



THE CORPORATION OF THE TOWN OF KIRKLAND LAKE

BY-LAW NUMBER 22-054

BEING A BY-LAW TO AMEND
BY-LAW 17-005 COMMUNITY STANDARDS BY-LAW

WHEREAS pursuant to Sections 10(2) Clauses 5, 6, 127, 128, and 131 of the *Municipal Act*, S.O. 2001, c.25, as amended, Council may pass By-Laws for requiring the cleaning and clearing of yards, for prohibiting the depositing of refuse on private and public lands; for prohibiting automotive wrecking yards and requiring removal or repair of dilapidated fences and structures;

AND WHEREAS section 10(2) of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, authorizes the municipality to regulate matters related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS section 5(3) of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by By-law;

AND WHEREAS 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 a municipality is guilty of an offence;

AND WHEREAS section 445(1) of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, authorizes a municipality that is satisfied that a contravention of a By-law has occurred, the municipality may make an order requiring the person who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention;

AND WHEREAS pursuant to Section 446 of the *Municipal Act* S.O. 2001, c.25, as amended, a municipality may enact a bylaw to require that a matter of thing be done and in default, the matter of thing may be done by the municipality at the person's expense and further that the costs of doing so may be added to the tax rolls and collected in the same manner as taxes;

AND WHEREAS pursuant to Section 391 of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, a municipality may impose fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS at the Regular Meeting of June 21, 2022, the Council of the Corporation of the Town of Kirkland Lake approved and deemed it expedient and necessary to amend By-Law No. 17-005

NOW THEREFORE BE IT RESOLVED THAT THE COUNCIL OF THE CORPORATION OF THE TOWN OF KIRKLAND LAKE ENACTS AS FOLLOWS:

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PART 1 – GENERAL PROVISIONS

1.1 Short Title

This By-law shall be cited as the “Community Standards By-law Amendment”.

1.2 Scope

The provisions of this By-law shall apply to all property within the geographic limits of the Town, except where otherwise provided.

1.3 Enforcement

This By-law shall be enforced by a Municipal By-law Enforcement Officer, Special Constable, Peace Officer, Property Standards Officer, or an individual designated by the Chief Administrative Officer for the purpose of enforcing this By-law.

1.4 Conflicts with other By-laws

Where provisions of the By-law conflict with a provision of another By-law in force in the Town, the provisions that establish the higher standard in terms of protecting the health, safety and welfare of the general public and the environmental well-being of the municipality, shall prevail to the extent of the conflict.

PART 2 – DEFINITIONS

Definitions of words and phrases used in this By-law that are not included in the list of definitions in this Part shall have the meanings which are commonly assigned to them in the context in which they are used in this By-law.

The words and phrases defined in this section have the following meaning for the purposes of this By-law:

2.1 Council

Shall mean the Municipal Council of the Corporation of the Town of Kirkland Lake.

2.2 Municipality

Shall mean the Corporation of the Town of Kirkland Lake.

2.3 Officer

Shall mean a Municipal By-law Enforcement Officer, Special Constable, Peace Officer, Property Standards Officer, or an individual designated by the Chief Administrative Officer for the purpose of enforcing this By-law.

2.4 Owner

Shall mean and include:

- (a) The registered owner of the property,
- (b) The person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the person’s own account or as agent or trustee of any other person, or who would so receive the rent if such land and premise were let, and
- (c) A lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property.

2.5 Person

Shall mean an individual, firm, corporation, association, partnership, contractor, company, owner, or leasee.

2.6 Private Swimming Pool

Shall mean a structure, basin, chamber or tank capable of containing water and is designed to be used for the purposes of swimming or wading.

2.7 Town

Shall mean the Corporation of the Town of Kirkland Lake.

PART 3 – REVISIONS TO BY-LAW 17-005

3.1 Part 1 General Provisions

3.1.1. Section 1.3 of Town of Kirkland Lake By-law 17-005 shall be repealed and replaced with section 1.3 of this By-law.

3.2 Part 2 Definitions

3.2.1. Where in conflict, the definitions of this By-law shall supersede the like definitions of Town of Kirkland Lake By-law 17-005.

3.3 Part 3 Regulations

3.3.1. The provisions of Town of Kirkland Lake By-law 17-005 Part 3 Regulations shall remain unchanged by this By-law.

3.4 Part 4 Administration and Enforcement

3.4.1. The provisions of Town of Kirkland Lake By-law 17-005 Part 4 Administration and Enforcement shall be considered repealed and replaced with the provisions of Part 4 of this By-law.

3.5 Part 5 Right of Entry

3.5.1. The provisions of Town of Kirkland Lake By-law 17-005 Part 5 Right of Entry shall be repealed and replaced with the provisions of Part of this By-law.

3.6 Part 6 Remediation

3.6.1. The provisions of Town of Kirkland Lake By-law 17-005 Part 6 Remediation shall be repealed and replaced with the provisions contained in Part 4 of this By-law.

