

The Corporation of the City of Kawartha Lakes

Office Consolidation of By-Law 2014-026

Consolidated on October 15, 2018

Passed by Council on January 14, 2014

Amendments:

- | | | |
|--------------------|--------------------|---|
| 1) By-law 2016-209 | November 22, 2016 | Article 1.01, 3.05, 6.02,
Schedule A |
| 2) By-law 2017-071 | April 18, 2017 | Section 4.00 |
| 3) By-law 2018-201 | September 25, 2018 | Sections 3.05, 4.06 and 6.02 |

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

The Corporation of the City of Kawartha Lakes

By-Law 2014-026

A By-Law To Require The Owners of Yards Within Kawartha Lakes To Clean and Clear Them

Recitals

1. Section 127 of the *Municipal Act, 2001*, authorizes the councils of municipalities to pass By-Laws to require the cleaning or clearing of the land, not including buildings, or to clear refuse or debris from the land, not including buildings.
2. Section 10 of the *Municipal Act, 2001*, authorizes the councils of municipalities to pass By-Laws for the health, safety and well-being of persons.
3. Section 391 of the *Municipal Act, 2001*, authorizes the councils of municipalities to impose fees or charges for services rendered.
4. Council considers it advisable to regulate the cleaning and clearing of properties within the City of Kawartha Lakes.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-Law 2014-026.

Section 1.00: Definitions and Interpretation

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

- (a) **“Building”** includes:
 - (i) a structure occupying an area greater than ten (10) square metres (equivalent to 108 square feet) consisting of a wall, roof and floor or any of them or a structural system serving that function, including all plumbing, works, fixtures and service systems appurtenant to it;
 - (ii) a structure occupying an area of ten (10) square metres (equivalent to 108 square feet) or less, that contains plumbing, including the plumbing appurtenant to it; and
 - (iii) any structure designated in the Ontario Building Code as a “building”.
- (b) **“By-Law”** means this By-Law, as it may be amended from time to time. The Recitals to, and the Schedules attached to this By-Law are considered integral parts of it.
- (c) **“City”, “City of Kawartha Lakes”** means The Corporation of the City of Kawartha Lakes and includes its entire geographic area.
- (d) **“Council” or “City Council”** means the municipal council for the City.
- (e) **“Debris”** includes the following:
 - i. material of any kind which has been discarded by its rightful owner;
 - ii. composting heaps, which are not appropriately contained in a composting container for efficient composting purposes, including tree or brush cuttings;
 - iii. litter;
 - iv. waste, which includes pet excrement;
 - v. items which cannot be used for their rightful or originally intended purpose due to their placement or situation;
 - vi. unlicensed items;
 - vii. inoperative vehicles;
 - viii. construction debris;
 - ix. shipping container;

- x. recovered or recycled materials including firewood, which are haphazardly strewn about and not stored or piled neatly;
- xi. shall not apply to lands designated and/or zoned Open Space, Environmental Protection, Agricultural which are classified as a Rural lot as defined by this By-law and to lands designated Waterfront, Prime Agricultural or Rural, within 30 metres of the waterfront, a wetland, water body or watercourse. This shall also include any property fronting onto a waterbody within designated hamlet settlement areas and urban settlement areas. ~~weeds and/or grass, which exceeds 203 mm (8") in height;~~
- xii. dead and/or decaying trees, that due to their location or situation on private property may be a health or safety hazard to public property or the users of public property;
- xiii. donation box on any premises except on private property that is zoned to permit a commercial use; and
- xiv. donation box items placed on outside of donation box.

Note: **Section 1.01 (e) (xi)** shall not apply to lands zoned Open Space, or Environmental Protection and lands zoned Agricultural which are classified as a Rural lot as defined by this by-law.

- (f) **“Composting Container”** means an approved container capable of enclosing composting materials in a neat and odour free condition.
- (g) **“Donation Box”** means a container used to collect second-hand clothing or other second-hand items for donation to a charitable organization.
- (h) **“Dwelling”** means a building or structure, any part of which is or is intended to be used for the purpose of human habitation and includes a building that would be used or intended to be used for such purposes.
- (i) **“Lot”** means a separately transferable parcel of land.
 - (i) **“Rural Lot”** means a lot which is one (1) hectare (two point four seven eleven (2.4711) acres) in size or larger.
 - (ii) **“Urban Lot”** means a lot which is less than one (1) hectare acres (two point four seven eleven (2.4711) acres) in size.
- (j) **“Manager of Municipal Law Enforcement”** means the person who holds that position and his or her designate(s) or, in the event of organizational changes, another person designated by Council;

