

CITY OF KINGSTON

By-law No. 2009-170

A BY-LAW TO REGULATE THE DISCHARGE OF FIREARMS

PASSED: December 1, 2009

As amended by:

(Office Consolidation)

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Section:

See No.

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BY-LAW NO. 2009-170

A BY-LAW TO REGULATE THE DISCHARGE OF FIREARMS

PASSED: December 1, 2009

WHEREAS section 119 of the *Municipal Act, 2001* authorizes municipalities to enact by-laws, for the purpose of public safety, to prohibit or regulate the discharge of firearms;

NOW THEREFORE the Council of the Corporation of the City of Kingston enacts as follows:

1. DEFINITIONS

In this by-law,

“animal control officer” means an employee or agent of the City who is responsible for enforcing the provisions of By-Law No. 2004-144, “A By-Law to Regulate Animals” or a successor to that by-law;

“City”, “City of Kingston” and **“Kingston”** mean The Corporation of the City of Kingston, as incorporated on January 1, 1998;

“community recreation centre” means an arena or other facility that is used by the general public for recreational or other community activities;

“conservation area” means land in the City of Kingston owned by the Cataraqui Region Conservation Authority;

“conservation officer” means a person who is responsible for enforcing the (Ontario) *Fish and Wildlife Conservation Act*;

“dwelling” includes a residential unit used on a seasonal or part-time basis;

“firearm” includes any type of gun or other firearm, air gun, spring gun, pellet gun, tranquillizer gun, paint ball gun, cross-bow and long-bow;

"highway" means a common and public highway, and includes a street, public lane and road allowance and any bridge, trestle, viaduct or structure that forms part of a highway and all lands between the lateral boundaries;

"park" means a recreational area that is open to the general public for permitted recreational uses, and includes a picnic area, sports field, and beach area;

"police officer" means a police officer employed by the Kingston Police, the Ontario Provincial Police, the Royal Canadian Mounted Police, or the Canadian Forces;

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"private road" means a privately-owned street or lane used by members of the general public for the passage of motor vehicles;

"property" means a parcel of land and any buildings or structures on the land, and includes a portion of a property;

"recreational trail" means a former rail line or other similar property that is open to the general public for permitted recreational trail uses, and includes any bridge, trestle, viaduct or structure that forms part of a trail and all lands between the lateral boundaries;

"rural area" means the portion of the City that is outside the urban boundary designated in the attached Schedule;

"school" includes an elementary school, secondary school, community college, university or other post-secondary institution, and any private school or college;

"urban area" means the portion of the City that is within the urban boundary designated in the attached Schedule.

2. ADMINISTRATION

- 2.1 Police Officers employed by the Kingston Police and, where appropriate, the City's By-Law Enforcement Officers are responsible for enforcing the provisions of this by-law.

3. INTERPRETATION

- 3.1 The regulations established by this by-law apply to the discharge of firearms on all lands and waters within the boundaries of the City.
- 3.2 The attached Schedule "A" forms part of this by-law.
- 3.3 The use of the word "includes" in Part 1 of this by-law is not to be interpreted as limiting the meaning of a word or term to the phrases or descriptions that follow.
- 3.4 Nothing in this by-law shall be interpreted as reducing or eliminating the need for full compliance with the provisions of all applicable Federal and Provincial statutes and regulations relating to firearms.

4. REGULATIONS

Urban Area

- 4.1 No person shall discharge a firearm in the urban area of the City.

Rural Area

- 4.2 No person shall discharge a firearm in the rural area of the City:
 - (a) on any property owned or occupied by the City, Utilities Kingston or the County of Frontenac;
 - (b) on or within 100 meters of any property used for the purposes of a school, place of worship, day nursery, community recreation centre, park or campground;
 - (c) within 100 meters of any conservation area;
 - (d) within 100 meters of any dwelling, other than a dwelling owned or lawfully occupied by the person discharging the firearm;
 - (e) on, across or within 8 meters of any highway, private road, or recreational trail, or

- (f) within 8 meters of any property other than those properties referred to in clauses 4.2(b), (c), (d) and (e).

Compliance with Federal and Provincial Requirements

- 4.3 No person shall discharge a firearm on any property on which the discharge of firearms is permitted unless he or she is in compliance with the provisions of the (Canada) *Criminal Code*, the (Canada) *Firearms Act* and all other federal requirements relating to firearms.

