

THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE

**BY-LAW**

NO. 2007 – 085

**BEING A BY-LAW WITH RESPECT TO THE CONTROL OF TERMITES
AND OTHER WOOD DESTROYING INSECTS**

WHEREAS Section 11 of the Municipal Act 2001, S.O. 2001, c. 25, as amended, provides that a lower-tier municipality may pass by-laws respecting matters within the sphere of jurisdiction of animals;

AND WHEREAS pursuant to the said Act, Section 436 provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a direction or order of the municipality made under this Act or made under a by-law of the municipality passed under this Act is being complied with;

AND WHEREAS pursuant to the said Act, Section 425 provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence;

AND WHEREAS pursuant to the said Act, Section 8 provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues

AND WHEREAS pursuant to the said Municipal Act, Section 9 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

NOW THEREFORE the Council for The Corporation of the Municipality of Kincardine ENACTS as follows:

1. In this by-law:
 - a) **"inspector"** The person from time to time holding the office of Chief Building Official of the Corporation, or his/her duly authorized delegate, is hereby designated as an Inspector to enforce the provisions of this by-law.
 - b) **"building or structure"** shall include all classes of buildings or

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2. The Chief Building Official or any duly appointed Inspector shall have the right to visit, enter or inspect from time to time and at all reasonable hours, any land, building or structure.
 - a) where there is reason to believe it has been damaged or is infested by termites or other wood-destroying insects; or
 - b) which has been damaged or is infested by termites or other wood-destroying insects; or
 - c) which is within 122 metres of any building or structure so damaged or infested as aforesaid.
3. An inspector may give to the owner of any building or structure erected before or after the passage of this by-law notice in writing requiring that the building or structure be made resistant to termites or other wood-destroying insects by treatment of the soil adjacent thereto by a licensed pest or termite exterminator in such manner and by such means as is specified in the notice, or requiring that the building or structure be made resistant to termites or other wood-destroying insects by any other means specified in the notice, and upon receipt of such notice the owner shall forthwith carry out the requirement thereof.
4. The Inspector may serve on the owner of any building or structure or part thereof erected before or after the passage of this by-law, that has been damaged by termites or other wood-destroying insects an notice in writing requiring that such damage be repaired by removing to designated areas for burning and disposal, and replacing the same with sound material and, upon service of such notice, the owner shall carry out the requirements thereof within a time specified in the notice.
5. Where the Chief Building Official deems it necessary in order to prevent or control the spread of termites, he/she may serve on the owner of any building, structure or property an notice in writing requiring that no soil, wooden pole, tree, stump or other wooden or cellulose material be removed or transported from the property without written permission the Chief Building Official or his/her delegate.
6. No person shall erect a building in the designated area in which wood structural members are used, unless the soil below the foundations and the lowest floor of the building and the soil adjacent to the foundation walls and supporting piers is first impregnated with a chemical toxic to termites in such manner that there is no sub grade access to the building structure except through such chemically treated soil.
7. Where any wooden pole, tree, stump or other wooden or cellulose material not being part of a building has become infested, or, in the opinion of the inspector, is likely to become infested with termites or other wood-destroying insects, an inspector shall give to the owner of such pole tree, stump or other material, notice in writing certifying that such infestation exists and requiring that the said pole, tree, stump or other

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8. In a case where infestation is found (or the inspector deems infestation is likely to occur) in any wooden pole, tree, stump or other wooden or cellulose material which appears to be situated on a property line, the owner or owners of such wooden pole, tree, stump or other wooden or cellulose material shall be determined by the Municipality's fence viewers appointed under the Line Fences Act of Ontario.
9. The Municipality may, upon application made to it for that purpose, loan to an owner of a building for purposes of being applied to the cost incurred hereafter by such owner of rendering any building heretofore erected resistant to termites or such other insects, such portion being an amount fixed by the Municipality not exceeding the actual cost of such work less any amounts received by the property owner (such as grants) to offset such costs.
10. When an owner intends to make an application pursuant to Paragraph 9 he /she shall do so by delivering the application to the Chief Building Official prior to carrying out the work described in Paragraph 9.
11. The Council may in accordance with Policy GG.2.19 Municipal Loans to Ratepayers grant or refuse any such application or may grant the same. Any and all loans and interest thereon shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made. Payments of principal and interest shall be added to the collectors roll and collected in the like manner as municipal taxes over a period fixed by the Council, not exceeding five years.
12. Every person who contravenes any of the provisions of this by-law is guilty of an offence.
13. Every person who is guilty of an offence is liable to a fine of not more than \$5,000.00 as provided in the Provincial Offences Act, R.S.O. 1990, c. P.33.
14. Where the provisions of any other by-law, resolution or action of Council are inconsistent with the provisions of this by-law, the provisions of this by-law shall prevail.
15. That Town of Kincardine By-law No. 1990 – 61 is hereby repealed.
16. This By-law shall come into full force and effect at the time of its passing.
17. This by-law may be cited as the "Termite Control By-law".

READ a FIRST and SECOND TIME this 20th day of June, 2007



1. Amended by By-Law 2007-200.