

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

BY-LAW 2005 - 77

A BY-LAW TO DESIGNATE AND REGULATE A REDUCED LOAD PERIOD AFFECTING THE HIGHWAYS IN KAWARTHA LAKES

Recitals

1. Subsection 122(7) of the *Highway Traffic Act* provides:

The municipal corporation or other authority having jurisdiction over a highway may by by-law designate the date on which a reduced load period shall start or end and the highway or portion thereof under its jurisdiction to which the designation applies.

2. Council considers that a reduced load period is necessary for the protection of certain highways in Kawartha Lakes.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2005-77.

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) “**City**” means The Corporation of the City of Kawartha Lakes.
 - (c) “**Commercial Motor Vehicle**” means a motor vehicle with a permanently attached truck or delivery body. The definition includes: ambulances, hearses casket wagons, fire apparatus, buses and tractors used for hauling purposes on the highways.
 - (d) “**Council**” means the elected municipal council for the City.
 - (e) “**Designated Highway**” means a Highway which has been posted for load restrictions in accordance with Section 3.02 of this By-law.
 - (f) “**Director**” means the Director of Public Works Services of the City or his/her designate.
 - (g) “**Gross Weight**” means the combined weight of a Vehicle and its load.
 - (h) “**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. The definition includes the area between the lateral property lines of the road allowance.
 - (i) “**Road-building Machine**” means a self-propelled Vehicle of a design commonly used in the construction or maintenance of Highways, including:
 - (i) asphalt spreaders, concrete paving or finishing machines, motor graders, rollers, tractor-dozers and motor scrapers,
 - (ii) tracked and wheeled tractors of all kinds while equipped with mowers, post-hole diggers, compactors, weed spraying equipment, snow blowers and snow plows, front-end loaders, back-hoes or rock drills, and
 - (iii) power shovels on tracks and draglines on tracks, but not including a Commercial Motor Vehicle.
 - (j) “**Trailer**” means a Vehicle that is at any time drawn upon a Highway by a motor Vehicle, except an implement of husbandry, a mobile home, another motor Vehicle or any device or apparatus not designed to transport persons or property, temporarily drawn, propelled or moved upon a Highway, and except a side car attached to a motorcycle, and shall be considered a separate Vehicle and not part of the motor Vehicle by which it is drawn.

- (k) “**Vehicle**” includes: a motor Vehicle, Trailer, traction engine, farm tractor, Road-building Machine, bicycle and any Vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or a street car.

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: Delegation to Staff

- 2.01 **Designated Highways:** The Director is given the authority to consider the structure of the Highways in Kawartha Lakes and determine which, if any, should be restricted to reduced loads during the reduced load period declared in Article 3.00 of this By-law.
- 2.02 **Conditions for Permits:** The Director is given the authority to stipulate the conditions for the application of any permit issued pursuant to Article 4.00 of this By-law.
- 2.03 **Security Deposits:** The Director is given the authority to stipulate the amount of security deposit for damages to Highways, if any, is required prior to the issuance of a permit pursuant to Article 4.00 of this By-law.
- 2.04 **Designates for the Director:** The Director may designate any staff person he or she deems appropriate to fulfill his or her delegated duties pursuant to this By-law.

Article 3.00: Reduced Load Period; Restrictions during that Time
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- 3.01 **Period:** The reduced load period shall be on and from the 1st day of October in each year, to and on the 31st day of May of the following year or as required to protect the road infrastructure in the City of Kawartha Lakes at the discretion of the Director.
- 3.02 **Requirement To Designate By Signage:** The reduced load period applies only on Highways where the Director has caused reduced load signs to be posted.
- 3.03 **Maximum Weight:** During the reduced load period, it constitutes an offence for a person to operate, draw or haul a Commercial Motor Vehicle or Trailer, other than a public Vehicle referred to in * upon any Designated Highway, where the weight upon any one axle of the Vehicle exceeds five thousand (5000 kg) kilograms.
- 3.04 **Transporting Fuel:** During the reduced load period, it constitutes an offence for a person to operate a two axle tank truck, while used exclusively for the

transportation of liquid or gaseous heating fuel upon any Designated Highway where the weight upon an axle exceeds seven thousand five hundred (7500 kg) kilograms.

- 3.05 **Transporting Livestock or Feed:** During the reduced load period, it constitutes an offence for a person to operate a two axle truck, while used exclusively for the transportation of livestock or feed upon any Designated Highway where the weight upon an axle exceeds seven thousand five hundred (7500 kg) kilograms.
- 3.06 **Transporting Poultry:** During the reduced load period, it constitutes an offence for a person to operate a two axle truck, while used exclusively for the transportation of poultry upon any Designated Highway where the weight upon an axle exceeds seven thousand five hundred (7500 kg) kilograms.
- 3.07 **Load on Tire Width:** During the reduced load period, it constitutes an offence for a person to operate a Vehicle having a carrying capacity in excess of one thousand (1000 kg) kilograms, other than a motor Vehicle or Trailer, upon any Designated Highway where the weight upon any millimeter in the width of the tire exceeds five (5 kg) kilograms.
- 3.08 **Non-Compliance with Permit Conditions:** It constitutes an offence for a person who is the bearer of a permit issued pursuant to Article 4.00 of this By-law, to fail to comply with any conditions set out in the permit relating to protection of persons and property from injury or damage.

