

The Corporation of the City of Kawartha Lakes

Office Consolidation of By-Law 2013-194

Consolidated on December 22, 2016

Passed by Council on November 12, 2013

Amendments:

- 1) By-law 2016-209 November 22, 2016 Section 4.02 and Schedule A

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 2013-194**

**A By-law to Licence Motor Vehicle Racing and  
Motor Vehicle Racing Facilities**

**Recitals**

1. The *Municipal Act, 2001*, S.O. 2001 c.25, Section 150-153, as amended, permits municipalities to licence, regulate and govern any business wholly or partly carried on within the municipality.
2. The *Municipal Act, 2001*, S.O. 2001 c.25, Section 165, as amended, permits municipalities to prohibit or licence, regulate and govern the racing of motor vehicles and the holding of motor vehicle races.
3. This 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 businesses 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 2013-194.**

**Section 1.00: Definitions and Interpretation**

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

“**applicant**” includes a person seeking a licence, or renewal of a licence or a person whose licence is being considered for revocation or suspension.

“**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.

“**Chief Building Official**” means the person within the City’s administration who fulfils the function of the Chief Building Official as required by the *Building Code Act, 1992*, as amended, or his or her delegate.

“**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 within the administration of the City who fulfils the function of the City Clerk as required by the Municipal Act, 2001, S.O. 2001, c.25, as amended, or his or her delegate.

**“committee”** means the committee of Council to which Council has delegated the responsibility of handling licensing matters. Where no delegation has been made, the term refers to the Council itself.

**“Council”** means the municipal council for the City.

**“Department Head”** 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.

**“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, 1997, S.O. 1997, c.4, as amended, or his or her 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 business, issued pursuant to this by-law.

**“licensee”** means the owner of a licence.

**“Licensing Officer”** means the municipal Licensing Officer for the City, responsible for the issuing, administration and approval of licences in accordance with Provincial legislation and City policies and procedures, or his or her delegate.

**“log book”** means a written record to be maintained by an operator with respect to every motor vehicle racing facility licensed under the provisions of this by-law.

**“Manager of Customer Services”** 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.

**“motorcycle”** means a self-propelled vehicle having a seat or saddle for the use of the driver and deigned to travel on not more than three wheels in contact with the ground, and includes a motor scooter, but does not include a motor assisted bicycle.

**“motor vehicle”** means a motorcycle, motorized snow vehicle, all terrain vehicle, go-cart, and any other vehicle propelled or driven other than by muscular power, but does not include an automobile, truck, street car or other motor vehicles running only upon rails, or a traction engine, farm tractor, self-propelled implement of husbandry or road building machine, all within the meaning of the Highway Traffic Act, R.S.O. 1990, c.H.8, as amended.

**“motor vehicle racing facility”** means any lands, buildings, or structures designed, intended for use, or used for the racing of motor vehicles on a temporary or permanent basis.

**“Municipal Act”** means the Municipal Act, 2001, S.O. 2001 c.25, as amended.

**“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 Officer.

**“officer”** means a sworn member of the Kawartha Lakes Police Service, the Ontario Provincial Police, a Municipal Law Enforcement Officer, a By-Law

Enforcement Officer or any other Provincial Offences Officer appointed by Council to enforce the provisions of this or any other by-law.

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

“**owner**” is the person with legal title to a motor vehicle racing facility. The terms “own”, “ownership”, and words of like import or intent have corresponding meanings.

“**person**” includes an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a body corporate and a natural person.

“**Police**” means the Chief of Police or other designated officer in charge of a police service within the jurisdiction in the relevant geographic area of Kawartha Lakes, including but not limited to the Kawartha Lakes Police Service and the Ontario Provincial Police, or his or her delegate.

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

“**washroom facilities**” means facilities which include at least toilets and wash basins.

“**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.

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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 **Licensing:** No person shall operate a motor vehicle racing facility, or permit motor vehicle racing on lands within the limits of the City at any time unless such person holds a valid licence issued by the City pursuant to the provisions of this by-law.

2.02 **Compliance with Applicable Laws:** No licence shall be issued for a motor vehicle racing facility where the applicant for a licence or the property upon which the motor vehicle racing facility is to be located, contravene this by-law or any other by-law of the City. The issuance or renewal of a licence is not intended and shall not be construed as permission or consent by the City for the holder of the licence to contravene or fail to observe or comply with any law of Canada,

Ontario, or any by-law of the City.

2.03 **Class of Licence:** Two classes of licences for motor vehicle racing facilities may be issued pursuant to the provisions of this by-law, as follows:

- (a) Permanent motor vehicle racing facility licence: to permit a person to operate a motor vehicle racing facility that is designed and intended for use on a full time basis.
- (b) Temporary motor vehicle racing facility licence: to permit a person to conduct a single race event on lands not designed or intended for use as a permanent motor vehicle racing facility.

### **Section 3.00: Enforcement and Exemptions**

3.01 **Enforcement of By-law:** Municipal Law Enforcement Officers, Police, the Licensing Officer or any person appointed by council may enforce this by-law.

