

The Corporation of the City of Kawartha Lakes

By-Law 2021-xxx

A By-Law to Repeal and Replace By-Law 2013-148, being a By-Law to Licence, Regulate and Govern Seasonal Trailer Park Businesses in Kawartha Lakes

Recitals

1. Section 150 - 153 of The Municipal Act, 2001, S. O. 2001 c.25, as amended authorizes Council to licence, regulate and govern businesses and events.
2. Section 164 specifically permits Municipalities to licence trailers and trailer camps.
3. The authority includes but is not limited to: the power to issue licences, to issue licences on condition, to revoke licences, to suspend licences, to regulate or govern the place used in the carrying on of such business, and to prevent the carrying on of such businesses without a licence.
4. Section 425(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Municipal Act, 2001, S.O. 2001, c.25, as amended, is guilty of an offence.
5. Section 429(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality may establish a system of fines for offences under a by-law passed under the Municipal Act, 2001, S.O. 2001, c.25, as amended.

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

Section 1.00: Definitions and Interpretation

1.01 Definitions: In this by-law:

“agent, trustee” means any person who may represent the owner or the seasonal trailer park business and includes but is not limited to an employee or operator of the business.

“alter” means an increase or decrease in the number of sites to be licenced but does not include cosmetic site changes.

“applicant” includes but is not limited to a person seeking a licence, or renewal of a licence or a person whose licence is being considered for revocation or suspension.

“business” means a trade that requires a licence pursuant to this by-law, whether or not a licence has been issued or maintained for that business.

“business day” means Monday, Tuesday, Wednesday, Thursday, Friday, Saturday excluding any holiday as defined by the Legislation Act, 2006, S.O. 2006, c.21, Schedule F, as amended.

“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.

“charity” means a corporation, which is registered by the Canadian government as a charity for the purposes of the Federal Income Tax Act, as amended.

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

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

“city facility” means any property owned by the City that is not a highway.

“City Clerk” means the person within the administration of the City who fulfills the function of the City Clerk as required by the Municipal Act, 2001 S. O. 2001, c.25, as amended or their delegate.

“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.

“council” means the municipal council for the City.

“Department Head” means the person who holds that position and their delegate(s) or, in the event of organizational changes, another person designated by Council.

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

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

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

“licence” means a licence to operate a trade issued pursuant to this by-law.

“licensee” means the owner of a licence.

“Licensing Enforcement Officer ” means the municipal Licensing Enforcement Officer for the City, responsible for the issuing, administration and approval of licenses in accordance with provincial legislation and City policies and procedures, or their delegate.

“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.

“Medical Officer of Health” means the Medical Officer of Health of the Health Unit or their delegate.

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

“Municipal Law Enforcement Officer” is a person duly appointed within the City’s administration to enforce the by-laws of the City, and includes the Licensing Enforcement Officer.

“operator” is a person with care and control of a business at any given point in time, with authorization of the owner of the business. The terms **“operate”**, **“operation”** and words of like import or intent have corresponding meanings.

“owner” is a person with legal title to real or personal property. The terms **“own”**, **“ownership”**, and words of like import or intent have corresponding meanings.

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

“person” includes but is not limited to an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a body corporate, a natural person.

“Police” means the Chief of Police or other designated officer in charge of a police service or other police officer with jurisdiction in the relevant geographic area of Kawartha Lakes, or their delegate.

“schedule” means a schedule to this by-law.

“seasonal trailer park” means a parcel of land made available to members of the public containing sites upon which to locate trailers, tents or recreational vehicles, and includes a campground. Any parcel of land with more than three trailers or

tents erected or stored constitutes a “trailer park”, with the exception of the land of any lawful commercial operation which wholesales or retails trailers, tents or recreational vehicles. It includes parks where there is a combination of seasonal and permanent trailer sites.

“Senior Licensing Officer” means the person who holds this administrative position and is responsible for assisting the Licensing Enforcement and Municipal Law Enforcement Programs; the position is granted with acting authority to administer Licenses in accordance with Provincial Legislation, Municipal By-Law as well as City Policies and Procedures.

