

# THE CORPORATION OF THE CITY OF KAWARTHA LAKES

## BY-LAW 2005- 24

### A BY-LAW TO LICENCE, REGULATE AND GOVERN SALVAGE YARD BUSINESSES IN THE CITY OF KAWARTHA LAKES

#### Recitals

1. Section 150 of The *Municipal Act, 2001*, S.O. c.25 authorizes Council to licence, regulate and govern businesses and events.
2. Section 131 of The *Municipal Act, 2001*, S. O. c.25 authorizes a municipality to prohibit and regulate the use of any land for the storage of used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts from them for sale or other disposition.
3. This authority includes but is not limited to: the power to issue licences, to issue licences on condition, to revoke licences, to suspend licences, to regulate or govern the place used in the carrying on of such businesses, and to prevent the carrying on of such businesses without a licence.
4. Council considers it appropriate in accordance with Section 150 to licence certain businesses carried on in Kawartha Lakes in order to promote the health and safety of residents, provide nuisance control and ensure consumer protection.

#### Explanation

Salvage Yards are regulated in Kawartha Lakes for the purposes of consumer protection and nuisance control. It is important for Law Enforcement Officers to have an efficient method of searching for potential stolen merchandise. Further, it is important for the residents of Kawartha Lakes to be protected from the nuisance of the unsightliness or potential unsightliness of Salvage Yards and outdoor storage associated with a Salvage yard, if any, and to ensure that such yards are subject to appropriate screening and fencing.

Therefore, for the purpose of ensuring the health and safety of Patrons and Operators, as contemplated under Section 150(2).1 and Section 131 of the *Municipal Act, 2001*, S. O. c.25 Council deems it necessary and appropriate to licence, regulate and govern salvage yards as hereinafter set forth.

**Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2005-24.**

#### 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, or, alternatively, in the section of the appropriate Schedule which defines terms. Where any word appears in ordinary case, its regularly applied meaning in the English language is intended.

**“Applicant”** includes a Person seeking a Licence, or renewal of a Licence or a Person whose Licence is being considered for revocation or suspension.

**“Business”** means a Trade that requires a Licence pursuant to this By-law, whether or not a Licence has been issued or maintained for that business.

“**Business Day**” means any day Monday through Saturday inclusive but shall not include Holidays.

“**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.

“**Chief Building Official**” means the Person within the City’s administration who fulfills the function of the chief building official as required by the *Ontario Building Code Act, 1992*, S. O. c.23 or his or her delegate.

“**City**” means The Corporation of the City of Kawartha Lakes.

A “**City Facility**” means any property owned by the City that is not a Highway.

“**Clerk**” means the Person within the administration of the City who fulfills the function of the City Clerk as required by the *Municipal Act, 2001* S. O. c.25 or his or her delegate.

“**Committee**” means the committee of Council to which Council has delegated the responsibility of handling Licensing matters. Where no delegation has been made, the term refers to the Council itself.

“**Council**” means the elected municipal council for the City.

“**Directors**” means all of: the Chief Administrative Officer, the Development Services Director, the Community Services Director, the Public Works Director, the Social Services Director, the Emergency Services Director, Finance Director, Human Resources Director, the Chief of Police, or their delegate.

“**Fire Chief**” means the person within the City’s administration who fulfills the function of the fire chief as required by the *Fire Protection and Prevention Act*, S. O. 1997 c.4 or his or her delegate.

“**Health Unit**” means the Haliburton, Kawartha, Pine Ridge District Health Unit.

“**Highway**” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

“**Kawartha Lakes**” means the geographic area within the City’s jurisdiction.

“**Licence**” means a Licence to operate a Trade issued pursuant to this By-law.

“**Licencee**” means the Owner of a Licence.

“**Licensing Officer**” means the municipal Licensing officer for the City, responsible for the issuing, administration and approval of Licences in accordance with provincial legislation and City policies and procedures, or his or her delegate.

**"Material"** shall include but is not limited to the following: metals of all kinds, refuse, scrap, storage bins, inoperative motor vehicles, appliances or any other item no longer required for household or commercial use. "Materials" shall have a corresponding meaning.

The **"Medical Officer of Health"** means the Medical Officer of Health of the Health Unit or his or her delegate.

