

THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE



BY-LAW

NO. 2009 - 079

**BEING A BY-LAW TO AMEND BY-LAW NO. 2006-132 –
BEING A BY-LAW TO IMPOSE CONTROLS UPON THE OUTDOOR USE OF
WATER FOR PROPERTIES SERVICED BY THE MUNICIPALITY OF
KINCARDINE WATER WORKS SYSTEM**

WHEREAS Section 8 (1) and 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, 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 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;

AND WHEREAS pursuant to the said Municipal Act, Section 11 (3) authorizes municipalities to pass by-laws respecting matters within the sphere of jurisdiction of public utilities;

AND WHEREAS with the passage of By-law No. 2006-132, the Municipality of Kincardine imposed controls upon the outdoor use of water for properties serviced by the Municipality of Kincardine water works system;

AND WHEREAS By-law No. 2006-132 described the area of the Municipality to which they own, operate and maintain a water works distribution system as the former Town of Kincardine, the Village of Tiverton, and the Hamlets of Underwood and Scott's Point;

AND WHEREAS the Council of the Municipality of Kincardine deems it expedient to include the Hamlet of Armow in this description;

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

1. That the Hamlet of Armow be included in the area description cited in By-law No. 2006-132 and is subject to the controls imposed by the Municipality of Kincardine on outdoor use of water for properties serviced by the Municipality of Kincardine water works system.
2. This by-law may be cited as the "Water Control Amendment By-law".

READ a FIRST and SECOND TIME this 3rd day of June, 2009.

Original Signed By
Mayor – Larry Kraemer

Original Signed by
Clerk – Donna MacDougall

READ a THIRD TIME and FINALLY PASSED this 3rd day of June, 2009.

Original Signed By
Mayor – Larry Kraemer

Original Signed by
Clerk – Donna MacDougall

THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE



BY-LAW

NO. 2006 - 132

BEING A BY-LAW TO IMPOSE CONTROLS UPON THE OUTDOOR USE OF WATER FOR PROPERTIES SERVICED BY THE MUNICIPALITY OF KINCARDINE WATER WORKS SYSTEM

WHEREAS The Corporation of the Municipality of Kincardine has constructed and now operates and maintains a water works distribution system in the Municipality of Kincardine (former Towns of Kincardine, Tiverton, Underwood and Scott Point) and services certain urban developments in the Township of Huron-Kinloss;

AND WHEREAS Section 2 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, gives each municipality the power and duty to manage and preserve the public assets of the municipality;

AND WHEREAS pursuant to the said Municipal Act, Section 11 (2) authorizes municipalities to pass by-laws respecting matters within the sphere of jurisdiction of public utilities which includes water distribution;

AND WHEREAS pursuant to the said Municipal Act, Subsection 9 (3) provides that a by-law under Section 11 respecting a matter may regulate or prohibit respecting the matter;

AND WHEREAS the Municipality of Kincardine has deemed it expedient to impose controls upon the outdoor use of water for properties serviced by the Municipality of Kincardine water works distribution system;

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

1.0 Definitions

1.1 In this By-law:

- (a) “hand-watering device” means a container that is not connected to a watering device, is used to apply water and is operated by muscular power only;
- (b) “Manager” means the Municipality’s Public Works Manager or his or her designate;
- (c) “owner” means the occupant or the owner of the premises or their agent;
- (d) “person” includes, but is not limited to, an individual, sole proprietorship, partnership, association or corporation;

- (e) "Municipality" means the Municipality of Kincardine;
- (f) "water" except as otherwise defined in this By-law, means water produced, treated or stored by the Municipality and obtained through a metered or non-metered water distribution system;
- (g) "watering device" includes, but is not limited to, a hose bib, hose, pipe, sprinkler, in-ground or above-ground irrigation system or drip irrigation system used to apply water, but does not include a hand-watering device.

2.0 Stage 1 Restrictions on Water Use

- 2.1 The Stage 1 restrictions set out in Sections (2), (3) and (4) of this Article shall be in effect in all geographic areas of The Municipality of Kincardine, and those urban developments in the Township of Huron-Kinloss serviced by the Kincardine water works distribution system, at all times from May 15th to September 30th of each year.
- 2.2 On any premises or on the road allowance immediately adjacent to and within the extension of property lines of premises, no owner shall permit any person to irrigate with a watering device and no person shall irrigate with a watering device any lawn, garden, tree, shrub, or other outdoor plant except on the applicable days provided below and except between the hours of 6:00 a.m. and 9:00 a.m. and between the hours of 6:00 p.m. and 9:00 p.m. on the applicable days:
 - a) For all premises with even street numbers, on even-numbered calendar days;
 - b) For all premises with odd street numbers on odd-numbered calendar days.
- 2.3 The restrictions with respect to irrigating with a watering device in Section (2) of this Article do not apply to:
 - a) Newly planted sod or grass seed forming part of a lawn or newly planted lawn alternative while being installed and during the 24 hours following the completion of the installation;
 - b) Lawns treated with any pesticide, herbicide or fertilizer that require irrigation while being treated and during the 24 hours following the treatment.
- 2.4 The restrictions with respect to irrigating with a watering device in Section (2) do not apply to premises used for retail and wholesale nurseries or bowling greens if the permission of the Manager has first been sought and obtained with respect to the irrigating with a watering device outside of the allowed times and days.