- (k) **“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.
- (l) **“Notice”** means the written notice referenced in Section 2.01 and described in Section 2.00 of this By-Law.
- (m) **“Owner” or “Occupier”** means the registered owner of the property in question as revealed in the Land Registry Office of the Ministry of Consumer and Commercial Relations; any occupant of the property in question with authority to act on behalf of the registered owner; any person authorized by the registered owner to act on his or her behalf; any lessee or occupant of the property who, under the terms of a lease or occupancy agreement, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property; and any mortgagee or receiver and manager or trustee in bankruptcy with possession and control of the property.
- (n) **“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;
- (o) **“Public Property”** means any property owned by the federal government, provincial government or City of Kawartha Lakes.
- (p) **“Standing Water”** means standing or stagnant water in a vessel, pool, container or other item capable of holding water where evaporation is the only means of evacuating the water, but does not include standing or stagnant water in a ditch, culvert, drainage work, agricultural field or other depression in the ground.
- (q) **“Shipping Container”** means a container with strength suitable to withstand shipment, storage, and handling and is designed to be moved from one mode of transport to another without unloading and reloading the goods inside.
- (r) **“Vacant Lot”** means a Lot which contains no occupied buildings.
- (s) **“Unlicensed Items”** means items which cannot be used for their rightful or originally intended purpose due to lack of licence, registration or other requirement, including but not limited to insurance coverage and mechanical safety certificate. This definition excludes bona fide collectors’ items or antiques (for example, classic cars), provided they are in the active process of being restored or preserved and stored neatly.
- (t) **“Unsafe Debris”** means debris which is situated on private or public property in such a manner as to cause an immediate safety concern to members of the general public.

- (u) **“Unsafe Standing Water”** means standing water which is situated on private or public property in such a manner as to cause an immediate safety concern to members of the general public.
- (v) **“Yard”** means the land in common ownership with, and around or appurtenant to, a residential or non-residential building, which is used or capable of being used in connection with the property. The definition includes any land which is not in common ownership with the lot on which the building is situating, but is actually used in connection with the property.

“Consolidated Fees By-law” means City of Kawartha Lakes By-law 2016-206 or if it has been repealed any subsequent City of Kawartha Lakes By-law known as the Consolidated Fees By-law.

(2016-209, effective Nov. 22/16)

1.02 **Interpretation Rules:**

- (a) Wherever this By-Law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-Law with the gender applicable to the circumstances.
- (b) References to items in the plural include the singular, as applicable.
- (c) The word “include” is not to be read as limiting the phrases or descriptions that precede it.

1.03 **Statutes:** References to laws in this By-Law are meant to refer to the Statutes, as amended from time to time, that are applicable within the Province of Ontario.

1.04 **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this By-Law to be illegal or unenforceable, that portion of this By-Law will be considered to be severed from the balance of the By-Law, which will continue to operate in full force and effect.

Section 2.00: Notice to Clear or Clean a Yard or Vacant Lot

2.01 **Notice:**

- (a) Where a Municipal Law Enforcement Officer becomes aware of a situation where the owner of a vacant lot, which is an urban lot, or a yard which is on an urban lot, has allowed debris or standing water to accumulate on that property, he or she may issue a written notice to that owner in accordance with this By-Law.
- (b) Where a Municipal Law Enforcement Officer becomes aware of a situation where the owner of a vacant lot, which is a rural lot, or a yard which is on a rural lot, has allowed debris or standing water to accumulate on that

property, he or she may issue a written notice to that owner in accordance with this By-Law.

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

- (a) give the address of the yard or vacant lot (or the legal description of the property) where the debris or standing water has accumulated;
- (b) define with reasonable particularity and detail the material or standing water on the yard or vacant lot which is considered to be debris;
- (c) prescribe a time period which is not less than fourteen (14) days, and is not more than thirty (30) days, within which the owner is required to remove the debris or standing water from the yard or vacant lot; and
- (d) notice regarding the administration fee charges.

2.03 **To Whom Notice is Sent**: The Notice shall be sent to every owner of the yard or vacant lot and also to every known occupant of the property, where it is occupied. The notice shall be sent to the last known address registered with the City of Kawartha Lakes Taxation Office.

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

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

2.05 **Deemed Delivery**:

- (a) Where a notice is personally delivered, it is considered to have been delivered at the date and time at which it was handed to the addressee.
- (b) Where a notice is personally delivered to the residential address of the addressee, it is considered to have been delivered on the next business day following the date of delivery.
- (c) Where a notice is delivered by registered or certified mail, it is deemed to have been delivered on the fifth day after the day of mailing.

- (d) Where a notice is delivered by facsimile, it is considered to have been delivered on the next business day following the date showing on the proof of transmission document.
- (e) Where a notice is posted on occupied property in accordance with section 2.04(e), it is considered to have been delivered the next business day following the date it is posted.
- (f) Where a notice is posted on unoccupied property in accordance with section 2.04(e), it is considered to have been delivered five (5) days after the date it is posted.

2.06 **Amendment of Notice re Time:** Where an owner is making reasonable effort to comply with a notice, but requires more time within which to complete the removal of the debris or standing water, the Manager of Municipal Law Enforcement or a Municipal Law Enforcement Officer may, in his or her discretion, approve up to two (2) time period extensions pursuant to this section of the By-Law. Each extension shall be for a time period no longer than thirty (30) days. In those circumstances, written notice of the change to the original notice shall be delivered to all persons who received the original notice.

