

The Corporation of the City of Kenora

By-Law Number 129 - 2018

Being a Bylaw to Provide Powers of Entry for the Purpose of Carrying out Inspections

Whereas section 436 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, (the “*Municipal Act, 2001*”) 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; and

Whereas section 438 of the *Municipal Act, 2001* provides that a municipality has the power to pass by-laws providing that the municipality may undertake inspections pursuant to orders issued under section 438; and

Whereas sections 435 and 437 of the *Municipal Act, 2001* set out certain additional powers and restrictions in regard to the power of entry; and

Whereas The Corporation of the City of Kenora desires to pass a By-law allowing for the entry on land for the purpose of carrying out inspections to ensure that its by-laws, directions, orders and licence conditions are being complied with;

Now Therefore the Council of the Corporation Of The City Of Kenora Enacts As Follows:

1. In this By-law:

- (a) “building” means any structure consisting of a roof supported by walls or columns which is used or intended to be used for the shelter, accommodation or enclosure of persons, animals, goods, chattels, or equipment and includes a carport;
- (b) “by-law” means a by-law passed by Council pursuant to the *Municipal Act, 2001*;
- (c) “City” means the Corporation of the City of Kenora;
- (d) “Council” means the Council of The Corporation of the City of Kenora;
- (e) “dwelling” means any room, place or part of a building actually being used as a dwelling;
- (f) “land” includes buildings and land covered by water;
- (g) “Officer” means a City by-law enforcement officer or any other City employee or other person authorized by the City to enforce the provisions of a by-law of the City; and
- (h) “*Municipal Act, 2001*” means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended.

2. Subject to Section 3, an Officer may enter on land and into a building at any reasonable time for the purpose of carrying out an inspection to determine whether or not any of the following are being complied with;
 - (a) a by-law;
 - (b) a direction or order of the City made under the *Municipal Act, 2001* or made under a by-law;
 - (c) a condition of a licence issued under a By-law; or
 - (d) an order made under Section 431 of the *Municipal Act, 2001*.
3. An Officer exercising a power of entry shall not enter or remain in a dwelling except in accordance with the restrictions set out in section 437 of the *Municipal Act, 2001*.
4. An Officer exercising a power of entry may:
 - (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information from any person concerning a matter related to the inspection; and
 - (d) alone or in conjunction with a person who, in the Officer's opinion possesses special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
5. Subject to section 6, this By-law prevails to the extent of any conflict between this By-law and any other by-law of the City.
6. Nothing in this By-law shall limit any other statutory or common law rights or powers of the City or any Officer to enter on land.

By-law read a First & Second Time this 25th day of September, 2018

By-law read a Third & Final Time this 25th day of September, 2018

The Corporation of the City of Kenora:

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David S. Canfield, Mayor

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Heather L. Kasprick, City Clerk