**"Municipal Act"** means the *Municipal Act, 2001* S. O. c.25 as amended from time to time

A **"Municipal Law Enforcement Officer"** is a person duly appointed within the City's administration to enforce the by-laws of the City, and includes the Licensing Officer.

An **"Operator"** is a Person with care and control of a Business at any given point in time, with authorization of the Owner of the Business. The terms "Operate", "Operation" and words of like import or intent have corresponding meanings.

An **"Owner"** is a Person with legal title to real or personal property. The terms "Own", "Ownership", and words of like import or intent have corresponding meanings.

**"Peace Officer"** includes but is not limited to the mayor, sheriff, deputy sheriff, sheriff's officer, justice of the peace, jailer or keeper of a prison, and a police officer, bailiff, or other person employed for the preservation and maintenance of the public peace, or for the service or execution of civil process, or any officer appointed for enforcing or carrying out the provisions of this By-law.

**"Person"** includes but is not limited to an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a body corporate, a natural Person.

**"Police"** means the Chief of Police or other designated officer in charge of a police service within the jurisdiction in the relevant geographic area of Kawartha Lakes, or his or her delegate.

**"Salvage"** shall have a corresponding meaning to material.

**"Salvage Yard"** means and includes an automobile wrecking yard or a place designed or intended to receive scrap metals or other materials.

**"Schedule"** means a schedule to this By-law.

**"Trade"** includes business, calling or occupation and "carrying on a trade" includes any act of:

- a) selling any goods or services; or
- b) soliciting business or offering or exposing goods or services for sale or hire.

## **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 enacted. For provincial laws, the reference is to the relevant chapter of the R.S.O. 1990 edition, as amended from time to time or current S. O. edition. References to by-laws are references to the municipal by-laws with force of law in Kawartha Lakes.
- 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 and effect.

#### **Article 2.00: Licensing Requirements**

- 2.01 **Requirements:** There shall be taken out by every Person carrying on the business of a Salvage Yard, a Licence from the City authorizing him or her to carry on that Business. This section is subject to any exemption provided for in this By-law. No Person shall, either directly or indirectly, carry on or continue to carry on a Business, either for profit or not, without first having obtained the required Licence. Failure to comply with this section or any other provision of this By-law shall be an offence.
- 2.02 **Regulations:** A Person who receives a Licence for a Business must comply with the regulations set out in this By-law and any other applicable Municipal By-laws, Provincial or Federal legislation or regulations. Failure to comply with the regulations in this By-law is an offence.
- 2.03 **Responsibility of Agents:** An agent, trustee or representative of Persons carrying on a Business in Kawartha Lakes shall also be personally liable for the compliance of his or her principal, beneficiary or Persons he or she represents in connection with this By-law.
- 2.04 **Locational Requirement:** A Licence must be obtained for each location from which a Salvage Yard is carried on. Failure to comply with this section or any other provisions of this By-law shall be an offence.

#### **Article 3.00 Licence Required:**

- 3.01 No person is authorized to operate a Salvage Yard by way of a Licence within the City unless that person is authorized by way of a licence as issued under the provisions of this by-law. Each salvage yard owned by the same person shall have a separate licence and no licence shall be transferable.
- 3.02 No person licensed under this By-Law shall fail to post their licence in a place that is clearly visible to the general public at all times.
- 3.03 The applicant for a licence as required under this by-law shall, as a condition of issuance of such licence, pay a fee at the rate of \$440.00.
- 3.04 All licenses issued under this by-law shall commence on the date indicated thereon and shall expire on the thirty-first (31st) day of December of the same year.

