

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

OFFICE CONSOLIDATION OF BY-LAW 2002-116

Consolidated on December 12, 2008

Passed by Council on August 27, 2002

Amendments:

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|--------------------|-------------------|------------------------------------|
| 1) By-law 2003-136 | August 26, 2003 | Article 1, Article 2 (Repealed) |
| 2) By-law 2005-63 | March 22, 2005 | Article 1, Article 2 and Article 7 |
| 3) By-law 2007-267 | November 13, 2007 | Article 1 |
| 4) By-law 2008-231 | December 9, 2008 | Article 1 (Definitions) |

Note: This consolidation is prepared for convenience only. For accurate reference the original by-laws should be reviewed.

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

BY-LAW 2002 -116

**A BY-LAW TO REQUIRE THE OWNERS OF YARDS WITHIN KAWARTHA LAKES
TO CLEAN AND CLEAR THEM**

Recitals

1. The *Municipal Act* provides that municipalities may pass by-laws to require the cleaning or clearing of any grounds, yard and vacant lots.
2. The *Municipal Act* also provides that municipalities may pass by-laws in the interests of the safety of their inhabitants.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2002-116.

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) **“Building”** includes:
 - (i) a structure occupying an area greater than ten (10) square metres (equivalent to 108 square feet) consisting of a wall, roof and floor or any of them or a structural system serving that function, including all plumbing, works, fixtures and service systems appurtenant to it;
 - (ii) a structure occupying an area of ten (10) square metres (equivalent to 108 square feet) or less, that contains plumbing, including the plumbing appurtenant to it; and
 - (iii) any structure designated in the Ontario Building Code as a “building”.
 - (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”** means The Corporation of the City of Kawartha Lakes.
 - (d) **“Council”** means the elected municipal council for the City.
 - (e) **“Debris”** includes the following:
 1. material of any kind which has been discarded by its rightful owner;
 2. composting materials which are not appropriately contained for efficient composting purposes which includes tree or brush

- cuttings;
3. litter;
 4. waste, which includes pet excrement;
 5. items which cannot be used for their rightful or originally intended purpose due to their placement or situation;
 6. unlicensed items;
 7. construction debris;
 8. recovered or recycled materials which are haphazardly strewn about and not stored or piled neatly and;
 9. weeds and/or grass, which exceeds 203 mm (8") in height;
 10. dead and/or decaying trees, that due to their location or situation on private property may be a health or safety hazard to public property or the users of public property. (2008-231, eff. Dec. 9/08)
- (f) **"Director"** means the Solicitor/Clerk of the City, or his or her designate.
- (g) **"Dwelling"** means a Building or structure any part of which is or is intended to be used for the purpose of human habitation and includes a Building that would be used or intended to be used for such purposes.
- (h) **"Lot"** means a separately transferable parcel of land.
- (i) **"Rural Lot"** means a Lot which is one (1) hectare (two point four seven eleven (2.4711) acres) in size or larger.
 - (ii) **"Urban Lot"** means a Lot which is less than one (1) hectare acres (two point four seven eleven (2.4711) acres) in size.
- (i) **"Municipal Law Enforcement Officer"** means a person within the administration of the City who has been appointed as an officer for the purposes of the enforcement of any or all of the City's by-laws.
- (j) **"Notice"** means the written notice referenced in Section 2.01 and described in Article 2.00 of this By-law.
- (k) **"Owner"** includes: the registered owner of the property in question as revealed in the Land Registry Office of the Ministry of Consumer and Commercial Relations; any occupant of the property in question with authority to act on behalf of the registered owner; any person authorized by the registered owner to act on his or her behalf; any lessee or occupant of the property who, under the terms of a lease or occupancy agreement, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property; and any mortgagee or receiver and manager or trustee in bankruptcy with possession and control of the property.
- (l) **"Public Property"** means any property owned by the federal, provincial or City of Kawartha Lakes. (2008-231, effective Dec. 9, 2008)
- (m) **"Vacant Lot"** means a Lot which contains no occupied Building.
- (n) **"Unlicensed Items"** means items which cannot be used for their rightful or originally intended purpose due to lack of licence, registration or other requirement, where those items are also in an unsightly condition of disrepair. This definition excludes bona fide collectors' items or antiques (for example, classic cars), provided they are in the active process of being restored or preserved and are stored neatly.
- (o) **"Unsafe Debris"** means Debris which is situated on private or public property in such a manner as to cause an immediate safety concern to members of the general public, including children.
- (p) **"Yard"** means the land in common ownership with, and around or appurtenant to, a Residential or Non-residential Building which is used or capable of being used in connection with the property. The definition includes any land which is not in common ownership with the Lot on which the Building is situate, but is actually used in connection with the Property.