“site plan” means a sketch of the trailer park outlining the roads, building locations, site locations and other pertinent information.

“tent” means a portable shelter made of leather, canvas, cloth or similar material, usually supported by poles and usually extended by means of ropes fastened to pegs inserted into the ground.

“trade” includes business, calling or occupation and “carrying on a trade” includes any act of:

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

“trailer” means any vehicle constructed to be attached and propelled by a motor vehicle and that is capable of being used by persons for living, sleeping or eating, even if the vehicle is jacked-up or its running gear is removed and has affixed to it, a Recreation Industry Certification sticker, and/or CSAZ241 certified and includes a self-propelled recreational vehicle.

“washroom facilities” must include: flush toilets, wash basins, and showers. Urinals are optional.

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.
- (c) 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.

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.
- 1.05 **Conflicts:** If a provision of this by-law conflicts with a provision of any applicable Act, regulation or by-law, the provision that establishes the higher or more restrictive standard to protect the health, safety and welfare of the general public shall prevail.

Section 2.00: Licensing Requirements

- 2.01 **Requirements:** Every person carrying on the business of a Trailer Park and/or Campground shall obtain a licence from the City authorizing them to carry on that business. This section is subject to any exemption provided for within this by-law. No person shall, either directly or indirectly, carry on or continue to carry on a business, either for profit or not for profit, without first having obtained the required licence. Failure to comply with this section or any other provision of this by-law shall be an offence.
- 2.02 **Regulations:** A person who receives a licence for a business shall comply with the regulations set out in this by-law and any other applicable by-laws, Provincial or Federal legislation or regulations. Failure to comply with the regulations in this by-law is an offence
- 2.03 **Responsibility of Agents:** An individual, partner or officers and directors of a corporation, agent, trustee or representative of persons carrying on a business in Kawartha Lakes shall also be personally liable for the compliance of their principal, beneficiary or persons they represent in connection with this by-law. The owner of the seasonal trailer park shall be liable for any action of their agent(s) that is in breach of any section of this or any other by-law or Provincial or Federal legislation or regulation.
- 2.04 **Locational Requirement:** A licence shall be obtained for each location from which a business is carried on. (A warehouse incidental to the conduct of a business and used only for that purpose is not considered a separate location of the business.) Failure to comply with this section or any other provisions of this by-law shall be an offence.

Section 3.00: Licensing Procedures

- 3.01 **Application:** An application for a licence or renewal of a licence may be made at the main licensing office of the City, or at any of the City's municipal service centers, or electronically on the form prescribed by the Licensing Enforcement Officer.

- 3.02 **Application Process:** Applicants are able to submit their completed licence application or renewal application package starting January 1st of each calendar year.
- 3.03 **Application Review:** The Licensing Enforcement Officer or delegate shall review the application package, collect associated fees, provide circulation internally and externally to various agencies and provide a response back to the applicant within 90 days.
- 3.04 **Review Period:** No person or business save and except the park owner and or park manager shall operate or occupy a seasonal site within a seasonal trailer park during the application and review process.
- 3.05 **Application Requirements and Documentation:** The application form shall require information to be provided, and other necessary papers to be completed or submitted by the applicant in conjunction with their application in support of the application as outlined below:
- a. a fully completed application form as supplied by the City;
 - b. the appropriate licence fee required in accordance with Schedule B-3 to the Consolidated Fees By-law; and
 - c. proof of insurance by way of a certificate of insurance showing a minimum limit of \$2,000,000 (two million dollars) in general liability as outlined in Section 6.00.
 - d. signed acknowledgment indicating that any communal water system, septic system and/or storm water system:
 1. was shutdown during the seasonal shutdown period (90 days commencing January 1st, during the application review and response period); and
 2. that there are no outstanding orders with respect to the construction, repair or maintenance of any of the systems.
- 3.06 **Additional Documents Required:** In addition to the requirements prescribed in subsection 3.05, the applicant shall, at the request of the Licensing Enforcement Officer, or when application is being made for a new or altered business, provide the following:
- a. documentation, satisfactory to the Licensing Enforcement Officer, that the applicant is the property owner of the land at the location or, alternatively, that they have the authority of the property owner and/or manager to operate from the site;
 - b. a scalable site plan drawing outlining the location of all roads and campsites and their names and or numbers, all buildings, the buildings dimensions and their proximity to other buildings, campsites and property lines;