## Article 4.00: Licensing Procedures

- 4.01 **Application**: An application for a Licence or renewal of a Licence may be made at the main licensing office of the City, or at any of the City's municipal service centers, on the form prescribed by the Licensing Officer.
- 4.02 **Application Requirements and Documentation**: The application form shall require information to be provided, and other necessary papers to be completed or submitted by the Applicant in conjunction with his or her application in support of the application as outlined below:
- a) a fully completed application form as supplied by the City;
  - b) documentation from the City's Chief Building Official confirming that all buildings, structures and facilities, on site, or the plans for same, are or will be in compliance with the requirements of Property Standards By-law and the Ontario *Building Code Act S. O. 1992, c.23*;
  - c) documentation from the Fire Chief confirming that all buildings, structures and facilities, or the plan for same, are in compliance with applicable fire safety regulations;
  - d) documentation from the Medical Officer of Health that all health requirements have been met;
  - e) a Personal Information Query (PIQ) for every applicant, partner, shareholder or shareholders of a corporation; and
  - f) the appropriate Licence fee required in accordance with Section 3.03 of this By-law.
- 4.03 **Additional Documents Required**: In addition to the requirements prescribed in Section 3.02, the applicant shall, at the request of the Licensing Officer, or when application is being made for a new or altered business, provide the following:
- a) documentation, satisfactory to the Licensing Officer, that the applicant is the property owner of the land at the location or, alternatively, that he or she has the authority of the property owner and/or manager to operate from the site;
  - b) a site plan drawing outlining the location of all roads and their names, all buildings, the buildings dimensions and their proximity to other buildings and property lines;
  - c) documentation from the Development Services Department that the property upon which the Salvage Yard will operate is appropriately zoned; and
  - d) copy of Ontario Business Registration.
- 4.04 **Additional Criteria Considered**: The Licensing Officer may deny a Licence or issue a Licence with specific conditions based on, but not limited to the following criteria:
- a) the Applicant's premises or place of trade are the object of an order to comply made under the Property Standards By-law, or an order made under the Ontario *Building Code Act S. O. 1992, c.23*;
  - b) the Applicant's premises (or use of such for the Business requested) is not in compliance with the Zoning By-law or any parking requirements of the City;
  - c) the Applicant's premises requires corrective action pursuant to an order of the Medical Officer of Health to ensure the safety or health of the public;
  - d) the Applicant's premises requires corrective action pursuant to an order of the Fire Chief;
  - e) the Applicant has been found to have discriminated against a member of the public contrary to *The Ontario Human Rights Code R. S. O. 1990 c.H.19*;

- f) the Applicant has been convicted of an offence pursuant to the *Criminal Code of Canada*, R.S.C. 1985, c. C.46;
- g) the Applicant was previously convicted of an offence pursuant to this or a predecessor by-law;
- h) the Applicant is financially obligated to the City in some manner other than for current taxes; and
- i) the Applicant is in breach of this or some other City by-law or law of Ontario or Canada.

- 4.05 **Disclosure of Private Information:** It shall be a condition of every licence that an Owner or Operator shall consent to the disclosure of all records and personal information with respect to any licence application, approval refusal or revocation to any law enforcement agency, provincial ministry, federal department, agency, board or commission thereof or any other municipality, or to the Owner of the Salvage Yard, pursuant to the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990,c.m.56,s.32.
- 4.06 **Inspection Requirement:** The Licensing Officer or designate may inspect any property where a Salvage Yard is to operate prior to the issuance of any licence.
- 4.07 **Time Limited:** Licences shall be issued for a maximum period of one year and shall come into effect on the date that they are issued, and expire on December 31 of that same year.
- 4.08 **Renewals:** If the facts, conditions and negative comments are the same as had been received in a prior year, and if Council authorized that Licence issue for that prior time period, the Licensing Officer may renew the Licence. Notwithstanding this Section, all renewal applications are subject to any circulation requirements pursuant to this By-law.
- 4.09 **Transition Period:** Where a Salvage Yard operated lawfully immediately before this By-law took effect, the Owner or Operator shall be provided with a maximum transition time period of twelve (12) months to comply with the provisions of sections 4.02 of this By-law.

<b>Article 5.00: Granting, Refusal And Revocation Of Licenses:</b>
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- 5.01 **Grant Licence:** Where the Applicant's documentation is in order and the applicable fee has been paid, the Licensing Officer shall grant the Licence of the Applicant, or the renewal, as applicable.
- 5.02 **Grant Licence With Conditions:** The Licensing Officer may, where the provisions of this By-law have been met, propose in writing to the Applicant to grant the licence subject to conditions if appropriate. If within five (5) days following the written proposal to grant the licence with conditions, the Applicant has not indicated an objection to the licence with conditions, the licence is deemed to have been issued on the day of the notice of the proposal to grant.
- The Licensing Officer shall revoke a licence granted with conditions if the applicant has not met the imposed conditions within the stipulated time frame.
- 5.03 **Refuse Licence:** In the event that the Licensing Officer refuses to grant for any reason, suspends or revokes a licence, and the Applicant requests

that the matter be considered by Council, the Licensing Officer shall prepare a report for the consideration of Council and the Applicant shall be provided with at least two (2) weeks notice of the meeting of Council to consider the refusal to grant, revocation or suspension and shall have the opportunity to address Council prior to Council making a decision.