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 this 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.

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: Notice to Clear or Clean a Yard or Vacant Lot

2.01 **Notice:**

- (a) Where a Municipal Law Enforcement Officer becomes aware of a situation where the Owner of a Vacant Lot, which is an Urban Lot, or a Yard which is on an Urban Lot, has allowed Debris to accumulate on that property, he or she may issue a written notice to that Owner in accordance with this By-law.
- (b) Where a Municipal Law Enforcement Officer becomes aware of a situation where the Owner of a Vacant Lot, which is a Rural Lot, or a Yard which is on a Rural Lot, has allowed Debris to accumulate on that property, he or she may issue a written notice to that Owner in accordance with this By-law.

(2005-63, effective March 22/05)

2.02 **Contents of Notice:** The Notice shall

- (a) give the address of the Yard or Vacant Lot (or the legal description of the property) where the Debris has accumulated;
- (b) define with reasonable particularity and detail the material on the Yard or Vacant Lot which is considered to be Debris; and
- (c) prescribe a time period which is not less than fourteen (14) days, and is not more than thirty (30) days, within which the Owner is required to remove the Debris from the Yard or Vacant Lot.

2.03 **To Whom Notice is Sent:** The Notice shall be sent to every Owner of the Yard or Vacant Lot and also to every known occupant of the property, where it is occupied.

2.04 **Method of Delivery of Notice:** The Notice, and any subsequent written notice amending or withdrawing the Notice, may be delivered by any one or more of the following methods:

- (a) personal delivery to the person to whom it is addressed;
- (b) personal or couriered delivery to either an adult person, or to the mailbox, of the residential address of the addressee;
- (c) delivery by registered or certified mail;
- (d) delivery by facsimile transmission; or
- (e) posted in a weather-resistant fashion in a conspicuous location at the site which is the subject matter of the Notice.

2.05 **Deemed Delivery:**

- (a) Where a Notice is personally delivered, it is considered to have been delivered at the date and time at which it was handed to the addressee.
- (b) Where a Notice is delivered to the residential address of the addressee, it is considered to have been delivered on the next business day following the date of delivery.
- (c) Where a Notice is delivered by registered or certified mail, it is considered to have been delivered on the date on which the addressee signs for delivery in accordance with Canada Post practices.

- (d) Where a Notice is delivered by facsimile, it is considered to have been delivered on the next business date following the date showing on the proof of transmission document.
- (e) Where a Notice is posted on occupied property in accordance with Section 2.04(e), it is considered to have been delivered the next business date following the date it is posted.
- (f) Where a Notice is posted on unoccupied property in accordance with Section 2.04(e), it is considered to have been delivered thirty (30) days after the date it is posted.