3.7 Part 7 Penalties

3.7.1. The provisions of Town of Kirkland Lake By-law 17-005 Part 7 Penalties shall remain unchanged by this By-law.

3.8 Part 8 Validity

3.8.1. The provisions of Town of Kirkland Lake By-law 17-005 Part 8 Validity shall remain unchanged by this By-law.

3.9 Part 9 Transition

3.9.1. The provisions of Town of Kirkland Lake By-law 17-005 Part 9 Transition shall remain unchanged.

PART 4 – ADMINISTRATION AND ENFORCEMENT

4.1 Obstruction

- 4.1.1. No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer in the lawful exercise of a power or the performance of a duty under this By-law.
- 4.1.2. Any person who is alleged to have contravened any provision of this By-law shall identify themselves to the Officer upon request. Any failure to do so shall be deemed to be an obstruction or hindrance to the Officer in the execution of the Officer's duties.

4.2 Powers of Entry

- 4.2.1. An Officer or any person under their instruction may, upon producing proper identification, enter upon a property at any reasonable time without a warrant for the purpose of inspecting to determine:
 - a) whether the property conforms to the standards prescribed in By-law 17-005.
 - b) whether an Order made under this By-law has been complied with.
- 4.2.2. For the of an inspection under this By-law an Officer may:
 - a) require the production for inspection of documents or things, including drawings or specifications, that may be relevant to the property or any part thereof;
 - b) inspect and remove documents or things relevant to the property or part thereof for the purpose of making copies or extracts;
 - c) require information from any person concerning a matter related to a property or part thereof;
 - d) be accompanied by a person who has special or expert knowledge in relation to a property or a part thereof;
 - e) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take photographs necessary for the purposes of the inspection.

4.3 Informal Notice

- 4.3.1. An Officer who finds that a property does not conform with any of the standards prescribed in this By-law or By-law 17-005 may issue an informal notice to the owner of the property:
 - a) stating the municipal address or legal description of the property containing the non-conformity;
 - b) giving reasonable particulars to the corrective steps that need to be made;
 - c) indicating the time for complying with the notice, and giving notice that if not complied with and Order may be issued.
- 4.3.2. An informal notice may be served personally, by email to the last known email address of the person to whom service is requiring to be made, or by registered mail sent to the last known address of the person to whom the notice is given or to that person's agent for service.

4.4 Formal Notice & Order

- 4.4.1. An Officer who finds that an informal notice has not been complied with may issue a formal notice and/or an Order requiring the person who contravened this By-law or By-law 17-005 or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention.
- 4.4.2. An Officer who finds that a property does not comply with any of the standard prescribed in this By-law or By-law 17-005 may, without first issuing an informal notice, issue a formal notice and/or an Order requiring the person who contravened this By-law or By-law 17-005 or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention.
- 4.4.3. The formal letter and/or Order shall contain
 - a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - b) the work to be done and the date by which the work must be done.
- 4.4.4. An Order shall be served on the appropriate person(s) of subsection 4.4.1. and 4.4.2., as an Officer determines, and a copy of the Order may be posted on the property in a location visible to the public.
- 4.4.5. An Order may be served personally, by email to the last known email address of the person to whom service is requiring to be made, or by registered mail sent to the last known address of the person to whom the notice is given or to that person's agent for service.
- 4.4.6. If a notice or Order is served by registered mail, the service shall be deemed to have been made on the fifth (5th) day after the mailing unless the person to whom the notice or order is given or that person's agent for service establishes that, acting in good faith, through absence, accident, illness or other unintentional cause the notice was not received until a later date.
- 4.4.7. If a notice or Order is served by email, the service is deemed to have been made on the day of sending unless,
 - a) the document was sent after 5 p.m., in which case service shall be deemed to have been made on the following day; or
 - b) the person to whom the notice or order is given or that person's agent for service establishes that, acting in good faith, through absence, accident, illness or other unintentional cause, the notice was not received until a later date.
- 4.4.8. An Order may be registered in the proper land registry office, and upon such registration, any person acquiring any interest in the land subsequent to the registration of the Order shall be deemed to have been served with the Order on the day on which the Order was served under section 4.4.1. & 4.4.2. of this By-law and, when the requirements of the Order have been satisfied, a certificate of compliance shall be registered forthwith, which shall operate as a discharge of the Order.

4.5 Notice of Appeal

- 4.5.1. An owner or occupant who has been served with an Order may appeal the Order to the Community Standards Committee by sending a Notice of Appeal by registered mail to the secretary of the Committee within fourteen (14) days of being served with the Order.

- 4.5.2. An Order that is not appealed within the time provided by subsection 4.5.1. of this By-law shall be deemed to be confirmed.
- 4.5.3. The Town or any owner or occupant or person affected by a decision under subsection 5.9.1. of this By-law may appeal to the Superior Court of Justice by notifying the Town Clerk in writing and by applying to the court within fourteen (14) days after a copy of the decision is sent.

