

The Corporation of the City of Kawartha Lakes

Agenda

Agricultural Development Advisory Committee Meeting

ADAC2021-03

Thursday, June 10, 2021

9:00 A.M.

Economic Development Boardroom

Economic Development

180 Kent Street West, Lindsay, Ontario

Members:

Councillor Andrew Veale

Robert Bonis

Phil Callaghan

Alex Cameron

Will MacArthur

Guy Masters

Michelle Murphy-Ward

Rebecca Parker

Matthew Pecoskie

Adam Shea

Alice VanVught

Shawn Westland

Note: This will be an electronic participation meeting and public access to the Economic Development Boardroom will not be available. Please contact Kelly Maloney, Economic Development Officer - Agriculture, at kmaloney@kawarthalakes.ca should you wish to view the proceedings of the meeting electronically through Zoom.

Accessible formats and communication supports are available upon request. The City of Kawartha Lakes is committed to accessibility for persons with disabilities. Please contact AgendaItems@kawarthalakes.ca if you have an accessible accommodation request.

1.	Call to Order	
2.	Administrative Business	
2.1.	Adoption of Agenda	
	That the agenda be adopted as circulated.	
2.2.	Declaration of Pecuniary Interest	
2.3.	Adoption of Minutes	4 - 9
	That the minutes of the Agricultural Development Advisory Committee meeting held on April 8, 2021, be adopted as circulated.	
3.	Deputations/Presentations	
4.	Correspondence	
5.	New or Other Business	
5.1.	Ditching Material/Soil Reuse	
	Public Works staff seek input on the concept of making ditching material/soil available to farmers in the area of ditching projects.	
5.2.	Backyard Chicken Coop Pilot Project	10 - 35
	Manager Sloan will attend to present the new Backyard Chicken Coop Pilot Project and updated Animal By-law.	
6.	Update from Economic Development Division	
6.1.	SkillsAdvance Ontario Year 2 Jobseeker Training Cohorts	
7.	News and Updates from Members	
7.1.	Deadstock Removal Services	
7.2.	Road Occupancy Permits	36 - 52
7.3.	Load Restriction Exemption Requests	53 - 56

8. Next Meeting

The next meeting will be Thursday, August 12 at 9am by Zoom.

9. Adjournment

The Corporation of the City of Kawartha Lakes

Minutes

Agricultural Development Advisory Committee

Meeting

ADAC2021-02
Thursday, April 8, 2021
9:00 A.M.
Economic Development Boardroom
180 Kent Street West
Lindsay, ON K9V 2Y6

Members:
Councillor Andrew Veale
Robert Bonis
Phil Callaghan
Alex Cameron
Will MacArthur
Guy Masters
Michelle Murphy-Ward
Rebecca Parker
Matthew Pecoskie
Adam Shea
Alice VanVught
Shawn Westland

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1. **Call to Order**

Chair R. Parker called the meeting to order at 9:00 a.m. Councillor A. Veale and Members R. Bonis, P. Callaghan, W. MacArthur, G. Masters, M. Murphy-Ward, A. VanVught, and S. Westland were in attendance.

Absent: A. Cameron, M. Pecoskie, A. Shea,

Guests: Mike Farquhar, Jonathan Derworiz, Richard Holy, Danielle Harris

2. **Administrative Business**

2.1 Adoption of Agenda

Moved By Councillor Veale

Seconded By S. Westland

That the agenda be adopted as circulated.

Carried

2.2 Declaration of Pecuniary Interest

There were no declarations of pecuniary interest disclosed.

2.3 Adoption of Minutes

Moved By A. VanVught

Seconded By M. Murphy-Ward

That the minutes of the Agricultural Development Advisory Committee meeting held on February 11, 2021, be adopted as circulated.

Carried

3. **Deputations/Presentations**

4. **Correspondence**

4.1 Requesting support for amendments to Tile Drainage Act and Regulations from Howick Township and Township of Adjala-Tosorontio

The noted townships seek Kawartha Lakes support for a resolution to OMAFRA seeking amendments to the Tile Drainage Act and/or Regulations to require tile drainage contractors to file farm tile drainage installation plans with the local municipality. Input from this committee is being sought prior to taking this correspondence to Council. Supervisor of Technical Services, Engineering, Mike Farquhar attended for this discussion.

The requests are administrative in nature. Engineering has reviewed records to see if they have all of the records of systematic and non-systematic tiling from non-tile drain loan projects. Some appear to be missing, and it may have been the case that it wasn't received. OMAFRA requires installers to submit the maps of tiling projects. Then OMAFRA posts on AgMaps for all public viewing.

Howick Township is requesting the Tile Drainage Act be amended to require installers to supply municipality with a copy to warehouse and store. It may be a duplication of what is already available through OMAFRA's collections. Installations are happening on private property. The request may be a matter of convenience so that the municipality has ready access to the maps and that they don't need to go through the province to get them.

If the municipality is required to collect it would be a job added to a person to collect and file the maps, and it would create a job for the municipality, costing the tax payer, and taking away from other good work to be focused on.

Moved By Councillor Veale

Seconded By R. Bonis

That the December 3, 2020 correspondence from Howick Township and February 26 2021 correspondence from Township of Adjala-Tosorontio, regarding support for requests to OMAFRA for amendments to Tile Drainage Act, be received, and

That the comments provided by ADAC be provided to Council and that in ADAC's opinion the request by Howick may be a duplication of the collection of Tile Drainage Plans already being done by OMAFRA which Townships and the public have access to, and

That ADAC recommends that Council receive the correspondence, but take no further action.

Carried

5. New or Other Business

5.1 Cannabis Zoning Regulations Update

Kawartha Lakes Planner, Jonathan Derworiz attended to provide an update on progress with the development of the Cannabis Zoning Regulations.

Mr. Derworiz reported that he had a productive meeting with OFA representatives and OMAFRA to look at a building line to building line approach resulting in less unusable land. Site Plan control can be required. A report is

going to Planning Advisory Committee in May and amendments will be made to the Amending By-law. He thanked Committee for their input.

For outdoor growing, the set-backs are in place and a site plan will be completed. Complaint based or inspection following a complaint is the way oversight control can be managed. Inspections are done through the establishment of site plan. Site plan process will acknowledge and consider Health Canada requirements in establishing the setback boundary of growing lines and buildings. Industrial uses of cannabis should also be accommodated during the establishment of the bylaw.

Setbacks to outdoor amenities, playgrounds etc. are not being considered at this point as they are not supported.

Moved By R. Bonis

Seconded By S. Westland

That the presentation by Jonathan Derworiz regarding the progress to date on the new Cannabis Zoning By-law be received.

Carried

5.2 Rural Comprehensive Zoning By-law Agricultural Regulations Updates

Kawartha Lakes Planner, Jonathan Derworiz, attended to provide updates on the progress of development with the agricultural regulations within the Rural Comprehensive Zoning By-law project.

Mr. Derworiz reported that the public open house was attended by 115 people. The session was recorded and slides will be posted to the Jump In website. Comments are being received and will be submitted to consultant. They will be moving forward in preparing the first draft of the By-Law with the submitted comments.

Moved By A. VanVught

Seconded By G. Masters

That the presentation by Jonathan Derworiz regarding the progress to date on the Rural Comprehensive Zoning By-law Agricultural Regulations development be received.

Carried

6. Update from Economic Development Division

6.1 SkillsAdvance Ontario Project Year 1 Review

Danielle Harris, Economic Development Officer - Work Force, joined the meeting and provided a presentation on the Year 1 review of the Kawartha Lakes SkillsAdvance Ontario project.

Moved By Councillor Veale
Seconded By W. MacArthur

That the presentation by Danielle Harris, regarding the Year 1 Review of the Kawartha Lakes SkillsAdvance Ontario project, be received.

Carried

6.2 Food Producers' Market Expansion and Scaling Up Readiness Project Update

Kelly Maloney reported that the new Kawartha Choice FarmFresh website launched on March 24th with 70 members profiled. Social media campaign continues to attract consumers and new members. Training programs completed for Farm Financial Management Series and Value-Added Food Business Bootcamp. Asset Inventory Outreach is completed updating agri-business contacts and developing a Needs Analysis Report.

7. News and Updates from Members

A. VanVught delivers training to insurance brokers and is interested in visiting Bonis' to understand their operation.

S. Weston reported that equipment inventories are down to about half of normal. He anticipates it to be a tight selling season. Buyers may have to wait for orders to arrive. The new shop building project is moving forward with final documents received.

R. Bonis reports increases in pricing in seeds, with issues of availability. Dry weather is a real concern from western Canada where seed is produced. Product availability is very low as seed supply is being reduced. Looking for more growers of Triticale to meet higher demand. Lettuce seed is in demand. Other impacts from Suez Canal blockage – foreign seeds used locally, still trying to get through backlog in some ports. Also internationally, the Huawei issue has caused imports to china to be blocked.

R. Parker reported lamb prices are very high. Cull ewes are also getting good prices right now as well, leading to brisk sales, resulting in future reduced lamb population, which will keep lamb prices strong due to short supply.

8. Next Meeting

The next meeting will be Thursday, June 10, 2021 at 9:00 a.m. by Zoom.

9. Adjournment

The meeting was adjourned by the chair at 11am.

The Corporation of the City of Kawartha Lakes

By-Law 2021-072

A By-Law to Repeal and Replace By-law 2017-039 as amended, Being a By-law to Regulate Animals in The City of Kawartha Lakes

Recitals

1. Section 10 (2) 9 of the Municipal Act, 2001 S.O. 2001 c25. authorizes the councils of municipalities to pass by-laws respecting animals.
2. Section 103 of the Municipal Act, 2001 authorizes municipalities to impound animals which are at large in contravention of any such by-law.
3. Section 105 of the Municipal Act, 2001 provides that if a municipality requires the muzzling of a dog under any circumstance, the council of the municipality shall, upon the request of the owner of the dog, hold a hearing to determine whether or not to exempt the owner in whole or part from the requirement.
4. Section 391 of the Municipal Act, 2001 authorizes municipalities to impose fees or charges for services rendered.
5. Council considers it advisable to regulate animals to ensure that animals are kept and treated in a humane manner and that the owners of animals provide good quality care to them.
6. Council deems it appropriate to repeal By-Law 2017-039, being a By-law to Regulate Animals in the City of Kawartha Lakes, and its amendments thereto, being By-laws 2018-200 and 2019-043 effective July 31, 2021.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2021-072.

Section 1:00 Definitions and Interpretation

1.01 Definitions: In this By-law,

“Administrative Fees” means any fees specified as set out in the Consolidated Fees By-Law.