3.02 **Exemptions:** The provisions of this by-law do not apply to a go-cart facility used solely for the purposes of amusement.

### **Section 4:00: Licensing Procedures**

4.01 **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 Centres, in the City's approved form as amended from time to time.

4.02 **Application Requirements and Documentation:** Every applicant for a licence or renewal of a licence shall submit the following information and documentation to the Licensing Officer:

- (a) a completed application in the City's approved form;
- (b) payment of the applicable fee set out in Schedule B-3 to the Consolidated Fees By-law;
- (c) a site plan containing information and details required pursuant to subsection 4.03;
- (d) documentation from the Chief Building Official confirming that all buildings, structures and facilities, on site, or the plans for same, are or will be in compliance with the requirements of this by-law and any building permits issued by the City;
- (e) documentation from the Fire Chief confirming that all buildings, structures and facilities, or the plan for same, are in compliance with applicable fire safety regulations;
- (f) documentation from the Health Unit and/or the alternate approval authority confirming that all water supply facilities and sewage disposal facilities, or the plans and documentation for same, are in compliance with applicable potable water supply and sewage treatment regulations and guidelines;
- (g) documentation, satisfactory to the Licensing Officer, confirming that the applicant is the owner of the property to be licensed or, alternatively, that the applicant has the written authority of the owner to make application for a licence and to operate a motor vehicle racing facility from the property;
- (h) documentation from the Development Services Director of the City confirming that the property to be licensed is appropriately zoned for the proposed use;
- (i) documentation satisfactory to the Licensing Officer, confirming that the applicant has the required insurance coverage as defined in subsection 6.01(a); and

- (j) clearance letters from:
  - i) the Department Heads, as applicable;
  - ii) the Police;
  - i) Kawartha Conservation, if applicable;
  - ii) the Technical Safety Standards Authority; and
  - iii) the Liquor Licence Board of Ontario, if applicable.

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4.03 **Site Plan Requirement:** No licence or renewal of a licence shall be issued for a motor vehicle racing facility until the applicant has filed with the Licensing Officer a site plan for the property to be licensed which shall include all such information and detail as may be required by the Licensing Officer including but not limited to the location, design and specifications for the following:

- (a) the race track or race tracks, staging areas and pits;
- (b) permanent and temporary spectator grandstands and seating;
- (c) all pedestrian and vehicular entranceways and exits for the property, including all connections to highways;
- (d) permanent and temporary parking areas for spectators, participants, employees and other personnel;
- (e) all permanent or temporary structures or any kind whatsoever;
- (f) vehicle storage areas;
- (g) garbage disposal and storage areas;
- (h) permanent or temporary food services;
- (i) emergency facilities and access routes;
- (j) fuel storage and handling areas;
- (k) sanitation services, including washroom facilities;
- (l) permanent or temporary fencing, screening and barriers.

## Section 5.00: Expiry and Renewal of Licences

5.01 **Term of Licence:** No licence shall be issued for a period in excess of one year, and each licence issued pursuant to this by-law shall come into effect on the date that it is issued, and expire on the 31<sup>st</sup> day of December of the calendar year in which the licence is issued.

5.02 **Renewal of Licence:** An application for renewal of a licence shall be submitted to the Licensing Officer not less than sixty (60) days prior to the date for expiry of the current licence, and shall be accompanied by all documentation and information required pursuant to subsection 4.00.

## Section 6.00: Operating Agreements

6.01 **Requirement for Operating Agreement:** As a condition prior to the issuance of a licence, the owner and operator of a motor vehicle racing facility to be licensed shall be required to enter into an operating agreement with the City. Issues to be addressed in the operating agreement may include, but shall not be limited to, the following:

- (a) a requirement that the owner and/or operator obtain and at all times maintain Commercial General Liability insurance in force throughout the term of the licence and any renewal thereof, insuring for the joint benefit of the City and the owner and/or operator against any liability that may arise

from the construction or operation of the motor vehicle racing facility 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. Such policy or policies shall be written with an insurance company authorized by law to underwrite such insurance in the Province of Ontario and shall carry limits of liability in an amount not less than five million dollars (\$5,000,000.00) per occurrence and in a form satisfactory to the Licensing Officer. The policy shall name the Corporation of the City of Kawartha Lakes as an additional insured;

- (b) The policy shall include a provision that the Licensing 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 Officer, the license shall become void on the final date for which the insurance was valid.
- (c) an indemnity from the owner and/or operator in favour of the City, its servants and agents from and against any and all actions, suits, claims and demands whatsoever which may arise either directly or indirectly by reason of the construction or operation of the motor vehicle racing facility to be licensed.
- (d) a requirement that the owner and/or operator post security with the City, in an amount and form satisfactory to the City, to ensure the construction and maintenance of any component or components of the motor vehicle racing facility as are identified in the site plan for the property to be licensed as submitted to, and accepted by, the City;
- (e) hours of operation;
- (f) noise attenuation;
- (g) public safety and security;
- (h) fire safety and emergency services;
- (i) parking and traffic control, including but not limited to design, construction, use and control of on-site and off-site parking areas, and accesses to highways;
- (j) racing vehicle safety equipment;
- (k) spectator services and amenities; and
- (l) compliance with Federal and Provincial statutes and regulations.