- 2.06 **Instruction**: A Municipal Law Enforcement Officer shall not deliver a Notice to an Owner solely under Section 2.04(e) unless he or she is unable, after reasonable diligence, to locate the Owner for delivery by any other method.
- 2.07 **Amendment of Notice re Time**: Where an Owner is making reasonable effort to comply with a Notice, but requires more time within which to complete the removal of the Debris, the Director may, in his or her discretion, approve up to two (2) time period extensions pursuant to this Section of the By-law. Each extension shall be for a time period no longer than thirty (30) days. In those circumstances, written notice of the change to the original Notice shall be delivered to all persons who received the original Notice.
- 2.08 **Withdrawal of Notice**: Where an Owner has either complied with the Notice within the appropriate time frame, or where the Director is satisfied that the Owner has corrected the problem without necessarily strictly complying with the Notice, the Director may withdraw the Notice by sending written notice of the withdrawal to all persons who received the original Notice.

Article 3.00: Unsafe Conditions

- 3.01 **Unsafe Debris**: Where the circumstances of Section 2.01 (a) or (b), as applicable, exist, but where any part of the Debris in question is Unsafe Debris, Section 3.02 applies.
- 3.02 **Immediate Action**: In circumstances of Section 3.01, a Municipal Law Enforcement Officer is specifically authorized to take immediate steps, or to cause immediate steps to be taken, to eliminate the danger associated with the Unsafe Debris.
- 3.03 **Limited Authorization**: The authorization provided by Section 3.02 of this By-law is limited only to such steps as are required to remove the danger.
- 3.04 **Cost Recovery**: Where Section 3.02 of this By-law is invoked, all costs associated with the work shall be added to the tax roll of the property from which the danger was eliminated, and shall be collected in like manner as municipal taxes.

Article 4.00: Fulfillment of Owners' Obligations
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- 4.01 **City May Complete Work**: Where an Owner fails to comply with a Notice within the specified time frame (subject to amendment in accordance with Section 2.07 or Withdrawal in accordance with Section 2.08), a Municipal Law Enforcement Officer may, in addition to any enforcement of this By-law, cause the City's forces to complete the work required by the Notice, without further notice to the Owner.
- 4.02 **Cost Recovery**: Where Section 4.01 of this By-law is invoked, all costs associated with the work shall be added to the tax roll of the property which is the subject matter of the Notice and shall be collected in like manner as municipal taxes.

Article 5.00: Offences and Enforcement
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- 5.01 **Offence**: The failure of any Owner to comply with a Notice within the time frame specified in that Notice, subject to Sections 2.07 and 2.08 of this By-law, constitutes an offence.

- 5.02 **Enforcement:** Any person committing an offence pursuant to this By-law is liable, upon conviction, to the penalties prescribed by the *Provincial Offences Act*.

Article 6.00: Repeal of Prior Historic By-Laws; Effective Date

- 6.01 **Repeal of Former By-laws:** The following By-laws are repealed:

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| (a) By-law No. 1997-09 | of The Corporation of the | Township of Manvers; |
| (b) By-law No. 15-92 | of The Corporation of the | United Townships of Laxton,
Digby and Longford; |
| (c) By-law No. 94-3 | of The Corporation of the | Village of Fenelon Falls; |
| (d) By-law No. 1998-10 | of The Corporation of the | Village of Omemee; |
| (e) By-law No. 15-90 | of The Corporation of the | Township of Verulam; |
| (f) By-law No. 1994-11 | of The Corporation of the | Township of Emily; and |
| (g) By-law No. 89-10 | of The Corporation of the | Township of Eldon. |

- 6.02 **Effect of Pre-existing By-laws:** Notwithstanding Section 6.01, any By-law which was in effect in Kawartha Lakes on the date of passage of this By-law which covers the same subject matter shall remain in effect only for the purposes of the completion of any procedure that was commenced under that by-law.

- 6.03.1 **Effective Date:** Subject to Section 6.02, this By-law shall come into force on the date it is finally passed.

Article 7.00: Exceptions

- 7.01 **Article 1.01 (e) (9)** shall not apply to lands zoned Open Space, or Environmental Protection and lands zoned Agricultural which are classified as a Rural lot as defined by by-law 2002-116. (2005-63, effective March 22/05)

By-law read a first, second and third time, and finally passed, this 27th day of August, 2002.

Mayor

Clerk