“Aggressive animal” means an animal which, in the opinion of the Manager of the Municipal Law Enforcement or their delegate, has demonstrated excessive and/or unprovoked aggression, or is of a threatening disposition;

“Aggressive, dangerous or vicious” means behaviour exhibited that, without mitigating factors, the animal has:

- attacked, bitten or caused injury to a person, or
- demonstrated a propensity to do so, or
- attacked, bitten or caused injury to a domestic animal, or
- been placed on an Order to Restrain and is kept or permitted to be kept by its owner in violation of the requirements of such order;

“Altered” means spayed or neutered;

“Animal” means any member of the animal kingdom or living beings, including mammals, birds and reptiles but excluding fish;

“Animal Enclosure” means an enclosed place for the keeping of animals and includes bird lofts, bird cages, chicken coops, pigeon coops, dog runs, dog pens, doghouse, rabbit hutches, catteries and reptile tanks. Pasture land or fenced agricultural land used for livestock or other agricultural purpose, or the yard of a residential property where fencing has been erected on or along the property lines for the purposes of enclosing, shall not be deemed to be an animal enclosure;

“Appeal Committee” means a committee appointed by Council consisting of members of Council to conduct hearings, pursuant to sections of this by-law;

“At large” means an animal that is in a place other than the property owned, or occupied by the owner, where that animal is not being kept on a leash by its owner or by another person acting on the owner's behalf, where permission has not been granted by that owner, excludes domestic cats;

“Attractant” means any substance which could be reasonably expected to attract a wild animal or animals or does attract wild animals, strays, feral or abandoned animals;

“Backyard Chicken Coop” shall have a similar meaning to “Coop”

“Breeding” means the production of offspring;

“Business day” means any Monday, Tuesday, Wednesday, Thursday or Friday other than a public holiday;

“Chicken” shall mean a domesticated female chicken or chick and “Hen” shall have a corresponding meaning;

“City”, “City of Kawartha Lakes” or “Kawartha Lakes” means The Corporation of the City of Kawartha Lakes and includes its entire geographic area;

“City Clerk” means the person appointed by Council to carry out the duties of the clerk described in section 228 of the Municipal Act, 2001;

“Competent person” means a person having the strength and capacity to securely control an animal so as to not permit or allow unwanted contact with another person or animal;

“Companion animal” means an animal specifically trained and used as a companion animal for persons with special needs and shall not include Livestock or chickens;

“Confining” means to prevent the animal from leaving the owner’s property and coming into contact with other persons or animals who have not consented to contact; when used in connection with a dog that is the subject of an Order to Restrain at the owner’s property, means that the dog must be restrained by means of an enclosure, fence, leash or tether in order to prevent the animal from leaving the owner’s property;

“Control” includes care and custody;

“Coop” means a fully-enclosed weatherproof structure where hens are kept and the interior of which includes nest boxes for egg laying, perches for hens to roost on and food and water containers;

“Council” or “City Council” means the Council of the City of Kawartha Lakes;

“Daily care fee” means the ordinary cost for housing and feeding an animal per day;

“Dog” means a domesticated canine animal of the species *canis familiaris*, male or female;

“Dog Owners Liability Act” means the Dog Owners’ Liability Act, R.S.O. 1990, c. D.16, as amended;

“Domestic Animal” means an animal that is permitted in Canada, is not wild and is normally kept as a household pet or is domesticated for humane use or agricultural purposes;

“Dwelling” or “Dwelling unit” means a room or suite of two or more rooms designed or intended for residential use by a person or persons in which culinary and sanitary conveniences are provided for the exclusive use of such person or persons and having a private entrance from outside or from a common hallway or stairway inside and which is located in a residentially zoned part of the City;

“Enclosed property” means a pen or other enclosure that it prevents the animal from leaving the property and prevents contact with people and other animals;

“Extreme Weather” means a cold warning, heat warning or other weather warning alert issued by Environment Canada for weather in the City including but not limited to extreme cold or hot weather, snow storms, freezing rain, heavy rainfall, hurricanes, tornadoes and/or strong winds;

“Feed or feeding” means the deliberate act of furnishing, or making food or other substances available which is likely to be consumed by wild animals, strays, feral or abandoned animals;

“Hen” means a domesticated female chicken that is at least four months old, “chicken” may have a corresponding meaning;

“Hen Run” means a secure outdoor enclosure that provides the hens with an area to move around freely. The enclosure shall include side walls and is covered in such a way to prevent the hens from leaving and protected from entry of other birds or animals;

“Household pet” means a domestic animal that is kept for companionship and shall not include chickens or livestock;

“Humane Society of Kawartha Lakes” means the local animal shelter and affiliate of the OSPCA from which animals may be redeemed or lawfully adopted;

“Impound” means the animal is taken into custody and transported to a City pound and held as per this by-law;

“Keep” means to have temporary or permanent control or possession of an animal, and the words “kept” or “keeping” have a similar meaning;

“Kennel” means a facility licenced by the City dealing with the business of breeding, buying, selling, boarding or training of dogs;

“Leash” means a strap, cord or chain which is designed to restrain the breed of animal it is controlling and it may not exceed 1.8 metres (6 ft.) long;

“Leash free park” means a park identified by Council as an enclosure where dogs are permitted to run free;

“Licence” means a licence issued pursuant to this by-law;

“Licencing Enforcement Officer” means a person appointed by Council under section 15 of the Police Services Act to enforce the by-laws of the City, and includes a Municipal Law Enforcement Officer;

“Livestock” means domestic farm animal (i.e. horse, donkey, pony, mule, jackass, bovine, bull or heifer, goat, swine, deer, elk, mink, fox, sheep, chinchilla) and fowl that are kept for agricultural purposes; as designated as livestock under the Livestock and Livestock Products Act O. Regulation 318/99, the Livestock Community Sales Act; and such additional class or classes of animals as are prescribed in the regulations made under the Livestock Identification Act. This definition does not include Backyard Chickens established by permit under this by-law;

“Livestock Guardian Dog” means a dog that works and/or lives with domestic farm animals (i.e. cattle, sheep, goats) to protect them while aggressively repelling predators and is used exclusively for that purpose;

“Manager of Municipal Law Enforcement and Licensing” 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;

“Microchip” means an approved “Canadian Standard” encoded identification device implanted into an animal, which contains a unique code that permits or facilitates access to owner information, including the name and address of the owner, which is stored in a central data base;

“Minor” means a person under the age of 18;

“Motor Vehicle” includes an automobile, a motorcycle, a motor-assisted bicycle unless otherwise indicated in the Highway Traffic Act, and any other vehicle propelled or driven otherwise than by muscular power;

“Municipal Law Enforcement Officer” means a person appointed by Council under section 15 of the *Police Services Act* to enforce the by-laws of the City, and includes the Licencing Officer;

“Municipal property” means all property owned, leased or under the control of the municipality, and without limitation, this term shall include all parks, open

space, opened or unopened road allowances, sidewalks, footpaths or bicycle trails;

“Municipal service centre” means a designated Municipal Service Centre of the City which provides local government services;

“Municipality” means the Corporation of the City of Kawartha Lakes;

“Muzzle” means a humane fastening or covering device of adequate strength placed over the mouth of an animal to prevent it from biting and the words “muzzled” and “muzzling” have similar meaning;

“Muzzled dog” means a dog wearing a muzzle in the manner anticipated by the manufacturer of the muzzle;

“Occupied” means being in possession of a property or part of a property, for example, as a result of a tenancy agreement or as an invited guest;

“Order to restrain” means the order issued by a Municipal Law Enforcement Officer or Police Officer in accordance with the provisions of this by-law;

“Owner” includes any person who possesses, keeps or harbours an animal and, where an owner is a minor, includes the person who is responsible for the care, control or custody of the minor; and the word “owns” has a similar meaning;

“Park” means a public area controlled by the City and set aside for use by the public for rest, recreation, exercise, pleasure, amusement and enjoyment, and includes playgrounds, sports fields, wading and swimming areas, public pathways and trails;

“PAWS” means the Provincial Animal Welfare Services Act; PAWS shall include staff referred to as Provincial Inspectors;

“Person” means an individual, property owner, tenant, leasee, partnership, association, firm or corporation and includes a Licensee or an Applicant for a License issued under the by-law, may include “Owner” as a similar meaning;

“Pet store” means a business that sells live animals as household pets;

“Pit bull” means a dog as identified in the Dog Owners’ Liability Act, which includes a pit bull terrier, a Staffordshire bull terrier, an American Staffordshire terrier, an American pit bull terrier, or a dog that has an appearance and physical characteristics that are substantially similar to those of dogs referred to above;

“Police officer” means a chief of police or other police officer in a police service;

“Police Service dog” means a dog trained for and engaged in law enforcement by any federal, provincial or municipal government agency;

“Pound” means a city or contract authorized facility in which animals are impounded under the authority of this by-law are kept;

“Premises” includes a dwelling unit, a house or building and the land or premises on which the building or house is situated or attached;

“Property” means a parcel of land including any buildings or other structures on the land;

“Protective care” means the temporary keeping of an animal as a result of an eviction, incarceration, medical or fire emergency, or any other situation as approved by the Manager of Municipal Law Enforcement, for the health and safety of the animal;

“Restrained” means under control and where used in connection with a dog which is the subject of an Order to Restrain means the said dog will be controlled by one or more of being muzzled, leashed with a leash no longer than 1.8 metres (6 feet) in length and under the care and control of a person who is at least 16 years of age with sufficient strength to control the dog;

“Rooster” means a domesticated male chicken;

“Sanitary Condition” means a condition that does not result in an accumulation of fecal matter, odour, insect infestation, or rodent attractants which could endanger the health of any person or animal. The definition shall not be interpreted in such a way as to restrict livestock or normal farm practices regulated by other legislation;

“Sanitize” means to clean for the purpose of controlling disease-producing organisms and “sanitized” has a corresponding meaning;

“Shelter” means a recognized facility that provides fostering or treatment programs for dogs that have been abandoned, abused or injured;

“Service Animal” means a guide dog and other trained service animal identifiable by proper identification and used principally to assist persons with a disability or impairment, includes a Police Service Dog;

“Tag” means a conventional tag or any other device that sets out the identification number of every dog that is registered with the City;

“Tether” means a rope, chain or similar device which is used to tie, secure an animal to a post, wall or other such structures, so that the animal will stay in a particular area on a property;

“Valid rabies certificate” means a rabies certificate issued by a licenced veterinarian certifying the dog has been immunized and verifying that it will be current on the date of application for a licence or renewal licence;

“Veterinary hospital or clinic” means premises for the medical treatment of dogs under the supervision of a licensed veterinarian;

“Without provocation” means in the absence of teasing, tormenting, abusing or assaulting actions upon the dog or its owner, either in the past or in the present, by the person or domestic animal which as been bitten by the dog;

“Wild Animal” means all mammals, birds and reptiles, other than domestic animals, including feral cats and wild dogs.