Article 4.00: Exemptions & Permits

- 4.01 **Exemptions:** Article 3.00 of this By-law does not apply to:
- a) Vehicles operated by or on behalf of the municipality or other authority having jurisdiction and control of a Highway, where the Vehicles are engaged in Highway maintenance, including the carriage and application of abrasives or chemicals to the Highway, the stock piling of abrasives or chemicals for use on a Highway, or the removal of snow from a Highway;
 - b) Vehicles used exclusively for the transportation of milk;
 - c) Fire apparatus;
 - d) Vehicles operated by or on behalf of the municipality collecting and/or transporting waste; or
 - e) Public Utility Vehicles.
- 4.02 **Permits:** Upon application in writing, a permit may be granted to a person to permit the moving of heavy Vehicles, loads, objects or structures in excess of the load restrictions set out in this By-law during reduced load periods. The holder of a permit is exempt from the provisions of Article 3.00 of this By-law.
- 4.03 **Fee for Permits:** A non-refundable administrative fee of fifty (\$50.00) dollars applies to any application for a permit under Section 4.02.
- 4.04 **Permit Limitations:** Permits issued under Section 4.02 shall be effective only for the time period specifically set out for that permit, and for the particular Highway or Highways set out for that permit. The exemption granted by Section 4.02 applies strictly and solely to the Highways and times prescribed by the permit itself.
- 4.05 **Permit Conditions:** The Director may impose any conditions he or she considers reasonable for the application and/or validation of the permit referred to in Section 4.02, relating to the protection of persons and property from injury or damage. Conditions may include a requirement for the applicant to post a bond (or other security sufficient to cover the cost of repairing any possible damage to the Highway) with the City.
- 4.06 **Mandatory Condition:** It is deemed to be a condition of every permit issued that the original of the permit be carried in the Vehicle for which the permit was issued

and be produced when demanded by a police officer or an officer appointed for carrying out the provisions of this By-law. Failure to comply with this condition constitutes an offence.

Article 5.00: Highway Damage

- 5.01 **Liability:** Any person who contravenes any provision of this By-law is liable for the damages caused to the Highway as a result of that contravention, in addition to, and not in substitution for, any penalty imposed for committing an offence pursuant to this By-law.

Article 6.00: Enforcement & Penalties

- 6.01 **Offences:** Every person who commits an offence pursuant to this By-law is liable upon conviction to the fines prescribed in the *Highway Traffic Act*. For ease of reference, at the time this By-law was enacted, the applicable fines were:
- (a) Two (\$2.00) dollars per hundred (100 kg) kilograms, or part thereof, for any weight in excess of that permitted under this By-law, the *Highway Traffic Act* or the regulations, where the overweight is less than five thousand (5,000 kg) kilograms, but in no case shall the fine be less than fifty (\$50.00) dollars;
 - (b) Four (\$4.00) dollars per hundred (100 kg) kilograms, or part thereof, for any weight in excess of that permitted under this By-law, the *Highway Traffic Act* or the regulations, where the overweight is five thousand (5,000 kg) kilograms or more, but is less than seven thousand five hundred (7,500 kg) kilograms;
 - (c) Six (\$6.00) dollars per hundred (100 kg) kilograms, or part thereof, for any weight in excess of that permitted under this By-law, the *Highway Traffic Act* or the regulations, where the overweight is seven thousand five hundred (7,500 kg) kilograms or more, but is less than ten thousand (10,000 kg) kilograms;
 - (d) Eight (\$8.00) dollars per hundred (100 kg) kilograms, or part thereof, for any weight in excess of that permitted under this By-law, the *Highway Traffic Act* or the regulations, where the overweight is ten thousand (10,000 kg) kilograms or more but is less than fifteen thousand (15,000 kg) kilograms; and
 - (e) Ten (\$10.00) dollars per hundred (100 kg) kilograms, or part thereof, for any weight in excess of that permitted under this By-law, the *Highway Traffic Act* or the regulations, where the overweight is fifteen thousand (15,000 kg) kilograms or more.

Reference should be made to the most current version of the *Highway Traffic Act* and its regulations for applicable fines imposed from time to time.

- 6.02 **Sections 4.05 and 4.06:** Any person who operates a Vehicle contrary to the conditions imposed pursuant to Sections 4.05 and 4.06 of this By-law is guilty of an offence and, upon conviction, is liable to a fine in an amount prescribed by the *Highway Traffic Act* and/or the *Provincial Offences Act*, as applicable. In addition, if the condition contravened is in respect of any weight allowed under the permit, fines shall be imposed as if the person had not been issued a permit, as provided for in Section 125 of the *Highway Traffic Act*.
- 6.03 **Enforcement Personnel:** The provisions of this By-law may be enforced by any or all of: an Ontario Provincial Police Officer, a member of a Municipal Police Service with jurisdiction, a Municipal Law Enforcement Officer, or the Director and his or her designates for the City.

Article 7.00: Repeal of Previous By-laws; Effective Date

7.01 **Repeal of Previous By-laws:** By-laws 2002-63 and 2003-116 are repealed.

7.02 **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 12th day April , 2005.

Mayor

Clerk