## **Section 7.00: Refusal of Licence Application and Revocation of Licence**

- 7.01 **Grant Licence:** Where the applicant's documentation is in order and the applicable fee has been paid, the Licensing Officer shall grant the licence of the applicant, or the renewal, as applicable.
- 7.02 **Grant Licence With Conditions:** The Licensing 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. 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 Officer shall revoke a licence granted with conditions if the applicant has not met the imposed conditions within the stipulated time frame.

- 7.03 **Refuse Licence:** In the event that the Licensing Officer refuses to grant for any reason, suspends or revokes a licence, and the applicant requests that the matter be considered by Council, the Licensing 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.
- 7.04 **Council Decision:** Council may, in its sole and absolute discretion, grant, grant with Conditions, refuse to grant, or revoke or suspend a licence. In exercise of its discretion to refuse to grant a licence, or to revoke or suspend a licence, Council shall consider:
- (a) whether the applicant or licensee has failed to comply with any provision of this by-law, other by-laws, or applicable Federal or Provincial legislation; and
  - (b) whether there are grounds for belief that the applicant or licensee will not carry on or engage in the licensed activity in accordance with applicable law, or with honesty and integrity.

## **Section 8.00: Regulations**

- 8.01 **Restricted Time of Operations:** No person shall operate or race a motor vehicle or permit the operation or racing of motor vehicles at a motor vehicle racing facility except between the hours of 7:00 a.m. and 7:00 p.m. on any day of the week. An applicant wishing to operate outside of the parameters defined in this section must submit their request to Council in writing. Council has the authority to exempt or amend the provisions of this section by resolution of Council. All exemptions and or amendments must receive the approval of Council prior to the issuance of a licence.
- 8.02 **Noise Levels:** No person shall operate a motor vehicle having a sound emission level of more than 99 dbA at a motor vehicle racing facility. Sound emission levels for each motor vehicle shall be determined in accordance with SAE (The Engineering Society for Advancing Mobility, Land, Sea, Air and Space International) Surface Vehicle Standard SAEJ1287, as amended from time to time.
- 8.03 **Sound Emission Level Testing:** No owner or operator of a motor vehicle racing facility shall permit any motor vehicle to be operated at the motor vehicle racing facility, unless the motor vehicle has passed a sound emission level test as contemplated under Section 8.02 of this by-law within thirty (30) days prior to the date of operation of the motor vehicle at the motor vehicle racing facility.
- 8.04 **Log Book:** Every owner and operator of a motor vehicle racing facility licensed under the provisions of this by-law shall maintain a log book containing:
- (a) a description of every motor vehicle operated at the motor vehicle racing facility. The description shall be sufficient to permit the Licensing Officer to identify the motor vehicle and its owner, and shall contain at least:
    - (i) the name of the registered owner of the motor vehicle;
    - (ii) the make, model and vehicle identification number for each motor vehicle;
    - (iii) the engine displacement of each motor vehicle.
  - (b) the dates upon which sound emission level testing was carried out on each such motor vehicle in accordance with the provisions of this by-law, and the results of those tests.

## Section 9.00: Inspection, Enforcement and Penalties

- 9.01 **Enforcement:** Municipal Law Enforcement Officers, Police, the Licensing Officer or any person appointed by council may enforce this by-law.
- 9.02 **Inspections:** The Licensing Officer, a Municipal Law Enforcement Officer and any other person designated by Council to enforce this by-law may, at all reasonable times and upon producing proper identification, enter onto and inspect any lands and buildings which are the subject of an application for a licence, or any licensed motor vehicle racing facility and the property upon which it is located.
- 9.03 **No Obstruction:** No person shall obstruct, hinder or in any way interfere with any person designated to enforce this by-law. Failure to comply with this or any other section shall be an offence.

## Section 10.00: Offences and Penalty

- 10.01 **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.
- 10.02 **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.
- 10.03 **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, Chapter 25, as amended.
- 10.04 **Multiple Offences:** The conviction of a person, director or officer of a corporation 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, director or officer of a corporation 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 11.00: Administration and Effective Date

- 11.01 **Administration of the By-law:** The Manager of Customer Services is responsible for the administration of this by-law.
- 11.01 **Effective Date:** This by-law shall come into force and take effect on January 1, 2014.
- 11.02 **Caveat:** Any motor vehicle racing licencing processes underway prior to the passage of this by-law shall follow the process described in by-law 2004-184, as amended, providing the disposition is carried through by December 31, 2013 at which point this by-law will apply.

By-law read a first, second and third time, and finally passed, this 12<sup>th</sup> day of November, 2013.

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Rick McGee, Mayor

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Judy Currins, City Clerk



2013-194 Set  
Fines.pdf

## **Schedule “A”**

**to the Motor Vehicle Racing and Facilities By-law 2013-194 of the Corporation of  
the City of Kawartha Lakes**

### **Licence Fees**

In accordance with Schedule B-3 to the Consolidated Fees By-law

2016-209, effective November 22, 2016