- 5.04 **Council Discretion:** Council may in its sole discretion grant, grant with conditions, refuse to grant, or revoke or suspend a licence.

In the exercise of its discretion under section 5.03 such discretion shall be exercised,

- a) upon such grounds as are set out in this by-law or
- b) upon the grounds where the conduct of a person, or in the case of a corporation, the conduct of its officers, directors, employees or agents affords reasonable grounds for belief that the person will not carry on or engage in the business in accordance with the law or with honesty and integrity.

<b>Article 6.00: Fence or Berm Requirements:</b>
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- 6.01 **Areas where fencing is required:** Within an Industrial and Residential zone within the City, no person shall operate a salvage yard unless the area used for the storage of materials is enclosed by a fence.

6.02 **Fence Requirements:**

- a) No person shall enclose a salvage yard where a fence is required unless the fence is constructed of wooden boards not less than ten (10) centimetres in width and the spacing between such boards shall be no greater than two point five (2.5) centimetres or metal cladding. The fence shall be uniform in height and shall completely enclose the salvage yard except so as to allow driveways. All driveways, that allow entrance to or egress from a salvage yard, shall have a gate that shall be closed and locked at all times the salvage yard is not open for business. Where there are buildings included in the fence line of the salvage yard the buildings shall constitute part of the fence as to a complete enclosure of the salvage yard. Such buildings are not required to be a uniform height with the fence. All buildings shall comply with all applicable Building and Zoning By-laws, Legislation and Regulations.
- b) No person shall enclose a salvage yard where a fence is required unless the fence height complies with the requirements for the zone in which the salvage yard is being operated. If the zoning for the zone in which the salvage yard is to be operated does not address the fencing issues the fence enclosing the salvage yard shall be no less than two (2) metres and no greater than three (3) metres in height.
- c) No person shall fail to ensure that where a fence is required, that the fence enclosing the salvage yard is kept in good repair and painted, stained or treated on the outside using a material that prevents or impedes the natural deterioration of the fence material. No person shall construct a fence with more than one colour other than to allow for lettering in a different colour(s) to identify the business including only the business name and logo.

- 6.03 **Berm Enclosure:** Within a zone, other than an industrial and residential zone within the City, no person shall operate a salvage yard unless the

area used for the storage of materials is enclosed by a fence described in 6.02 or landscaped berm described in 6.04 plus a nine strand page wire fence to be located on either side of the base of the berm.

**6.04 Berm Requirements:**

- a) No person shall enclose a salvage yard with a berm unless the berm is constructed of organic material. The berm shall be uniform in height and shall completely enclose the salvage yard except so as to allow driveways. All driveways, that allow entrance to or egress from a salvage yard, shall have a gate that shall be closed and locked at all times the salvage yard is not open for business. Where there are buildings included in the berm line of the salvage yard the buildings shall constitute part of the berm as to a complete enclosure of the salvage yard. Such buildings are not required to be a uniform height with the berm. All buildings shall comply with all applicable Building and Zoning By-laws, Legislation and Regulations.
- b) No person shall enclose a salvage yard where a berm is required unless the berm height complies with the requirements for the zone in which the salvage yard is being operated. If the zone requirements for the zone in which the salvage yard is to be operated does not address the berm issues, the berm enclosing the salvage yard shall be no less than two (2) metres and no greater than three (3) metres in height.
- c) No person shall fail to ensure that where a berm is required, that vegetation growing on the berm enclosing the salvage is kept within growing limits of the City's clean and clear by-law.
- d) No person shall construct a berm with a slope greater than two to one.