- c. documentation from the Development Services Department that the property upon which the Trailer Park will operate is appropriately zoned; and,
- d. completed Campfire Permit Application and permit fee.
- e. any other documents or approvals deemed appropriate by the Licensing Enforcement Officer

3.07 **Additional Criteria Considered:** The Licensing Enforcement Officer may deny a licence or issue a licence with specific licencing conditions based on, but not limited to, the following criteria:

- a. the applicant's premises or place of trade are the object of an order to comply made under the Property Standards By-law, or an order made under the Building Code Act S. O. 1992, c.23, as amended;
- b. the applicant's premises (or use of such for the business requested) is not in compliance with the Zoning By-law or any parking requirements of the City;
- c. the applicant's premises requires corrective action pursuant to an order of the Medical Officer of Health to ensure the safety or health of the public;
- d. the applicant's premises requires corrective action pursuant to a Ministry of Environment, Conservation and Parks, Provincial Officers Order with respect to the communal private water system, septic system and/or storm water systems.
- e. the applicant's premises requires corrective action pursuant to an order of the Fire Chief;
- f. the applicant has been found to have discriminated against a member of the public contrary to The Ontario Human Rights Code R. S. O. 1990 c.H.19;
- g. the applicant has been convicted of an offence pursuant to the Criminal Code of Canada, R.S.C. 1985, c. C.46;
- h. the applicant was previously convicted of an offence pursuant to this or a predecessor by-law;
- i. the applicant is financially obligated to the city in some manner other than for current taxes; and
- j. the applicant is in breach of this or some other city by-law or law of Ontario or Canada.

3.08 **Disclosure of Private Information:** It shall be a condition of every licence that an owner or operator shall consent to the disclosure of all records and personal information with respect to the information required for issuance of a licence, any licence application, approval, refusal or revocation to any law enforcement agency, provincial ministry, federal department, agency, board or commission thereof or any other municipality, or to the owner of the Trailer Park, pursuant to the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990,c.m.56,s.32, as amended.

- 3.09 **Inspection Requirement:** The Licensing Enforcement Officer or designate may inspect any property where a Trailer Park is to operate prior to the issuance of any licence.
- 3.10 **Time Limited:** Licences shall be issued for a calendar year and shall come into effect on the date that they are issued, and expire on December 31 of that same year.
- 3.11 **Information to Other City Departments:** The Licensing Enforcement Officer shall provide to appropriate city service departments, a copy of the current scalable site plan of any licenced seasonal trailer park.

Section 4.00: Licence Regulations

- 4.01 **Requirement for a Site Plan:** It is an offence to establish or alter a Seasonal Trailer Park without a scalable site plan.
- 4.02 **Site Plan:** Site Plans for Seasonal Trailer Parks under subsection 4.01 of this by-law shall include a scalable drawing accurately showing the location and dimensions of existing and proposed sites, buildings, roads and pedestrian walkways, refuse collection sites, wells and sewage disposal facilities, water access for emergency firefighting purposes if available, and site identifiers.
- 4.03 **Access:** It is an offence for the owner or the operator of a Trailer Park to fail to provide adequate access to each site for vehicles and pedestrians of the facility for emergency services during occupation of any of the sites.
- 4.04 **Telephone Services:** It is an offence for the owner or the operator of a Trailer Park to fail to provide to patrons of the Trailer Park a telephone with twenty four (24) hour emergency access.
- 4.05 **Identifiers for Sites:** It is an offence for the owner or the operator of a Trailer Park to fail to display a distinctive number, letter or name on each site.

Section 5.00: Licence Issue, Revocation & Suspension

- 5.01 **Licence Fee:** The fee for obtaining a licence or renewal of a licence shall be in accordance with Schedule B-3 to the Consolidated Fees By-law.