3.0 Stage 2 Water Supply Emergency Restrictions

- 3.1 The Stage 2 water supply restrictions set out in Sections (2), (3) and (4) of this Article shall be in effect and shall cease to be in effect for The Municipality of Kincardine, and those urban developments in the Township of Huron-Kinloss serviced by the Kincardine water works distribution system, when the service capacity of any water production well or any water storage tower is reduced or compromised as determined by the Manager. Notwithstanding Section 5 of this Article, the Manager's determination shall have immediate effect.
- 3.2 At all times when Stage 2 water supply restrictions are in effect, no owner shall do or permit the activities listed in Section (3) of this Article, except on the applicable days provided herein and except between the hours of 6:00 a.m. and 9:00 a.m. and between the hours of 6:00 p.m. and 9:00 p.m. on the applicable days, that is:
- a) For all premises with even street numbers on even-numbered calendar days;
 - b) For all premises with odd street numbers on odd-numbered calendar days.
- 3.3 For purposes of Section (2) of this Article, no owner shall carry out, engage in, or permit:
- a) Cleaning with a watering device a vehicle parked on residential premises or on a road allowance immediately adjacent to and within the extension of the boundary lines of residential premises;
 - b) Cleaning with water the exterior of a building or attachments thereto, a driveway or a walkway;
 - c) Irrigating with water a driveway, walkway or roadway;
 - d) Operation of a decorative fountain unless all water used is continuously recycled;
 - e) Cleaning with water or filling with water any decorative fountain or any residential swimming pool, hot tub or garden pond;
 - f) Wasting water when using it outdoors.
- 3.4 No owner shall irrigate with water during a rainfall or permit any person to irrigate with water during a rainfall.

- 3.5 The Manager shall give notice of his or her determination under Section (1) to the public by any one or more of the following means:
- a) Publication of notice in a local newspaper or newspapers;
 - b) Announcements giving notice on radio or television;
 - c) livery of notice to affected premises, or
 - d) Any other means of giving notice that has a reasonable likelihood of coming to the attention of persons who are affected.

4.0 Stage 3 Water Supply Prohibitions

- 4.1 The Stage 3 water supply prohibitions set out in Section (2) of this Article shall be in effect and shall cease to be in effect for The Municipality of Kincardine, and those urban developments in the Township of Huron-Kinloss serviced by the Kincardine water works distribution system, when the service capability of any water production well or any water storage tower has declined to the point where the continued supply of sufficient water for the basic needs of the public is in jeopardy as determined by the Manager. Notwithstanding Section 3 of this Article, the Manager's determination shall have immediate effect.
- 4.2 At all times when Stage 3 water supply restrictions are in effect:
- a) No owner shall permit any person to irrigate with water and no person shall irrigate with water any lawn, including newly planted sod or grass seed forming part of a lawn and newly planted lawn alternative, and lawns treated with any pesticide, herbicide or fertilizer.
 - b) No owner shall permit any person to irrigate with water and no person shall irrigate with water any garden, tree, shrub or other outdoor plant.
 - c) No person shall permit any person to clean with water and no person shall clean with water the exterior of a building or attachments thereto, driveway or a walkway.
 - d) No owner shall permit any person to clean with water and no person shall clean with water a vehicle parked on residential premises or on the road allowance immediately adjacent to and within the extension of the boundary lines of residential premises.

- e) No person shall permit and no person shall:
- i Operate a decorative fountain unless all water used is continuously recycled, or fill a decorative fountain;
 - ii Clean with water or fill with water any decorative fountain or any residential swimming pool, hot tub, or garden pond; and
 - iii Waste water when using it outdoors.

4.3 The Manager shall give notice of his or her determination under Section (1) of this Article to the public by any one or more of the following means:

- a) Publication of notice in a local newspaper or newspapers;
- b) Announcements giving notice on radio or television;
- c) Delivery of notice to affected premises, or
- d) Any other means of giving notice that has a reasonable likelihood of coming to the attention of persons who are affected.

5.0 Penalty

5.1 Every person who contravenes a provision of this By-law is guilty of an offence and upon conviction is liable to a fine not exceeding \$5,000.00 exclusive of costs, for each offence, recoverable under the provisions of the Provincial Offences Act, R.S.O. 1990, c.P. 33.

6.0 Administration and Enforcement

6.1 The Manager is responsible for the administration of this By-law and may provide exceptions to the By-law as he or she deems appropriate.

6.2 This By-law may be enforced by a Municipal By-law Enforcement Officer or a Provincial Offences Officer.

6.3 In the event that water is being used on or from a premise contrary to the provisions of this By-law, the Municipality may shut off the supply of water to the premises upon giving verbal or other notice to any reasonably available person occupying the premises, or without notice if no one is reasonably available to give notice to. When the owner agrees **in writing** to comply **fully** with the provisions of this By-law, the water supply to the premises shall be restored by the Municipality provided that the charge established by the Council of the Municipality from time to time for turning the supply of water back on is paid by the owner, and failing payment in whole or in part the Municipality may transfer the amount remaining unpaid to the Collector's Roll and collect the amount in the same manner as taxes and subject to the same interest and penalties as for taxes.

- 6.4 If any section or sections of this By-law or parts of it are found by any court to be unlawful or beyond the power of council to enact, such section or sections or parts of it shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent and shall continue in full force.

7.0 Reference

- 7.1 This by-law may be cited as the "Water Control By-law".

READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED
this 2nd day of August, 2006.

Original Signed By
Mayor – Glenn Sutton

Original Signed by
Clerk – Donna MacDougall