<b>Article 7.00: Storage Of Materials:</b>
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- 7.01 No person shall keep, place or store any materials outside of or higher than the fence enclosing a salvage yard. It is the obligation and liability of Owners or Operators to remove any materials deposited outside of the fence enclosing a salvage yard. Operating equipment may be stored inside or outside of the fenced area on the owner's property at a height greater than the fence.
- 7.03 No person licensed to operate a salvage yard under this by-law shall alter, repair, dispose of or in any way part with any of the materials purchased or otherwise received until after a five (5) business day retention period. During this retention period the materials received shall remain on the premises in respect of which the licence has been issued and shall be kept in a separate location from any materials previously received. Such materials shall be subject to inspection by an officer at any time during business hours.
- 7.04 No person shall refuse access to any municipal law enforcement officer or police wishing to inspect any materials located within any salvage yard of the said salvage yard.
- 7.05 No person shall keep or store any materials deemed to be hazardous waste materials unless the hazardous waste is kept separate from all other materials and stored in a manner approved by the Ministry of the Environment.

- 7.06 No person shall keep or store any materials contrary to any other by-law of the City or contrary to any Provincial or Federal legislation or regulations or laws.
- 7.07 No person licenced under this by-law shall fail to keep a book in which that person shall enter the name, address, telephone number and age of every person from whom materials are purchased or received along with a description of the materials purchased or received and the price paid for such materials. No person shall destroy a book used for this purpose for a period of one year after the last entry was placed in the book.
- 7.08 No person shall purchase or receive directly or indirectly any materials from a person who is, or appears to be under the age of eighteen (18) years and who cannot produce photo identification in accordance with this section.
- 7.09 No person shall operate a salvage yard licenced by this By-law except on Business Days.

**Article 8.00: Enforcement:**

- 8.01 **Enforcement:** It shall be the duty of a Municipal Law Enforcement Officer or a Peace Officer, as defined in this by-law, to enforce the provisions of this by-law.
- 8.02 **Administration of the By-law:** Unless otherwise indicated in this By-law, the administration of this By-law is assigned to the City Clerk, who may delegate the performance of any of the City Clerk's functions under this By-law from time to time as occasion requires.

**Article 9.00: Contravention Of By-Law**

- 9.01 It is an offence for any person to contravene any of the provisions of this By-law. Every person who contravenes this By-law, and every director or officer of a corporation who concurs in the contravention by the Corporation, is guilty of an offence and on conviction is liable to the penalties prescribed in the *Provincial Offences Act, 1990 c.P.33*. Each day that the offence continues shall be deemed a separate and distinct offence. Upon conviction, the City may obtain an Order from the Court preventing the convicted person from continuing the offensive action.

**Article 10.00: Severability:**

- 10.01 If a court of competent jurisdiction should declare any portion of this by-law to be invalid, it is the intent of Council that the remainder of this by-law shall remain in force.

**Article 11.00: Compliance With Other By-Laws Or Laws:**

- 11.01 The issuance of a licence pursuant to the provisions of this by-law does not excuse the licensee thereof from complying with all the applicable By-Laws and regulations of the City or of all other applicable Provincial or Federal laws or regulations

**Article 12.00: Repeal Of Previous By-Laws and Predecessor By-laws:**

12.01 Subject to Section 12.02, the following by-laws are repealed:

<b>Municipality</b>	<b>By-law Number</b>
Town of Lindsay	1997-101, 1997-89, 1997-110
Township of Eldon	75-7
Township of Ops	1989-42, 1957-133
Township of Bexley	1979-18
Township of Fenelon	1971-2077
Township of Manvers	1979-1633
Township of Mariposa	1971-1518
Village of Omemee	1964-875, 1967-917
Village of Woodville	1960-335

12.02 **Ongoing Matters**: Each by-law listed in section 12.01 shall remain in force and effect for the purpose of conclusion of any legal proceedings commenced under those by-laws prior to the effective date of this By-law, and for the purpose and effect of the validity of any licence issued pursuant to any of those by-laws for the calendar year 2004.

12.03 **References to Predecessor By-laws**: References in other by-laws governing Kawartha Lakes to any historically applicable Licensing by-law are deemed to be references to this By-law.

**Article 13.00: Force And Effect:**

13.01 This by-law shall come into force and take effect on the date of passage and shall be in effect for five (5) years from such date.

By-law read a first, second and third time, and finally passed, this 1<sup>st</sup> day of February, 2005.

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Mayor

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Clerk