No fee is refundable except in the event that a licence is revoked by reason of municipal staff error. In that case, the licensee is entitled to a refund of a part of the licence fee proportionate to the unexpired part of the term for which it was granted.

- 5.02 **Duplicate Licence:** Except as otherwise provided in this by-law, a duplicate licence may be issued by the Licensing Enforcement Officer to replace any licence previously issued which has been lost, stolen or destroyed, upon written

application by the licensee and upon payment of a fee as set out in Schedule B-3 to the Consolidated Fees By-law.

- 5.03 **Posting & Production of Licences:** The licensee shall post the licence obtained under this by-law in a publicly conspicuous place at that place of business at all times. Persons licensed under this by-law shall, when requested by the Licensing Enforcement Officer, the Police, the Medical Officer of Health, the Fire Chief, a Municipal Law Enforcement Officer or any person authorized by Council, produce the licence for inspection and shall exhibit the licence to any person or potential customer. Failure to comply with this section is an offence.
- 5.04 **Partnerships and Corporations and Unincorporated Associations:**
- (a) A partnership, a corporation, an association or a combination of persons is considered as a single applicant for any one business.
 - (b) On any application by a partnership, the licence shall be issued in the name under which business is carried on by the applicant. The names and addresses of all partners must be listed on the application form.
 - (c) Any application by a corporation shall contain the names and addresses of the officers and directors of the corporation.
 - (d) A change in composition of the members of a partnership or in the officers and/or directors of a corporation shall be reported to the Licensing Enforcement Officer within thirty days. Failure to comply with this section is an offence.
- 5.05 **Change of Address:** Every change of mailing address or telephone number of any licensee shall be reported to the Licensing Enforcement Officer within fifteen (15) days. Failure to comply with this section is an offence.
- 5.06 **No Transfer:** It is an offence to attempt to transfer or assign a licence issued under this by-law except in accordance with subsection 5.07.
- 5.07 **Licence Transfer:** Upon cessation or sale or other transfer of a business, the licensee of that business shall notify the Licensing Enforcement Officer of the cessation or transfer. Where the business is being transferred, and subject to any restrictions in the applicable section, the new owner or operator shall be required to submit an application for the licence transfer, in the form prescribed by the Licensing Enforcement Officer. The Licensing Enforcement Officer may, depending upon the circumstances of the transfer, require the new owner or operator to submit any or all of the same documentation and/or information that would have been required for a new application for the licence in question. The requirements of section 3.00 of this by-law apply to applications for licence transfer.

- 5.08 **No Vested Right:** No person enjoys a vested right in the continuance of a licence and upon issuance, renewal, cancellation or suspension; all licences remain the property of the City.
- 5.09 **Licensees to Use Name on Licence:** It is an offence for a person licensed to carry on a business under this by-law to advertise or carry on that business under any other name than the one endorsed on their licence.
- 5.10 **Inspections:** The Licensing Enforcement Officer, the Police, Municipal Law Enforcement Officer, the Medical Officer of Health, the Fire Chief or any person acting under those persons, or any person authorized by Council may at reasonable times inspect:
- a) any premises or place where a business is carried on or where there are reasonable and probable grounds to believe a business is being carried on.
- It is an offence to obstruct or permit the obstruction of an inspection under this section.
- 5.11 **Right to Refuse and Revoke:** The Licensing Enforcement Officer may revoke, suspend, impose any conditions upon, or refuse to issue or renew any licence to any person under this by-law subject to the provisions of this by-law.

Section 6.00: Insurance

- 6.01 **Insurance:** Any person who obtains a Seasonal Trailer Park license shall provide to the Licensing Enforcement Officer , prior to the issuance of such license and any renewals thereafter, a current and valid Certificate of Insurance evidencing Commercial General Liability Insurance including but not limited to bodily injury including death, personal injury and property damage including loss of use thereof, contractual liability and contain a cross liability / severability of interests clause. This insurance shall be with an insurance company authorized by law to underwrite such insurance in the Province of Ontario. The amount of insurance shall be not less than two million (\$2,000,000) dollars per occurrence.
- 6.02 The policy shall include a provision that the Licensing Enforcement Officer shall be provided thirty (30) days written notice in advance by registered mail of any cancellation, expiration or variation in coverage provided by the policy. If for any reason such insurance is cancelled, expires or for any other reason does not remain in effect or fails to meet the requirements of the Licensing Enforcement Officer, the license shall become void on the final date for which the insurance was valid.