1.02 **Interpretation:**

- (a) Except as otherwise provided, the regulations established by this by-law apply to all animals and to their owners within the boundaries of the City.
- (b) The Schedules attached to this by-law form part of the by-law, and are enforceable as such.
- (c) The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.
- (d) Except as otherwise provided, the fees established by this by-law shall be in accordance with the fees established within the Consolidated Fees By-law of the City and apply to all animals and their owners.

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 Licencing and Registration of Dogs

- 2.01 **Registration:** Every owner of a dog that has reached the age of 28 weeks shall make application to register the dog with the City for either an annual or lifetime dog tag within 30 days of acquisition of the dog by its owner or by another person acting on the owner's behalf.
- 2.02 **Expiry of Annual Registrations:** The annual registration of the dog expires on December 31st of every calendar year.
- 2.03 **Registration Procedure:** A dog shall be registered at any municipal service centre, or in any other manner adopted by the City by providing the necessary information, paying the prescribed fee, and submitting a copy of a current certificate of immunization against rabies. It is an offence for an owner of a dog to provide false information about the dog being registered.
- 2.04 **Altered Dogs:** Any person who is registering an altered dog for the first time shall be required to provide proof that the dog has been altered in order to be eligible for the reduced fee.
- 2.05 **Issuance of Tag:** Upon registration with the City, a dog will be included in the dog identification system by means of the issuance of a tag.
- 2.06 **Ownership of Tag:** Every tag that is issued remains the property of the City, and no tag shall be sold except with the written consent of the City.
- 2.07 **Wearing of Tag:** Every tag that is issued shall be kept securely fixed on the dog at all times when the dog is in a place other than the dwelling of its owner.
- 2.08 **Transfer of Tag:** No tag shall be transferred to or displayed on any dog other than the dog for which it was issued, except with the written consent of the City.
- 2.09 **Replacement of Tag:** An owner of a dog or another person acting on the owner's behalf may obtain a replacement for a tag that has been lost or destroyed by paying the prescribed fee as outlined in the Fees By-Law.
- 2.10 **Exemptions:** The requirement for annual registration set out in section 2.01 does not apply to dogs in a:
- (a) pound or shelter;
 - (b) veterinary hospital or clinic;
 - (c) kennel which holds a valid licence from the City; or
 - (d) pet store; and

(e) Police Dogs

- 2.11 **Livestock Guardian Dog Exemption:** The owner of a licenced Livestock Guardian Dog may remove the tag from a Livestock Guardian Dog's collar while the dog is being actively used for Livestock protection to repel predators, provided that the owner provides for alternative means of identification, providing the name and address of the owner.

Section 3.00 Licencing of Backyard Chicken Coops

Pilot program duration 2 years effective on the date of passage of this by-law.

- 3.01 No person shall be permitted to have a Backyard Chicken Coop or chickens on a Residential or non Agricultural property without first having been issued a municipal licence; and must comply with the provisions relating to accessory structures in the respective Zoning By-law.
- 3.02 No person shall be permitted to have a Backyard Chicken Coop unless:
- a. the setbacks and lot coverage for the location of the Backyard Chicken Coop shall conform with the applicable zoning by-law and zone provisions relating to accessory structures;
 - b. The Backyard Chicken Coop shall be set back from every lot line similar to other structures as designated in the applicable zoning by-law;
 - c. notwithstanding the provisions of the zoning by-law, the keeping of a Backyard Chicken Coop is permitted to occur on lots that have 0.5 acres or greater area.
- 3.03 No person shall be permitted to have a backyard chicken coop in the following areas: an environmentally sensitive area, wetland, Wellhead Protection Areas (WHPAs) and Intake Protection Zones (IPZs), natural heritage system area, green belt and/or a flood plan area and areas zoned for commercial or industrial use.
- 3.04 **Building Permits:** A license issued to permit a Backyard Chicken Coop does not remove any obligation of a person and/or property owner to comply with the Building Code or any requirements for a building permit.
- 3.05 **Registration:** Applicants shall submit all required application documents, as outlined in this by-law, together with a License Fee as per the fees by-law submitted to the Licensing Enforcement Officer for review and to determine if a License may be issued for the keeping of Backyard Chicken Coops.
- 3.06 All registration applications for a License Backyard Chicken Coop on a Residential Property or Rural Property shall include:

- a. The name, contact email, phone number and address of the Licensee where Backyard Chicken Coop will be kept;
 - b. Proof of Ownership for the Premises or letter of authorization from the property owner to permit a Backyard Chicken Coop, if property is leased or rented;
 - c. The applicant shall provide at least 15 days notice to all adjoining property owners, with proof of delivery and any comments;
 - d. A site plan of the Property, showing the proposed Backyard Chicken Coop and Hen Run location and structure demensions, all other buildings and structures, as well as the property dimensions and appropriate setbacks; and,
 - e. Any other documentation, deemed necessary by the Licensing Enforcement Officer.
- 3.07 Upon completion of the application package and review by the Licensing Enforcement Officer or designate the applicant will receive notification of approval or a request for additional information or refusal of the License.
- 3.08 Once the application materials have been reviewed the Licensing Enforcement Officer shall complete a site inspection of the Backyard chicken coop prior to approval.
- 3.09 The hens and the coop may be inspected without notice to ensure that there is a safe and secure environment for the hens.
- 3.10 A License, issued pursuant to this by-law shall expire within the calendar year and all licenses shall expire upon the completion of the Pilot Project, or as declared by City of kawartha Lakes Council.
- 3.11 A Licence shall be issued to an person whose application meets all of the requirements set out in this Bylaw, subject to section 3.06 and 3.15.
- 3.12 The Licensing Enforcement Officer or deligate may issue a License with or without conditions, refuse a License, and/or revoke a License if the applicant is not able to meet the requirements of the Pilot Project as prescribed.
- 3.13 The License to keep Backyard Chicken Coop on a Residential Property or non-agricultural property shall be in a form as prescribed by the City of Kawartha Lakes.
- 3.14 For the purpose of this 2 year Pilot Project, a maximum of 50 Licenses will be issued for Backyard Chicken Coops in each year. The Licensing Enforcement Officer or deligate shall refuse to issue any License once the maximum number of Licenses have been issued.

- 3.15 The Licensing Enforcement Officer or delegate may refuse to issue or revoke a License issued pursuant to this bylaw if:
- a. The Licensee fails to comply with:
 - i. Any of the conditions upon which the License was issued;
 - ii. Any of the provisions of this by-law;
 - b. The License was issued in error, or as a result of mistaken, false or incorrect information;
 - c. For any other purpose, as deemed fit by the Licensing Enforcement Officer.
- 3.16 No person shall transfer a Backyard Chicken Coop license to another person or property except with the written consent of the Licensing Enforcement Officer or delegate.
- 3.17 No person shall keep roosters on a residential property.
- 3.18 No person shall keep more than 4 chickens or chicks on a residential property.
- 3.19 No person shall keep Chickens or a Backyard Chicken Coop on their property unless the following conditions are maintained:
- a. The Backyard Chicken coop must be located in the the rear yard of the property; in the case of irregular-shaped lot or a corner lot the exterior side yard may be used;
 - b. No person shall construct a Backyard Chicken Coop unless the coop is located 8 metres from any dwelling, school, store or shop and at least 2 metres from each property boundary on which it is located;
 - c. No person shall construct a Backyard Chicken Coop on a residential property that is adjacent to an agricultural property that houses a poultry farming operation.
 - d. The Backyard Chicken coop must be large enough (min. 0.92 m²/chicken) for the chickens to move around freely and must contain hen boxes and perch areas sufficient to accommodate all chickens;
 - e. The Backyard Chicken coop must contain sufficient feeders and water containers for all chickens;
 - f. The Backyard Chicken coop is soundly constructed of hard durable material, which is impervious to water;
 - g. The Backyard Chicken coop shall be maintained in a state of good repair free from holes, cracks, rust or other damage;
 - h. The Backyard Chicken coop and run is enclosed completely and covered in such a way to prevent the chickens from leaving and free ranging;
 - i. The Backyard Chicken coop and chickens run shall be protected from entry of other birds or animals;

- j. Chickens must remain in their coops from 8pm until 8am;
- k. The Backyard Chicken coop must be protected from the weather, adequately ventilated, insulated and heated in the winter;
- l. The Backyard Chicken coop is lined with an appropriate material to absorb fecal matter which is resistant to mold and will facilitate daily cleaning, and is disinfected regularly;
- m. Backyard Chicken coops and hen runs must be kept in a clean condition and shall be kept free of obnoxious odours;
- n. Stored manure shall be kept in an enclosed structure such as a compost bin in accordance with regulations, and no more than 0.1 m³ may be stored at one time;
- o. Manure shall be disposed of in accordance with Municipal bylaws;
- p. All stored feed must be kept in rodent proof containers and secured at all times;
- q. Home slaughter of chickens is prohibited and any deceased chickens must be disposed of at a livestock disposal facility or at a facility approved by the Ministry of Agriculture or at a City of Kawartha Lakes landfill.
- r. No person shall place or dispose of a deceased chicken within their household garbage or by placement at the curbside for collection by waste services.
- s. No person shall offer the sale of eggs, meat or manure or anything associated with chickens.

Section 4.00 Order to Restrain and Appeals - Dogs

4.01 Order to Restrain: Where a dog exhibits aggressive, dangerous or vicious behaviour towards a person or domestic animal, a Municipal Law Enforcement Officer may issue an "Order to Restrain" to the owner or person responsible for the dog.

4.02 Any Order to Restrain may include but is not limited to:

- i. confining the dog to the owner's property;
- ii. restraining the dog with a leash;
- iii. restraining the dog with a muzzle;
- iv. the posting of warning signs;
- v. any additional restriction as deemed reasonable by the Municipal Law Enforcement Officer

- 4.03 **Under Age:** An owner or person responsible for the dog which is the subject of an Order to Restrain shall ensure that the dog is under the control of a person at least sixteen (16) years of age when the dog is not on the owner's premises.
- 4.04 **Transfer of Ownership:** An owner or person responsible for the dog which is the subject of an Order to Restrain shall notify the Manager of Municipal Law Enforcement within five (5) days of transfer if the dog is transferred to a new location or if the ownership of the dog is transferred to another person.
- 4.05 **Compliance:** Every owner or person responsible for the dog shall at all times comply with an Order to Restrain.
- 4.06 **Appeal Committee:** An Appeal Committee is established, consisting of three (3) members of Council. Council will appoint the members of the Appeal Committee for terms of office equivalent to the Council's term of office. The Manager of Municipal Law Enforcement shall ensure that a member of City staff is assigned the role of secretary to the Appeal Committee.
- 4.07 **Duties of the Appeal Committee:** The Appeal Committee is delegated Council's decision making authority as it applies to the Order to Restrain to conduct a hearing relating to an Order to Restrain, and shall be governed by the City's Procedural By-law and the Municipal Law Enforcement By-law Appeals Committee Terms of Reference, as amended from time to time by Council.
- 4.08 **Appeal of Order To Restrain:**
- a. In the event that the owner or person responsible for the dog disagree with the Order to Restrain, he or she may appeal the Order to Restrain to the Manager of Municipal Law Enforcement within 7 days of receipt of said order by filing a "Notice to Appeal" including an administrative fee, as set out in the Consolidated Fees bylaw. Upon receipt of notification of an appeal, the Manager of Municipal Law Enforcement shall prepare a report for the consideration of the Appeal Committee. The Applicant and any other interested party shall be provided with at least two (2) weeks notice of the meeting of the Appeal Committee to consider the Order to Restrain and shall have the opportunity on the hearing date to address the Appeal Committee prior to the Appeal Committee making a decision. The report shall be made available to the Applicant and any other interested party upon request.
 - b. The Order to Restrain shall remain in full force and effect between the date of the Order to Restrain and the date of the hearing of the appeal by an Appeal Committee, the owner or person responsible for said dog, shall comply with all the requirements as outlined in the Order to Restrain.

