3.02 **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 25<sup>th</sup> day of May, 2010.

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 Mayor

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 Clerk