Section 7.00: Indemnification

- 7.01 **Indemnification:** Every Licensee shall, prior to the issuance of a Seasonal Trailer Park license, enter into an indemnification agreement with the Corporation of the

City of Kawartha Lakes whereby the Licensee agrees that it shall at all times indemnify and save harmless the City, its employees and Members of Council from and against any and all manner of claims, demands, losses, actions and other proceedings whatsoever made or brought against, suffered by, or imposed on the City in respect of any loss, damage or injury to any person or property, which are occasioned by or attributable to the issuance of this license or operation of the business.

Section 8.00: Granting, Refusal and Revocation of Licenses

- 8.01 **Grant Licence:** Where the applicant's documentation is in order and the applicable fee has been paid, the Licensing Enforcement Officer may grant the licence of the applicant, or the renewal, as applicable.
- 8.02 **Grant Licence With Conditions:** The Licensing Enforcement Officer may, where the provisions of this by-law have been met, propose in writing to the applicant to grant the licence subject to conditions, if appropriate within a specified time frame to remedy. If within five (5) days following the written proposal to grant the licence with conditions, the applicant has not indicated an objection to the licence with conditions, the licence is deemed to have been issued on the day of the notice of the proposal to grant.

The Licensing Enforcement Officer shall revoke a licence granted with conditions if the applicant has not met the imposed conditions within the stipulated time frame.

8.03 Refuse Licence:

- a) In the event that the Licensing Enforcement Officer refuses to grant, suspends or revokes a licence for any reason under this by-law, other than for a health and safety issue, the applicant will have ten (10) business days from the date of the written refusal, suspension or revocation to rectify the condition.
- b) In the event that the condition is not rectified after the ten (10) business days referred to in subsection 8.03 (a), the Licensing Enforcement Officer shall refuse to grant, suspend or revoke the licence. If the applicant, in writing, requests that the matter be considered by Council, the Licensing Enforcement Officer shall prepare a report for the consideration of Council and the applicant shall be provided with at least two (2) weeks notice of the meeting of Council to consider the refusal to grant, revocation or suspension and shall have the opportunity to address Council prior to Council making a decision.
- c) In the event that the Licensing Enforcement Officer refuses to grant, suspends or revokes a licence under this by-law for a health and safety issue, and the applicant, in writing, requests that the matter be considered by Council, the Licensing Enforcement Officer shall prepare a report for

the consideration of Council and the applicant shall be provided with at least two (2) weeks notice of the meeting of Council to consider the refusal to grant, revocation or suspension and shall have the opportunity to address Council prior to Council making a decision.

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

In the exercise of its discretion under subsection 8.03 such discretion shall be exercised;

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

Section 9.00: Enforcement and Penalties

- 9.01 **Enforcement:** This by-law may be enforced by Municipal Law Enforcement Officers, the Licensing Enforcement Officer, Peace Officers, anyone operating under those persons or anyone authorized by council.
- 9.02 **Offence and Penalty:** Every person who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.
- 9.03 **Offence and Penalty:** Every 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, Chapter 25, as amended.
- 9.04 **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 minimum fine of \$500.00 and a maximum fine of not more than \$100,000.00.
- 9.05 **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.

Section 10.00: Administration and Effective Date

- 10.01 **Administration of the By-law:** The Manager of Municipal Law Enforcement and Licensing is responsible for the administration of this by-law.
- 10.02 **Effective Date:** This by-law shall come into force and take effect on the date of passing.
- 10.03 Any seasonal trailer park licencing processes underway prior to the passage of this by-law shall follow the process described in By-law 2013-148, as amended, providing the disposition is carried through by December 31, 2021 at which point this By-law will apply.

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

Andy Letham, Mayor

Cathie Ritchie, Clerk