- c. At such time as the Appeal Committee makes its decision to confirm, modify or quash the Order to Restrain, the decision shall be considered to be final and binding and the owner of the dog shall comply therewith.
 - d. Within seven (7) days of the decision of the Appeal Committee, the Manager of Municipal Law Enforcement shall provide a written decision letter to the Applicant.
- 4.09 **Order Expiration:** An Order to restrain only expires upon the provision of proof that the dog is deceased or the Manager of Municipal Law Enforcement is satisfied that it no longer resides in the City.

Section 5.00 Feeding of Wild Animals

- 5.01 **Feeding of Wild Animals:** No person shall intentionally feed wild animals or leave food or attractants of any type, in any form and in such a manner as to attract, be accessible to wild animals, feral or stray domestic animals.
- 5.02 **Exemptions:** Section 4.01 does not apply in the following situations:
- (1) The leaving of food as bait for the purposes of hunting or in a trap by a property owner or person authorized to legally hunt or to capture a nuisance wild animal inhabiting or habituating their property pursuant to the Fish and Wildlife Conservation Act, 1997, S.O.1997, c.41 or other hunting regulation.
 - (2) The leaving of food as bait by a licensed trapper, and employee of a licensed wildlife or pest control agency, a Municipal Law Enforcement Officer, an Ontario Society for the Prevention of Cruelty to Animals Inspector or a Police Officer, in the performance of their work.
 - (3) The leaving of food for a colony of stray or feral cats.
 - (4) The feeding of birds on a property provided the owner or occupier places seed in a bird feeding device that is sufficiently above grade and maintained in a sanitary condition.

Section 6.00 Keeping of Animals – General Provisions

- 6.01 **Animal Welfare:** Every owner of an animal shall treat the animal in a human manner, as provided in the Provincial Animal Welfare Services Act, 2019, Ontario Regulation 444/19 , Standards of Care and Administrative Standards.
- 6.02 **Tethering:** No person shall tether an animal using a choke chain or a prong type collar.

- 6.03 **Tethering Device:** Notwithstanding section 6.02 of this By-law and normal farming practices, a tether restraining device used to tether an animal must:
- a. be at least three (3) metres long (9.84 feet);
 - b. be attached to a permanently fixed object;
 - c. allow the animal to move safely and unrestricted (except by the length of the tether) on its own property;
 - d. allow the animal to have access to adequate water, shelter; and
 - e. be designed to prevent injury to the animal.
- 6.04 Nothing under this section requires the City to assume responsibility concerning distress or care of an animal, which is the obligation of the Provincial Animal Welfare Services Act, 2019
- 6.05 **Prohibited Animals:** No person shall keep, or cause to be kept, any animals listed in Schedule "A",
- 6.06 **Number of Animals:** Notwithstanding section 6.05, no person shall keep, or cause to be kept, more than four (4) dogs, four (4) cats or a total of eight (8) individual animals, except:
- i. a licensed pet shop;
 - ii. a Police Canine Unit;
 - iii. a kennel licensed by the Corporation;
 - iv. a security firm licensed and authorized by the Province of Ontario to provide guard dog services;
 - v. where the keeping of animals is on lands zoned and used for agricultural, agricultural support or agriculturally-related purposes;
 - vi. a retirement or group home premises.
- 6.07 **Exemptions:** Sections 6.05 and 6.06 do not apply to:
- i. an animal hospital or clinic that is lawfully operated and supervised by a veterinarian licensed by the Ontario Veterinary Association;
 - ii. a pound or shelter lawfully operated by or under license by the City, or the Kawartha Lakes Humane Society and Kawartha Lakes branch of the Provincial Animal Welfare Services or any organization permitted by law to provide protection and humane treatment of animals;
 - iii. any person while rendering emergency treatment to an injured or abandoned animal;
 - iv. the Corporation or other governmental authority while lawfully operating a public park, exhibition, or zoological garden, and maintaining animals therein;

- v. any person in charge of a travelling circus, exhibition, or road show, or any employee thereof, lawfully displaying animals;
- vi. persons operating premises registered as research facilities under the Animals for Research Act, R.S.O. 1990, c. A-22, as amended, or the persons in charge, or the employees thereof, during the course of their duties;
- vii. persons operating "agriculture" operation including farming in all its branches, including but not limited to dairying, beekeeping, aquaculture, the raising of livestock including non-traditional livestock, furbearing animals and poultry, including eggs, and any practices performed as an integral part of an agricultural operation.

6.08 **Grandfathering:** Owners of prohibited animal(s) kept, possessed or harboured in any one premise in the City of Kawartha Lakes shall when requested supply proof to the Municipal Law Enforcement Division that the animal(s) existed prior to passage of this By-law. Upon being satisfied that the animal(s) existed prior to the passage of this by-law, the animal(s) may be deemed to be "grandfathered". The grandfathering clause will not apply to future animals, offspring or allow animal(s) to be replaced due to death or other cause in a premises if the number exceeds the amount specified in Section 6.06.

6.09 **Onus of proof of Qualification for Exemption:** Any person claiming an exemption or grandfathering under Sections 6.07 or 6.08 shall provide to the Manager of Municipal Law Enforcement appropriate evidence in support of the claim for exemption or grandfathering.

6.10 **Restriction – Livestock or Agricultural Animals:** No person shall keep livestock or agricultural animals such as but not limited to a horse, donkey, pony, mule, jackass, bovine, bull, heifer, goat, swine, mink, fox, sheep, peafowl in any premises or on property that is zoned and primarily used for residential purposes as defined in the applicable Zoning by-law.

Section 7.00 Keeping of Animals

7.01 **Requirement to Clean Up:** Every owner and other person, who is in control of an animal, shall immediately remove any excrement left by the animal on any property other than a property owned or occupied by the owner.

7.02 **Mode of Clean Up:** If an Animal is on any public or private property other than the property of its Owner, the animal Owner shall have in his possession a suitable means of facilitating the removal of the Animal's feces.

7.03 **Exemption:** The requirement set out in section 7.01 and 7.02 is not applicable to the owner who is physically unable to comply with this requirement, activity that

is agricultural support or agriculturally-related or to a police officer who is engaged in work related activities.

- 7.04 **Being at Large:** No owner or person shall cause or permit his or her animal to be at large; this section shall not apply to domestic cats. Livestock shall be deemed to be at large if found on a Municipal Property.
- 7.05 **Exemption:** An animal shall not be deemed to be at large, as set out in section 7.04, if, without being kept on a leash or lead, it is on a property other than a property owned or occupied by its owner with the express permission of the owner or occupant of that property or with its owner at a leash free park. **This exemption will include farm practices that include Livestock movement, such as a cattle drive, between properties, where the activity is supervised and monitored.**
- 7.06 **Administrative Fee:** Where a Person or Owner has received an occurrence inspection an Administrative Fee may be charged for the inspection and the Administrative Fee as set out in the Consolidated Fees By-law, if not paid, the fee shall be added to the tax roll of the property and shall be collected in a like manner as municipal taxes.

Section 8.00 Animal Enclosures

- 8.01 **Requirements:** Every owner of an animal shall ensure that the animal enclosure provided for the animal meets the following requirements, regardless of whether the animal enclosure is located indoors or outdoors:
- i. The animal enclosure shall be of a size and in a condition such that the animal may:
 - a. extend its legs, wings, and body to their full natural extent;
 - b. stand, turn around and lie down;
 - c. sit; and
 - d. perch.
 - ii. Every reptile and amphibian shall be provided with an enclosed space adequate for the needs of the species.
 - iii. The enclosure is of such a nature and condition that the animal contained therein would not be harmed and its health would not be negatively affected for the reason of being placed in such an animal enclosure.
 - iv. Every animal contained therein may be readily observed unless the natural habits of the animal require otherwise.
 - v. The animal enclosure shall be sufficiently lit, ventilated and kept in a clean and sanitary condition.
 - vi. The animal enclosure is kept free of offensive odour.

vii. The animal enclosure (except for doghouses) is escape proof.

8.02 **Agriculture Purpose:** Section 8.01 shall not be interpreted to regulate a Livestock animal enclosure on lands zoned and used for agricultural purposes.

8.03 **Enclosure Requirement:** No person shall keep, or cause to be kept, a reptile, insect or amphibian permitted under this By-law outside a building or structure unless it is in an animal enclosure.

Section 9.00 Seizure and Impoundment

9.01 **Impoundment:** Any domestic animal found at large in contravention of this by-law may be impounded by a municipal law enforcement officer or police officer and taken to a pound or facility. This section shall not be used to impound Livestock found to be at large.

9.02 **Impound Note to section 9.01:** Municipal Law Enforcement Officers may be requested by City of Kawartha Lakes staff, Police, Fire, EMS or other services or agency to attend a location in the Municipality to assist with the removal of a domestic animal, to allow safe access and entry to a property or premises. Any animal detained in this way will not be considered an impounded animal as per this by-law, and will be housed and released only at the direction of the original service or agency requesting this assistance. Any associated fee/costs will be recovered as set out in the Consolidated Fees By-law or by other action. Application of this section will not be considered as a violation of this By-law.

9.03 **Injured or Vicious Animals:** Despite section 9.01, any animal found at large in contravention of this by-law that is gravely injured or that is exhibiting the characteristics of viciousness to such an extent that a municipal law enforcement officer or police officer attending the animal fears for his or her own health or safety or the health and safety of others in the vicinity, may be destroyed immediately at the officer's sole discretion.

9.04 **Recovery of Impounded Animals:** The owner of an impounded animal or another person acting with the authorization of the owner may recover the animal from a pound within three (3) business days, excluding the day on which the animal was impounded, and in order to do so shall be required to pay the current fee for each day or portion of a day that the animal has been in the pound and all costs incurred by the City in impounding the animal, including the full amount of any emergency veterinary care that was required for the animal and administration fee, as set out in the Consolidated Fees By-law.