4.6 Failure to Comply with an Order

- 4.6.1. If an Order is not complied with in accordance with the Order as deemed confirmed by the Officer or as confirmed or modified by the Community Standards Committee, or a judge of the Superior Court of Justice, the Town may cause the property to be repaired, cleaned, cleared up or demolished, as the case may be.
- 4.6.2. For the purpose of subsection 4.6.1. of this By-law, employees or agents of the Town may enter the property at any reasonable time, without a warrant, in order to repair, clean, clear or demolish the area of non-compliance.
- 4.6.3. The Town or a person acting on its behalf is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the Town in the reasonable exercise of its powers under subsection 8.6.1. of this By-law.
- 4.6.4. The Town shall have a lien on the land for the amount spent on the repair, cleaning, clearing or demolition under subsection 8.6.1. of this By-law and the amount shall have priority lien status as described in s.1 of the *Municipal Act*, 2001, S.O. 2001, c.25.

4.7 Certificate of Compliance

- 4.7.1. An Officer who inspects a property and is of the opinion that the property is in compliance with the standards established by this By-law and By-law 17-005 may issue a certificate of compliance to the owner.
- 4.7.2. Where an owner requests a certificate of compliance and where, having inspected the property, an Officer is of the opinion that the property is in compliance with the standards established by this By-law and By-law 17-005, the Officer shall issue a certificate to the owner.

4.8 Offences

- 4.8.1. A person who contravenes any provision of this By-law or By-law 17-005; fails to comply with an order, direction or other requirement made under this By-law is guilty of an offence.
- 4.8.2. A person who is guilty of an offence under this By-law or By-law 17-005 is liable to a fine in accordance with the Provincial Offences Act, as outlined in the short form ticketing of By-law 17-005, and to any other applicable penalty.
- 4.8.3. If a provision of this By-law is contravened and a conviction is entered, in addition to any other remedy and to any penalty imposed by this By-law, the court in which the conviction is entered, and any court of competent jurisdiction thereafter, may make an Order prohibiting the continuation or repetition of the offence by the person convicted.

4.9 Fees

- 4.9.1. Every owner shall pay the fees imposed pursuant to the Town's User Fees By-law which become due and payable upon written notification by an Officer or upon issuance of an invoice by the Town.

- 4.9.2. Where an owner is in default of payment of fees for more than thirty (30) calendar days after due, the Town may add the cost to the tax roll of the subject property and collect the amount in the same manner as property taxes.

4.10 Cost Recovery

- 4.10.1. Where the Town does work or causes work to be done such work shall be done at the expense of the owner.
- 4.10.2. If the Town undertakes the work to correct the contraventions, the owner will be charged one-hundred percent of the cost of any third party invoice plus any costs incurred by the Town.
- 4.10.3. If the owner fails to pay the cost of the work completed under this By-law within thirty (30) days of the work being completed, the amount shall be added to the tax roll of the subject property and collected in the same manner as municipal taxes.

PART 5 – COMMUNITY STANDARDS COMMITTEE

5.1 Members of the Community Standards Committee

- 5.1.1. Council shall pass a By-law to provide for the establishment of a Community Standards Committee, composed of such persons that Council considers advisable to hold office for such term and on such conditions as the By-law may establish.
- 5.1.2. The Community Standards Committee shall not be composed of fewer than three members.
- 5.1.3. Appointed members of the Community Standards Committee shall not be members of Council, or employees of the municipality.
- 5.1.4. Council shall forthwith fill any vacancy that occurs in the membership of the Community Standards Committee

5.2 Compensation

- 5.2.1. The members of the Community Standards Committee shall be paid such compensation as the Council may provide.

5.3 Chair

- 5.3.1. The members of the Community Standards Committee shall elect one of themselves as chair; when the chair is absent through illness or otherwise, the Community Standards Committee may appoint another member as acting chair.

5.4 Quorum

- 5.4.1. A majority of members of the Community Standards Committee constitutes a quorum for transacting the Committee's business.

5.5 Secretary

- 5.5.1. The members of the Community Standards Committee shall make provisions for a secretary for the Community Standards Committee.
- 5.5.2. The secretary shall keep on file the records of all official business of the Community Standards Committee, including records of all applications and minutes of all decisions respecting those applications.

5.6 Rules of Procedure and Oaths

5.6.1. The Community Standards Committee may adopt its own rules of procedure and any member may administer oaths.

5.7 Notice

5.7.1. The Community Standards Committee shall give notice or direct that notice be given of the hearing of an appeal to such persons as the Committee considers advisable.

5.8 Duty of the Community Standards Committee

5.8.1. The Community Standards Committee shall hear appeals of Orders issued under this By-law.

5.8.2. The Community Standards Committee shall hear evidence and determine if an Order issued under this By-law has or has not been complied with.

5.9 Powers of the Community Standards Committee

5.9.1. On an appeal, the Community Standards Committee has all the powers and functions of the Officer who made the Order and the Community Standards Committee may do any of the following things if, in the Community Standards Committee's opinion, doing so would maintain the general intent and purpose of the By-law and of the Official Plan or policy statement:

- a) Confirm, modify or rescind the Order issued under the Community Standards By-law.
- b) Extend the time period for complying with the Order.

PART 6 - ENACTMENT

6.1 By-Law Coming Into Force

6.1.1. This By-Law shall come into force and effect upon the date of passing.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 12th DAY OF JULY, 2022.

Pat Kiely, Mayor

Jennifer Montreuil, Municipal Clerk