2.07 **Withdrawal of Notice:** Where an owner has either complied with the notice within the appropriate time frame, or where the Manager of Municipal Law Enforcement or a Municipal Law Enforcement Officer is satisfied that the owner has corrected the problem without necessarily strictly complying with the notice, the Manager of Municipal Law Enforcement or Municipal Law Enforcement Officer may withdraw the notice by sending written notice of the withdrawal to all persons who received the original Notice.

2.08 Cost Recovery: Where sections 2.01, 2.06 and 2.07 are invoked an administrative fee shall be charged 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 3.00: Unsafe Conditions

3.01 **Unsafe Debris:** Where the circumstances of section 2.01 (a) or (b), as applicable, exist, but where any part of the debris in question is unsafe debris, Section 3.03 applies.

3.02 **Unsafe Standing Water:** Where the circumstances of section 2.01 (a) or (b), as applicable, exist, but where any part of the standing water in question is unsafe standing water, section 3.03 applies.

3.03 **Immediate Action:** In circumstances of section 3.01 or section 3.02, a Municipal Law Enforcement Officer is specifically authorized to take immediate steps, or to

cause immediate steps to be taken, to eliminate the danger associated with the unsafe debris or unsafe standing water.

- 3.04 **Limited Authorization**: The authorization provided by section 3.03 of this By-Law is limited only to such steps as are required to remove the danger.
- 3.05 **Cost Recovery**: Where section 3.03 of this By-Law is invoked, all costs associated with the work, including any Administration Fee, shall be added to the tax roll of the property from which the danger was eliminated, and shall be collected in like manner as municipal taxes as well as an inspection fee in accordance with the Consolidated Fees By-law.

2018-201, effective September 25, 2018 2016-209, effective Nov. 22, 2016

Section 4.00: Offences

- 4.01 No owner of a lot or yard shall allow debris or standing water to accumulate on their property.
- 4.02 No owner of a lot or yard shall place, erect, maintain or permit the placement, erection or maintenance of a donation box on any premises except on private property that is zoned to permit a commercial use.
- 4.03 No owner or occupier shall permit items discarded or placed in the area surrounding a donation box to remain, regardless of whether such items left are donations.
- 4.04 The failure of any owner to comply with a notice within the time frame specified in that notice, subject to sections 2.06 and 2.07 of this By-Law, constitutes an offence.
- 4.05 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.
- 4.06 Where an owner has received a second, third and subsequent offence on the same property, an inspection administration charge shall apply as set out in the Consolidated Fees By-law and if not paid shall be added to the tax roll of the property and shall be collected in a like manner as municipal taxes.

2018-201, effective September 25, 2018, 2017-071, effective April 18, 2017

Section 5.00: Enforcement and Penalties

- 5.01 **Enforcement**: This By-Law may be enforced by every Municipal Law Enforcement Officer or Police Officer.
- 5.02 **Penalty**: Any person who contravenes any provision of this By-Law is guilty of an offence, and upon conviction, is liable to a fine in accordance with the provisions of the Provincial Offences Act, 1990 c.P33 and to any other applicable penalty.

- 5.03 **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 6.00: Fulfillment of Owners' Obligations

- 6.01 **City May Complete Work:** Where an owner fails to comply with a notice within the specified time frame (subject to amendment in accordance with Section 2.06 or withdrawal in accordance with section 2.07), a Municipal Law Enforcement Officer may, in addition to any enforcement of this By-Law, cause the City's forces to complete the work required by the notice, without further notice to the owner.
- 6.02 **Cost Recovery:** Where Section 6.01 of this By-Law is invoked, all costs associated with the work shall be added to the tax roll of the property which is the subject matter of the notice and shall be collected in like manner as municipal taxes as well as an inspection fee as set out in the Consolidated Fees By-law.
2018-201, effective September 25, 2018, 2016-209, effective Nov. 22, 2016

Section 7.00: General Provisions

- 7.01 **Administration of By-Law:** Unless otherwise indicated in this By-Law, the administration of this By-Law is assigned to the Manager of Municipal Law Enforcement, who may delegate the performance of any of the Manager of Municipal Law Enforcement functions under this By-Law from time to time as occasion requires.
- 7.02 **Caveat:** Any process underway prior to the passage of this by-law shall follow the process described in By-law 2002-116, as amended, providing the disposition is carried through by December 31, 2014, at which point this By-law will apply.
- 7.03 **Effective Date:** Subject to section 7.02, 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 14th day of January, 2014.

Ric McGee, Mayor

Judy Currins, City Clerk



2014-026 Set
Fines.pdf

Schedule “A”

In accordance with Schedule F to the Consolidated Fees By-law.

(2016-209, effective Nov. 22/16)