9.05 **Recovery of Unregistered Dogs:** The owner of an impounded animal or other person acting with the authorization of the owner, may recover the animal, that is not registered with the City, from a pound within three (3) business days, excluding the day on which the animal was impounded.

- 9.06 If the animal is a dog and it has reached the age of 28 weeks, the owner shall, in addition to paying the costs set out in section 9.04, be required to register the dog in the manner set out in section 2.03.
- 9.07 **Disposal:** If an impounded animal is not recovered from a pound within the time period specified in section 9.03, the animal may be sold or disposed of or destroyed by the City in any lawful and humane manner.

Section 10.00 Surrendering of Animals

- 10.01 **Surrender Ownership:** An owner of an animal may give up ownership of the animal by surrendering the animal to Municipal Law Enforcement, a member of a Police Service or the City approved Pound.
- 10.02 **Ownership and Possession:** By surrendering the animal, the owner is deemed to have relinquished all rights of ownership and possession of the animal.
- 10.03 **Fees:** To surrender the animal, the owner shall pay the appropriate fees as required under the applicable Consolidated Fees By-law.
- 10.04 **City Property:** An animal that has been surrendered immediately becomes the property of the City and may be kept or disposed of as the City deems appropriate, including:
1. placing the animal for adoption;
 2. euthanasia, where in the opinion of the Municipal Law Enforcement Officer, the animal is not suitable for adoption or should be euthanized for humane reasons.

Section 11.00 Quarantine of Animals

- 11.01 **Quarantine Requirements and Fees:** This section shall not apply to agricultural Livestock;
- 11.02 **Quarantine Process:** If, in the opinion and by the direction of the Haliburton, Kawartha, Pine Ridge District Health Unit inspector, bites of persons by animals or contacts to persons that may result in human rabies, may result in the animal being put into quarantine by the Municipal Law Enforcement Division in addition to other regulation or direction, the owner of the animal shall:
1. quarantine the animal, in premise or property, as per the direction of the Health Inspector; or
 2. bring or ensure that the animal is brought to the Municipal Law Enforcement approved pound facility to be put in quarantine; if the owner is not able to transport the animal,

the animal shall be transported by or on behalf of the Municipal Law Enforcement Officer;

3. be responsible for the costs associated with the quarantine, including the costs of any transportation costs, veterinary care required for the animal and any other daily care fees as provided in the applicable City Consolidated Fees By-law.

Section 12.00 Adoption of Animals

- 12.01 Adoption Fee:** A person adopting an animal from the City or City authorized Pound facility shall pay the appropriate adoption fee calculated as the Daily Care fee established in the Pound Contract and any other fee established in the Consolidated Fees By-law.

Section 13.00 City Liability

- 13.01 Damages or Compensation:** The Corporation, its officers, employees and agents shall not be liable for damages or compensation for any animal euthanized under the provisions of this By-law and no such damages or compensation shall be paid to any person.

Section 14.00 Offence

- 14.01 Enforcement:** This by-law may be enforced by every municipal law enforcement officer, licensing enforcement officer and police officer.
- 14.02 Obstruction:** No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this by-law.
- 14.03 Offence and Penalty:** It is an offence for a person to contravene any provision of this by-law, and every person who contravenes this by-law is guilty of an offence and, on conviction, is liable to a fine in accordance with the provisions of the Provincial Offences Act, R.S.O and to any other applicable penalty.
- 14.04 Multiple Offences:** The conviction of a person for the contravention of any provision of this by-law shall not operate as a bar to a prosecution against the same person for any subsequent or continued contravention of this by-law.
- 14.05 Court Order:** If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

- 14.06 **Severance:** If a court of competent jurisdiction declares any section or part of a section of the Bylaw invalid, it is the intention of Council that the remainder of the By-law shall continue to be in force.

Section 15.00 Administration and Effective Date

- 15.01 **Administration of the By-law:** Except where otherwise indicated, the Manager of Municipal Law Enforcement is responsible for the administration of this by-law.
- 15.02 **Effective Date:** This by-law comes into force on the date of passage.
- 15.03 **Repeal:** By-law 2017-039 and amending bylaws are repealed effective July 31, 2021.

By-law read a first, second and third time, and finally passed, this 18th day of May 2021.



Andy Letham, Mayor



Cathie Ritchie, City Clerk

Schedule “A” Prohibited Animals

Class	Order	Common Names
Mammals	Artiodactyla	<p>All species purely or partially of the order Artiodactyla (Even-toed ungulates) (cattle, goats, sheep, pigs, deer, elk, hippopotamus, etc.)</p> <p>Except where the animals are kept as agricultural Livestock</p>
	Carnivora	<p>All species purely or partially of the order Carnivora [panda, otter, wolves, bears, seals, walruses, coyotes, foxes hybrid, wolf dogs, tigers, leopards, cougars, lions, lynx, hyaenas, minks, skunks, weasels, otters, badgers, mongoose, civets, genets coatimundi, cacomistles, raccoons, African wildcats, savannah cat, jungle cat, serval cat, European wildcat, Chinese mountain cat, sand cat etc.]</p> <p>Except common domestic dogs, common domestic cats and ferrets</p>
	Chiroptera	All species purely or partially of the order Chiroptera [bats, myotis, flying foxes, etc.]
	Edentates	All species purely or partially of the order Edentates [anteaters, sloths, armadillos, etc.]
	Lagomorpha	<p>All species purely or partially of the order Lagomorpha [hares, pikas, etc.]</p> <p>Except domestic rabbits</p>
	Marsupialia	All species purely or partially of the order Marsupialia [koala kangaroo, possum, wallabies, etc.]

	Primates	All species purely or partially of the order Primates [chimpanzees, gorillas, monkeys, lemurs, etc.]
	Perissodactyla	All species purely or partially of the order Perissodactyla (odd-toed ungulates) [horses, donkeys, jackasses, mules, zebras, ponies, rhinoceros, etc.] Except where the animals are kept as agricultural Livestock
	Proboscidea	All species purely or partially of the order Proboscidea [elephants, etc.]
	Rodentia	All species purely or partially of the order Rodentia [porcupines, prairie dogs, nutria etc.] Except rodents which do not exceed 1,500 grams and are derived from self sustaining captive populations
Reptiles	Crocodylia	All species purely or partially of the order Crocodylia [alligators, crocodiles, gavia, caymans, etc.]
	Squamata (scaled reptiles)	All squamata purely or partially of the following species: <ul style="list-style-type: none"> • The genus Eunectes [Anacondas] • Morelia amethystina [Amethystine and Scrub pythons] • Python molurus [Indian python, Indian rock python, Burmese python] • Python sebae [African rock python] • Python reticulatus [Reticulated python] • Varanus niloticus [Nile monitor] • Varanus salvadorii [Crocodile monitor] • Varanus salvator [Water monitor] • Varanus varius [Lace monitor]

		<ul style="list-style-type: none"> • Varanus giganteus [Perentie – Monitor Lizard] • Varanus komodoensis [Komodo dragon] • The family Viperidae [True vipers, Fea's viper, Night adders, Rattlesnakes, etc.] • The family Elapidae [Cobras, Mambas, Kraits, Coral snakes, etc.] • The subfamily Hydrophiinae [Sea snakes, Coral reef snakes, etc.] • The genus Dispholidus [Boomslang snakes] • The genus Thelotornis [Twig snakes] • The genus Rhabdophis [Keelbacks] • The genus Atractaspis [Burrowing vipers, Mole vipers, etc.] • Philodryas viridissimus [South American green racer] • The family Helodermatidae [Gila monster, Beaded lizards] <p>Lizards which reach an adult length larger than 2 meters when measured from snout to tail.</p> <p>Snakes which reach an adult length larger than 3 meters when measured from snout to tail.</p>
Birds	Anseriformes	<p>All species purely or partially of the order Anseriformes [ducks, geese, swans, screamers, etc.]</p> <p>Except where the animals are kept as agricultural Livestock.</p>
	Galliformes	<p>All species purely or partially of the order Galliformes [pheasants, grouse, guineafowls, turkeys, chickens, pea fowls, etc.]</p> <p>Except where the animals are kept as agricultural Livestock or as permitted by municipal licence as a Backyard Chicken Coop.</p>

	Struthioniformes	<p>All species purely or partially of the order Struthioniformes [ostriches, rheas, cassowaries, emus, kiwis, eagles, hawks, falcons, owls, etc.]</p> <p>Except agricultural livestock and birds kept for falconry.</p>
Arachnida	Araneae	<p>All Araneae purely or partially of the following species:</p> <ul style="list-style-type: none"> • The family Ctenidae [Wandering spiders] • The genus Latrodectus [Black widow spiders] • The family Sicariidae [Brown recluse spider, Assassin spider, etc.] • The family Hexathelidae [Australian Funnel web spiders]
	Scorpiones	<p>All species purely or partially of the family Buthidae [Fat tailed scorpions, Bark scorpions, etc.]</p>
<ul style="list-style-type: none"> • Poisonous or venomous animals – including but not limited to spiders, snakes, lizards and insects. 		

The Corporation of the City of Kawartha Lakes

By-Law 2020-148

A By-law to Regulate the Activity on Municipal Right-of-Ways in the City of Kawartha Lakes

Recitals

1. Section 11(2)(4) of the Municipal Act, 2001, provides that a municipality may pass by-laws respecting public assets of the municipality acquired for the purpose of exercising its authority under the Municipal Act, 2001.
2. Section 118, of the Municipal Act, 2001, provides that a municipality may, regulate the excavating, construction and use of trenches and may by by-law prohibit same unless a Road Occupancy and/or Road Closure Permit is obtained from the municipality which may also impose conditions with respect to the permit, including requiring the submission of plans
3. Section 425(1) of the Municipal Act, 2001, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of a municipality is guilty of an offence.
4. Section 426(1) of the Municipal Act, 2001 provides that no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under a by-law passed under the Municipal Act, 2001.
5. Section 429 of the Municipal Act, 2001 provides that a municipality may establish a system of fines.
6. Section 446 of the Municipal Act, 2001 provides that a municipality may proceed to do things at a person's expense which that person is otherwise required to do under a by-law or otherwise but has failed to do.
7. Section 446 of the Municipal Act, 2001 provides that the costs incurred by a municipality in doing a thing or matter under section 446 may be recovered by adding the costs to the tax roll and collecting them in the same manner as taxes.
8. A by-law will enable Staff to better manage risks, liabilities and conflict related to activity within the municipal right of ways.

Accordingly, the Council of the Corporation of the City of Kawartha Lakes enacts this By-law 2020-148.

Section 1.00: Definitions and Interpretation

1.01 Definitions: In this by-law,

“Activity” means the temporary occupancy of a right-of-way for any purpose outside its normal intended use by the City, Utility Company, or person(s);

“Applicant” means any person who applies for a Road Occupancy and/or Road Closure Permit;

“Boulevard” means all parts of a right of way except any roadway, shoulder or sidewalk;

“City”, “City of Kawartha Lakes” or “Kawartha Lakes” means The Corporation of the City of Kawartha Lakes and includes its entire geographic area;

“City of Kawartha Lakes Standards” means The City of Kawartha Lakes Standards, as amended from time to time, and are intended as guidelines for land development and City projects to aid in providing uniform designs throughout the Municipality and are to be used in conjunction with Ontario Provincial Standard Drawings (O.P.S.D.) and Ontario Provincial Standard Specifications (O.P.S.S.);

“City Clerk” means the person appointed by Council to carry out the duties of the clerk described in section 228 of the Municipal Act, 2001;

“Construct and or Construction” includes the erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and highway building, application of concrete, equipment installation and the alteration and the structural installation of construction components and materials in any form or for any purpose;

“Construction Equipment” means any equipment, tool or device designed or capable of use in construction or material handling, including but not limited to pile drivers, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers and graders;

“Contractor” means a person who does work;

“Council” or “City Council” means the municipal council for the City;

“Director of Engineering and Corporate Assets” 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;

“Director of Public Works” 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;

“Emergency Work” means work undertaken for the immediate health, safety or welfare of the inhabitants of the City or for the preservation, protection or

restoration of property. The Director of Public Works shall be responsible for determining if work is deemed to be emergency as defined in this By-Law;

“Highway” includes a common and public highway (as defined at section 26 in the Municipal Act, 2001), street, avenue, parkway, laneway, 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;

“Inspector” means a Municipal Law Enforcement Officer, Provincial Offences Officer, Police Officer, Engineering Inspector or any other City staff delegated to enforce the By-law;

“Municipal Consent or Consent” means the written consent of the Engineering Department, with or without conditions, for access to and use of the Municipality's Rights-of-Way, subject to the obtaining of a Road Occupancy and/or Road Closure Permit as applicable;

“Municipal Law Enforcement Officer” means a person appointed by Council under Section 15 of the Police Services Act to enforce municipal by-laws;

“Obstruction” includes, but is not limited to any item, materials, equipment; construction vehicle, disposal or storage bin, etc. which has been placed on a city right of way;

“O.P.S.S.” means Ontario Provincial Standard Specifications, as amended;

“Order” means an Order to Comply issued in relation to the provisions of this By-law

“Owner” means any person, business, agency, corporation or organization which conducts an activity which would require municipal awareness and approval of the activity by the issuance of a permit;

“Person” includes a corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;

“Right of Way” means municipal property designated as Highways, Roadways, Lanes, Pathways and Walkways and includes features therein such as curbs, shoulders, boulevards, and drainage ditches;

“Roadway” means the part of a right of way that is improved, designed or ordinarily used for vehicular traffic, but does not include the curb, shoulder or boulevard;

“Road Closure” means preventing vehicle movement within a Highway which causes the need for a detour;

“Road Closure Permit” means written authorization issued by the City to undertake a Road Closure;

“Road Cut” means a surface or subsurface cut in any part of a right of way made by any means, including but not limited to any excavation, reconstruction, cutting, saw cutting, overlaying, crack sealing, breaking, boring, directional drilling, jacking or tunneling operations;

“Road Occupancy” means activity conducted within a municipal right of way without causing detour of traffic;

“Road Occupancy Permit” means written authorization issued by the City to undertake work as defined by Road Occupancy within a Right of Way;

“Settlement or Settled” means any sinking of the surface of a road cut in relation to the grade of the adjacent undisturbed right of way;

“Shoulder” means that part of a right of way immediately adjacent to the travelled portion of the roadway and having a surface that has been improved with asphalt, concrete or gravel for the use of vehicles;

“Sidewalk” means all parts of a right of way set aside for the use of pedestrians;

“Temporary Service Drops” means any infrastructure established to provide service to a customer until the permanent infrastructure is repaired or replaced.

“Traffic Control Plan” refers to a document outlining the particulars of vehicular and pedestrian traffic management required for any work conducted in a right of way.

“Utility or Utilities” means any structure(s) above or below ground which exists on a right of way used for the supply of public and private services includes, but not limited to electricity, natural gas, telephone, television and internet communication as well as water, sanitary and storm sewer use;

“Utility Company” means any company with the authority to construct within a Right of Way pursuant to provincial or federal legislation, By-law, franchise agreements or municipal access agreement;

Vehicle” means a motor vehicle, as per subsection 1.1 of the Highway Traffic Act;

“Warranty” means a guarantee by the Applicant to correct any deficiencies in relation to a Road Occupancy and/or Road Closure Permit for a period of 2 years after completion of the work; and

“Work of Major Nature or Duration” means any work that requires a road cut or that extends for a period of time greater than 12 hours.

- 1.02 **Interpretation Rules:** The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.
- 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.

This by-law shall not exempt any person from the requirement to comply with any other City by-law. In the event of conflict between the provisions of this by-law and of any other City by-law, the more restrictive provisions shall apply.

Section 2.00: Restrictions

2.01 General Restrictions

No person shall:

- a) Construct, cause or permit construction within a right of way without a Road Occupancy and/or Road Closure Permit as required herein;
- b) Conduct any activity within a right-of-way without a Road Occupancy and/or a Road Closure Permit;
- c) Close or obstruct a highway or portion of a highway to traffic unless authorized to do so by the City;
- d) Fail to comply with any order issued pursuant to the provisions of this By-law;
- e) Conduct any activity on a right of way except in compliance with all conditions imposed by the City upon issuance of a Road Occupancy and/or a Road Closure Permit;
- f) Construct or conduct any activity on a right of way without a Road Occupancy and/or a Road Closure Permit on site and available for inspection.

Section 3.00: Permit Applications

3.01 Road Occupancy Permit Application

An applicant for a Road Occupancy Permit shall:

- a) Complete the prescribed application form and file it with the City not less than five (5) working days in advance of construction;

- b) Attach any documents required on the application form such as a Traffic Control Plan in compliance with the Ontario Traffic Manual;
- c) Provide proof of insurance which includes coverage which identifies the City as an additional insured and an endorsement to provide the City with 30 days notification of cancellation; and
- d) Provide an emergency contact individual details including a telephone number.

3.02 Road Closure Permit Application

An applicant for a Road Closure Permit shall:

- a) Complete the prescribed application form and file it with the City not less than fifteen (15) working days in advance of construction;
- b) Attach any documents required on the application form such as a Traffic Control Plan in compliance with the Ontario Traffic Manual;
- c) Provide proof of insurance which includes coverage which identifies the City as an additional insured and an endorsement to provide the City with 30 days notification of cancellation; and
- d) Provide an emergency contact individual details including a telephone number.

3.03 For applications requesting multiple road cuts, the City reserves the right to issue a single Road Occupancy and/or Road Closure Permit or request multiple Road Occupancy and/or Road Closure Permits for the works.

3.04 The Road Occupancy and/or Road Closure Permit shall become void if the work authorized by the permit is not commenced within sixty (60) calendar days of the date of issue.

3.05 Application for Extension of Existing Permit

- a) An existing Road Occupancy and/or Road Closure Permit may be extended, subject to the submission of a written request outlining any revised information and payment of the applicable fee.
- b) The City, at its discretion, may refuse to extend, or place conditions on the extension of a Road Occupancy and/or Road Closure Permit.

Section 4.00: Work Exempt from a Road Occupancy and/or Road Closure Permit

4.01 Exemptions include:

- a) Activities performed by the City's Public Works Division related to maintenance of the Right of Way which does not require a road closure;

- b) Activity or construction of less than 15 min in duration which does not cause any disruption to traffic flows, does not alter the Right of Way in any manner and does not alter any existing utilities.
- c) Work conducted on unassumed roads as part of an approved subdivision, site plan, Land Division, or Draft Plan Application prior to the subdivision being assumed by the City.
- d) Work or activity conducted in consent with Sections 41, 51, or 53 of the Planning Act and in accordance with the provision of such approval.

4.02 Emergency Work

- a) Emergency Work may be carried out prior to application for a Road Occupancy and/or Road Closure Permit, provided application is made on the same day the work is commenced.
- b) Emergency work performed by or under the direction of the Public Works Department is exempt from the permitting process.

Section 5.00: Permit Application Refusal

5.01 The City may refuse to grant a Road Occupancy and/or Road Closure Permit to any Applicant for the following:

- a) Previous violations of conditions of a Road Occupancy and/or a Road Closure Permit, or of any provisions of this By-law;
- b) Where roadway construction, reconstruction or resurfacing has occurred within the previous three years of the proposed road cut;
- c) A previously issued Road Occupancy and/or Road Closure Permit is active in the area proposed by the applicant and the granting of a secondary Road Occupancy and/or Road Closure Permit would create a construction conflict, or
- d) Any other reason the City may determine appropriate.

Where a Road Occupancy and/or Road Closure Permit has been refused, the City shall notify the Applicant in writing of the reason for the refusal.

Section 6.00: Permit Conditions

6.01 General Requirements

Every person who conducts, causes or permits any construction activity and/or temporary storage of materials on a right of way shall comply with the Road Occupancy and/or Road Closure Permit conditions below:

6.02 Notice Requirements for Road Closure

- a) Notify, in writing, residents and businesses impacted by work of major nature or duration as determined and directed to do so by the City, at least ten (10) working days prior to commencement of work with the following information:

- i. Description and rationale for the work;
- ii. The start date;
- iii. Duration of the closure;
- iv. Access restrictions and service interruptions;
- v. 24 hour, 7 day per week contractor contact information.

6.03 Locates

Locates shall be acquired in accordance with the Ontario Underground Infrastructure Notification System Act, 2012, S.O. 2012, c. 4, as amended. Damage to infrastructure shall be the sole responsibility of the Applicant.

6.04 Warning Devices, Barricades and Traffic Signs

- a) The Applicant shall supply, erect and maintain the required warning devices, barricades, and information and traffic signs, in accordance with the Occupational Health and Safety Act, R.S.O. 1990, chap. 0.1. as amended, and any applicable provincial traffic regulations, including but not limited to the Ministry of Transportation's Ontario Traffic Manual, Book #7 (Temporary Conditions).
- b) If the Applicant fails to comply with subsection 6.02(a), the City may revoke the Road Occupancy and/or Road Closure Permit and issue a stop work order.
- c) Work may only re-commence upon inspection and compliance with the Traffic Control Plan.

6.05 Contact

- a) The Applicant shall be responsible to provide 24 hour per day, 7 day per week response during the period for which the activity occurs.

6.06 Indemnification

- a) The Applicant shall indemnify the City from all causes of action, loss, costs or damages arising from the execution, non-execution or imperfect execution of any work authorized by this By-law whether with or without negligence on the part of the Applicant or the officers, agents, servants or workers of the Applicant.

6.07 Snow Removal and De-Icing

- a) Where the Road Occupancy and/or Road Closure Permit activity impedes snow removal and de-icing by the City, the Applicant shall be responsible for providing ice and snow removal services within the

limits of the work site. Such areas shall be cleared of ice and snow to the satisfaction of the City.

- b) Should the Applicant fail to complete the required snow removal services and de-icing within the requirements outlined in City Policy (C 124 EPW 010 and/or C 125 EPW 001, as amended), the City, without any notice to the Applicant, may arrange for the snow and ice to be removed by others. All costs incurred by such removal shall be at the sole expense of the Applicant.

6.08 Location and Times of Construction

- a) Construction may only take place within the location limits and times as specified on the Road Occupancy and/or Road Closure Permit. Work must comply with all Municipal By-Laws such as the noise regulation By-Law. Additional restrictions may apply and work may be prohibited at specific times and dates in order to coordinate with or avoid other work or Special Events in the area.
- b) The Road Occupancy and/or Road Closure Permit site shall be adequately protected and secured at all times.

6.09 Site Conditions

- a) The Applicant is responsible for maintaining the work site and keeping the surrounding area free of dust, mud and other debris. The Applicant shall clean the road and sidewalks as required to the satisfaction of the City.
- b) Prior to the start of any construction activity, filter cloth shall be placed between the frames and covers of all catch basins within the immediate area to prevent the entry of construction dirt and debris.
- c) The Road Occupancy and/or Road Closure Permit site is to be kept in a tidy condition satisfactory to the City. Upon completion of the work, the Applicant shall remove all surplus materials as well as any rubbish accumulated, make good any defects or damage and shall leave the site in a condition satisfactory to the City.

6.10 Road Occupancy and/or Road Closure Permit Transferability

- a) A Road Occupancy and/or Road Closure Permit is not transferable.

6.11 Public Transit Accommodation

- a) The Applicant shall coordinate all staging with municipal transit services and all private bus operators that operate within the work area. Special attention shall be given to loading and unloading areas for disabled persons and school buses.
- b) The Applicant shall maintain access to all existing bus stops within the work area. Where it is not practical to maintain access, the Applicant will be responsible for relocation and reinstatement of the bus stops, under the direction of the transit authority.
- c) When the proposed works involve the removal or the replacement of a utility pole that is being used for City of Kawartha Lakes signage

including but not limited to Bus Stop Signs, Parking Signs, and Public Information Signs, the Applicant shall arrange for the removal and replacement of City owned signage.

6.12 Responsibility for Claims and Maintenance

- a) City Staff will assess the condition of repairs.
- b) The cost of all damage repairs pursuant to applicable sections of this By-Law, shall be at the expense of the Applicant and the costs incurred by the City shall be paid by the Applicant forthwith.

6.13 Entrances

- a) City Staff will assess the condition of repairs.
- b) If any gravel, asphalt, concrete, interlocking, or other surfacing material from a driveway located within the boulevard is removed or damaged in the course of work undertaken with a Road Occupancy and/or Road Closure Permit, it shall be replaced as nearly to the original condition as it was installed.

6.14 Ground Cover Material and Vegetation

- a) City Staff will assess the condition of repairs.
- b) If any ground covering material and vegetation including sod and shrubbery located within the boulevard is removed or damaged in the course of the work undertaken with a Road Occupancy and/or Road Closure Permit, it shall be replaced as nearly to the original condition as it was installed, unless otherwise directed by the City.

6.15 Posting of Road Occupancy and/or Road Closure Permit

- a) No Person shall work on a right of way without a Road Occupancy and/or Road Closure Permit on-site and available for inspection.

6.16 Street Lighting

- a) Should the work involve the removal/replacement of utility poles having City owned luminaires (street lights) attached to them, these street lights shall be, at the applicant's sole expense, moved to, and mounted on the new utility pole. The luminaire will be connected to power by a qualified electrician and set at an elevation and location that is acceptable to the City. Any coordination with relevant utilities (e.g. Hydro One) is the applicant's responsibility

Section 7.00: Construction Conditions

7.01 General Road Occupancy and/or Road Closure Requirements

- a) The Applicant shall open a road cut in such a manner as to do the least possible damage to the right of way and to any utility or municipal service.

- b) The work shall proceed expeditiously and no Applicant shall allow a road cut to remain open for more than twenty-four (24) hours unless the work is actively in progress.
- c) The site shall be kept clean and safe, and sources of dust and mud controlled at all times until the final reinstatement has been completed. All dust and mud nuisance that is tracked from the site shall be promptly cleaned.
- d) The Applicant and contractor shall comply with and be bound by the provisions of the Ministry of Transportation's Ontario Traffic Manual, Book 7 (Temporary Conditions).

7.02 Excavated Materials and Road Cut Methods

- a) No Applicant shall place, cause or permit the placement of material or equipment in a location where, it will cause damage to the infrastructure it is placed on and/or create a traffic or safety hazard.
- b) Except as permitted by the City, where multiple road cuts are required with a separation distance of equal to or less than thirty (30) metres it shall be required that the Applicant reinstate the road cuts and resurface the right of way for the entire distance between the outer edges of each road cut.
- c) Where a road cut is made in any concrete surface, the Applicant shall break out and remove all concrete to the nearest expansion or contraction joint, using a concrete saw if necessary, to provide a clean vertical surface on all sides of the road cut; or as specified by the City.
- d) Where a road cut is made in asphalt pavement, the asphalt shall be cut with a mechanical cut device to produce a rectangular opening with edges which are vertically straight which is large enough to accommodate the proposed works without undermining the adjacent asphalt pavement.
- e) Where boring, directional drilling, jacking or tunneling is used for any subsurface road cut and if a cave-in, settlement or heaving results there from, the surface in the affected area shall be removed and reinstated by the Applicant in accordance with this By-law to the satisfaction of the City. Video inspection records shall be provided to the City upon request from a designated administrator of this By-Law.
- f) Where applicable, all works shall be completed to City Standards and Ontario Provincial Standards. City Standards shall take precedence over Ontario Provincial Standards unless otherwise directed by the City.

7.03 Reinstatement and Backfill Requirements

- a) The Applicant shall be responsible for:
 - i. The permanent restoration of a road cut subject to the provisions of this By-law; and
 - ii. The temporary restoration of every road cut that is not in a condition to be permanently restored by November 15th and is

responsible for the permanent restoration prior to May 1st of the following year.

- b) All reinstatements shall be done to current City Standards and O.P.S.S. standards. City Standards shall take precedence over Ontario Provincial Standards unless otherwise directed by the City.
- c) Temporary surfacing of a roadway with asphalt, concrete, or other surface material, the treated surface shall meet the following requirements:
 - i. The road cut shall be temporarily reinstated immediately after backfilling is completed;
 - ii. The reinstatement shall be to the same level as the adjacent surface; and
 - iii. Prior to the right- of- way being opened to traffic, the top seventy-five (75 mm) millimetres of the road cut shall be surfaced with hot mix asphalt, concrete, or, if hot mix asphalt is unavailable, with emulsified cold mix asphaltic material, all hand-tamped or rolled to a smooth, flat condition using industry standard practices and standard tamping or rolling equipment.

7.04 Contaminated Materials

- a) If contaminated material is found when excavating, the Applicant shall immediately notify the City and the Ontario Ministry of the Environment and comply with all applicable environmental, health and safety requirements. Contaminated material must not be used as backfill and must be disposed of in accordance with all legislative requirements.

7.05 Testing

- a) The City may at any time require an Applicant to provide, at their expense, such information, testing, and or certification as The City deems necessary to satisfy itself that the work as authorized is in accordance with this By-law.
- b) All testing required shall be completed in accordance with O.P.S.S.

7.06 Reporting Damage / Impact to Existing Utilities

- a) Any impact on existing utilities including, but not limited to, the protective coating, support, cathodic protection or the housing of the utilities, shall be reported to the City and applicable Utility Company immediately.
- b) The utilities shall remain exposed, with the excavation properly supported, until the utilities owner has assessed the damage and made a repair or authorized the Applicant to proceed.

7.07 Completion of Work

- a) Upon completion of the temporary surfacing or permanent reinstatement of the road cut, all excess material shall be removed

from the area of the road cut and the area shall be left in a safe, neat and clean condition to the satisfaction of the City.

Section 8.00: Cut Failure, Restoration and Warranties

8.01 Completion of Work

- a) For temporary reinstatement of the right of way, the Applicant is responsible for the repairs necessary to correct any road cut under the Ontario Minimum Maintenance Standards for Municipal Right of way, O.P.S.S. and City Standards as applicable.
- b) The applicant shall restore all parts of the right of way to be in compliance with the provisions of this by-law, including boulevards, driveways, ground cover and trees:
 - i. The repairs necessary to correct any settlement or surface deterioration for a warranty period of two years following the date of acceptance by the City of final reinstatement of the right of way, or being the last time the applicant repaired the road cut; and
 - ii. Any costs incurred by the City for any temporary and permanent surface repairs resulting from improper backfilling or compaction of the right of way or deficient materials shall be borne by the Applicant.
- c) If the Applicant has not done the work referred to in section 8.01(2)(a) hereof within twenty-four (24) hours notification, the City may order the work to be done at the Applicant's expense.
- d) Where an applicant fails to restore the right of way, including boulevards, driveways, ground cover or trees, an Inspector may issue an Order to Comply requiring the work to be done.

8.02 Emergency Repairs

- a) If the City is of the opinion that a road cut reinstatement or lack of reinstatement, has created an emergency situation which can cause damage to vehicles or endanger the public, the City may protect the area and make immediate repairs;
- b) All work done by the City pursuant to subsection 8.02(1) shall be at the expense of the Applicant and the costs of the City shall be paid by the Applicant.
- c) Where emergency repairs must be completed in relation to activities completed without a permit, the contractor and/or person who caused the road cut or damage shall be responsible for the costs incurred by the City as referred to in section 8.02(1).

Section 9.00: Roadway Obstructions

- 9.01 No person shall place or cause to be placed any obstructions including, but not limited to, construction material, landscaping material, disposal or

storage bins, construction vehicles or equipment on a right of way without obtaining a Road Occupancy and/or Road Closure Permit.

- 9.02 Where a roadway obstruction has been authorized by the City, the Applicant shall place traffic cones at each of the two roadside corners of the obstruction to delineate a potential traffic hazard.
- 9.03 No property owners shall obstruct, cause or permit the obstruction of any right of way in relation to work being done on their property without obtaining a Road Occupancy and/or Road Closure Permit.
- 9.04 A Road Occupancy and/or Road Closure Permit issued in relation to an obstruction must be posted on the adjacent property or boulevard so that it is visible from the street.

Section 10.00: Enforcement

- 10.01 This By-Law may be enforced by Municipal Law Enforcement Officers, Police, Director of Public Works or any other person designated.
- 10.02 No person shall hinder, or obstruct or attempt to hinder or obstruct, any person exercising a power or performing a duty or from conducting an inspection or a person performing corrective work under this By-law.
- 10.03 Any landscape or construction material removed from the right of way by the City may be treated as refuse by the City or become property of the City, which can be disposed of in any manner or used for any City purpose.
- 10.04 Any obstruction removed by the City may, at the discretion of the Director or Inspector, be stored at a City facility for thirty (30) days at the owner's expense
- 10.05 Any obstruction stored per section 10.4 shall only be released to the owner or applicant after the City has been paid the applicable fees for removal and storage of the obstruction. Any obstruction stored per section 10.4 for more than thirty (30) days and for which no owner or applicant has claimed and paid the applicable fees may be disposed of by the City in any manner it deems appropriate. An Inspector may:
 - a) require the production of documents or things relevant to the inspection;
 - b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - c) require information from any person concerning a matter related to the inspection; and

- d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.

10.06 Order to Comply

- a) Where an Inspector is satisfied that there has been a contravention of any provision of this by-law, the Inspector may issue an order requiring the applicant, contractor, or owner of the property abutting the right of way on which the contravention has occurred, to stop work or do work to correct the contravention.
- b) An order shall set out:
 - i. Reasonable particulars of the contravention;
 - ii. The location of the contravention;
 - iii. The general nature of the work required to be done to restore the right of way, correct the contravention and/or stop work and obtain a permit; and
 - iv. The date by which the work must be done.
- c) An order issued to stop work may be issued for construction that is not in compliance with the conditions of a Permit, or where construction is taking place without a Permit.
- d) An order to stop work may require temporary restoration of the right of way and removal of all equipment and materials until compliance with the by-law.

10.07 Stop Work Order

- a) The City may issue a stop work order for construction that is not in accordance with the conditions of a Road Occupancy and/or Road Closure Permit or where construction is taking place without a required Permit:
 - i. A stop work order may require temporary restoration and removal of all equipment and materials off site until compliance with the bylaw is met.
 - ii. A stop work order shall be lifted once the City determines that all contraventions of this By-law have been rectified.

10.08 Remedial Action

- a) Where activity is completed without a permit, the Inspector shall investigate said activity and determine the violation.
- b) Where an order has been issued and compliance has not been achieved by the compliance date on the order, the City may cause the work set out in the order to be done.
- c) The City may recover the costs of doing any work undertaken pursuant to subsection (a) and (b), together with an administration charge equal to 25% of such costs, from the applicant, contractor or owner, by adding the cost to the property tax roll and collecting them in the same manner as property taxes, or by whatever other means available to the

municipality based on the person responsible. Any obstruction found on a roadway or right of way without a permit may be removed by the City without notice if it is deemed to be an immediate hazard.

- d) The Contractor or Person who cause the work to be performed will be required to apply for a permit. Any costs incurred by the City including but not limited to (Staff time, investigation time, PW approval, patrol and orders) will be charged to the Contractor or Person who caused the work and collected per means available within this By-Law.

10.10 Permit Revocation

- a) The Director may revoke a permit for any of the following reasons:
 - i. a violation of any condition of the Road Occupancy and/or Road Closure Permit or of any provision of this By-law;
 - ii. a violation of any provision of any other law relating to the work;
 - iii. the existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or properties of others;
 - iv. where the Road Occupancy and/or Road Closure Permit has been issued on mistaken, false or misleading information;
 - v. where the work is not carried out in a diligent and workmanlike manner; or
 - vi. it was issued in error.

10.11 Non-Compliant Installations

- a) Where utilities are found to be constructed without a valid Road Occupancy and/or Road Closure Permit and/or in a location other than that approved by the City, the Utilities Company may be required to, at its own expense, immediately remove the utilities and/or relocate work in compliance with the approved design and restore the site to the satisfaction of the City.

10.12 Service of Order or Notice

- a) The service of all Orders or Notices from the City may be:
 - i. Served personally upon the applicant, contractor or owner;
 - ii. Same as listed
 - iii. Mailed by registered mail to the last known address of the applicant, contractor or owner.
- b) If served by registered mail, an Order shall be deemed to have been served on the fifth day after mailing

Section 11.00: Penalty and Offence

- 11.01 Offence and Penalty: It is an offence for a person to contravene any provision of this by-law, and every person who contravenes this by-law is guilty of an offence and, on conviction, is liable to a fine in accordance

with the provisions of the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended and to any other applicable penalty.

- 11.02 Offences: Any person who contravenes any provision of this by-law is guilty of an offence, and upon conviction, is liable to a maximum fine of not more than \$100,000.00, as provided for by Section 429 of the Municipal Act, 2001, S.O.2001, c.25 as amended.
- 11.03 Corporation: A director or officer of a corporation who knowingly concurs in the violation or contravention by the corporation of any provision of this by-law is guilty of an offence and upon conviction, is liable to a maximum fine of not more than \$100,000.00, as provided for by Section 429 of the Municipal Act, 2001, S.O.2001, c.25, as amended.
- 11.04 Multiple Offences: The conviction of a person for the contravention or breach of any provision of this by-law shall not operate as a bar to the prosecution against the same person for any subsequent or continued breach or contravention of any provision of this by-law. Each day that the offence continues shall be deemed a separate and distinct offence.
- 11.05 Court Order: If this By-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

Section 12.00: Administration and Effective Date

- 12.01 **Administration of the By-law:** The Director of Public Works and the Director of Engineering and Corporate Assets are responsible for the administration of this by-law.
- 12.02 **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 15th day of December, 2020.

Andy Letham, Mayor

Cathie Ritchie, City Clerk

The Corporation of the City of Kawartha Lakes

By-Law 2016-062

A By-Law To Regulate and Designate Responsibilities Relating To A Reduced Load Period Affecting Highways In The City of Kawartha Lakes

Recitals

1. Subsection 122(7) of the Highway Traffic Act, R.S.O. 1990, c.H.8, 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. This by-law updates and replaces by-law 2005-77.
3. Section 23(1) of the Municipal Act, 2001, S.O. 2001 c.25 as amended, allows Council to delegate its powers and duties.
4. This delegation is required to be adopted by by-law.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2016-062.

Section 1.00: Definitions and Interpretation

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

“City”, “City of Kawartha Lakes” or “Kawartha Lakes” means The Corporation of the City of Kawartha Lakes and includes its entire geographic area;

"City Clerk" means the person appointed by Council to carry out the duties of the clerk described in section 228 of the Municipal Act, 2001;

“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;

“Council” or “City Council” means the municipal council for the City;

“designated highway” means a highway which has been posted for load restrictions in accordance with Section 3.02 of this by-law;

“Director of Public Works” or “Director” 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;

“gross weight” means the combined weight of a vehicle and its load;

“highway” includes: a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, and 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 of the road allowance;

“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;

“Police Officer” means a chief of police or any other police officer in a police service that is appointed for enforcing or carrying out the provisions of this by-law;

“road-building machine” means a self-propelled vehicle of a design commonly used in the construction or maintenance of highways, including, but not limited to,

- a) asphalt spreaders, concrete paving or finishing machines, motor graders, rollers, tractor-dozers and motor scrapers;
- b) 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
- c) power shovels on tracks and draglines on tracks, but not including a commercial motor vehicle;

“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;

“vehicle” includes: a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle and any vehicle drawn, propelled or driving 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) The Schedules attached to this by-law form part of the by-law, and are enforceable as such.
- (b) The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.

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: Reduced Load Period and Restrictions during that time

2.01 **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.

2.02 **Requirement to Designate by Signage:** The reduced load period applies only on highways where the Director has caused reduced load signs to be posted.

2.03 **Maximum Weight:** During the reduced load period, no person shall operate, draw or haul a commercial motor vehicle or trailer, other than a public vehicle referred to in Section 1.01 upon any designated highway, where the weight upon any one axle of the vehicle exceeds five thousand (5000 kg) kilograms.

2.04 **Transporting Fuel:** During the reduced load period, no person shall 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.

2.05 **Transporting Livestock or Feed:** During the reduced load period no person shall 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.

- 2.06 **Transporting Poultry:** During the reduced load period, no person shall operate a two axle truck, while used exclusively for the transportation of poultry upon any designated highway where the weight upon tan axle exceeds seven thousand five hundred (7500 kg) kilograms.
- 2.07 **Load on Tire Width:** During the reduced load period, no person shall 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.
- 2.08 **Non-Compliance with Permit Conditions:** It constitutes an offence for a person who is the bearer of a permit issued pursuant to Section 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.

Section 3.00: Delegation to the Director of Public Works

- 3.01 **Designated Highway:** The Director of Public Works is given the authority to consider the structure on the highways in Kawartha Lakes and determine which, if any, should be restricted to reduced loads during the reduced load periods declared in Section 2.00 of this by-law.
- 3.02 **Conditions for Permits:** The Director of Public Works is given the authority to stipulate the conditions for the application of a permit issued pursuant to Section 4.00 of this by-law.
- 3.03 **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 Section 4.00 of this by-law.
- 3.04 **Designates for the Director:** The Director may designate any staff person her or she deems appropriate to fulfil his or her delegated duties pursuant to this by-law.

Section 4.00: Exemptions and Permits

- 4.01 **Exemptions:** Section 2.00 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 Section 2.00 of this by-law.
- 4.03 **Fee for Permits:** A non-refundable administration fee applies to any application for a permit under Section 4.02 of this by-law at a fee rate in accordance with Schedule Y of the Consolidated Fees By-law.
- 4.04 **Permit Limitations:** No person shall operate outside of the permit time and location. 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 pose 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 used that the original of the permit be carried in the vehicles for which the permit was issued and be produced when demanded by a police officer or an officer appointed by carrying out the provisions of this by-law. Failure to comply with this condition constitutes an offence.

Section 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.

Section 6.00: Enforcement and Penalties

- 6.01 **Enforcement:** This by-law may be enforced by every municipal law enforcement officer, police officer, or the Director and his or her designates for the City.
- 6.02 **Offence and Penalty:** Every person who commits an offence pursuant to this by-law is liable upon conviction to the fines prescribed in the Highway Traffic Act , R.S.O. 1990, c.H.8, and in accordance with the provisions of the Provincial Offences Act, 1990, c.P.33 and to any other applicable penalty.

Section 7.00: Administration and Effective Date

- 7.01 **Administration of the By-law:** The Director of Public Works is responsible for the administration of this by-law.
- 7.02 **Effective Date:** This By-law shall come into force on the 1st day of June, 2016.

By-law read a first, second and third time, and finally passed, this 22nd day of March, 2016.

Andy Letham, Mayor

Judy Currins, City Clerk