- 4.4 No person shall discharge a firearm on any property on which the discharge of firearms is permitted unless he or she:
 - (a) is the owner or lawful occupier of that property; or
 - (b) has the express permission of the owner or lawful occupier of that property in accordance with the provisions of the (Ontario) *Trespass to Property Act*.

- 4.5 No person shall discharge a firearm for the purpose of hunting on any property on which the discharge of firearms is permitted unless he or she is in compliance with the provisions of the (Ontario) *Fish and Wildlife Conservation Act*, the (Canada) *Migratory Birds Regulations* and all other applicable regulations relating to hunting in Ontario.

Obstruction

- 4.6 No person shall obstruct or hinder or attempt to obstruct a police officer or a by-law enforcement officer who is performing a duty under this by-law.

5. EXEMPTIONS

Exempted Individuals

- 5.1 The regulations established in Section 4 regarding the discharge of firearms do not apply to the following persons in the performance of their duties:
 - (a) a police officer;
 - (b) a staff member of the Correctional Services of Canada;
 - (c) a member of the Canadian Forces; or
 - (d) an animal control officer, conservation officer, or inspector or agent of the Ontario Society for the Prevention of Cruelty to Animals.

Exempted Activities

- 5.2 The regulations established in Section 4 regarding the discharge of firearms do not apply to a person who is:
- (a) protecting his or her livestock or poultry from stray dogs in accordance with section 2 of the (Ontario) *Dog Licensing, Poultry and Honey Bee Protection Act*;
 - (b) protecting his or her property from damage by wildlife in accordance with section 31 of the (Ontario) *Fish and Wildlife Conservation Act*;
 - (c) protecting his or her property from damage by migratory birds in accordance with a permit issued under section 25 or section 26 of the (Canada) *Migratory Birds Regulations*;
 - (d) firing blank ammunition for the purposes of (i) a ceremonial event, historical display or educational program, (ii) a theatrical, film or television production; (iii) a sporting event; or (iv) the training of animals.
 - (e) Implementing remedial actions under the Kingston Airport's Wildlife Control Plan to reduce wildlife hazards on airport lands to aircraft and airport operation.

Exempted Properties

- 5.3 The regulations established in Section 4 do not apply to the lawful discharge of firearms on the following properties:
- (a) the Canadian Forces Base Kingston;
 - (b) a prison operated by the Correctional Service of Canada;
 - (c) a facility operated or utilized by police officers for training purposes;
 - (d) a gun club, trap and skeet club, rifle range, archery range, paint ball facility or other facility for the use of firearms that is in compliance with all applicable municipal, provincial and federal requirements; or
 - (e) Salmon Island in Lake Ontario.

6. SCHEDULE

Urban Boundary - Schedule "A"

7. OFFENCE AND PENALTY PROVISIONS

- 7.1 Any person who contravenes the provisions of this by-law is guilty of an offence and, upon conviction, is subject to a fine as provided in the (Ontario) *Provincial Offences Act* and to any other applicable penalties.

- 7.2 If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

8. VALIDITY

- 8.1 If a court of competent jurisdiction declares any provision or any part of a provision of this by-law to be invalid, or to be of no force or effect, it is the intention of Council in enacting this by-law that each and every provision of this by-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

9. COMMENCEMENT

- 9.1 This by-law shall come into force and take effect on the date that it is given third reading and passed.

SCHEDULE "A"

URBAN BOUNDARY

- The by-law will include a map outlining the "urban boundary" that divides the urban area of the City from the rural area for purposes of discharging firearms.
- It is being proposed that the urban boundary extend in an easterly direction along Highway 401 from the City's western boundary with Loyalist Township to the boundary between the former Township of Kingston and Township of Pittsburgh in the Great Cataraqui River.
- Highway 401 is the existing boundary in the former Township of Kingston for purposes of discharging firearms, so this will not represent a change.
- It seems appropriate that a portion of the built-up area of the former Township of Pittsburgh be included within the urban boundary for purposes of this by-law; the following is based in part on the urban boundary in the proposed official plan.
- It is being proposed that the urban boundary continue along Highway 401 in an easterly direction from the former municipal boundary in the Great Cataraqui River to the intersection of Highway 401 and Highway 15.
- This would mean that the discharge of firearms would, under the proposed new harmonized by-law, be prohibited on both sides of the Great Cataraqui River in the area south of Highway 401.
- The proposed urban boundary would then extend in a southwesterly direction along Highway 15 to the north end of the St. Lawrence Business Park.
- It would then extend in an easterly direction along the northern perimeter of the Business Park to Butternut Creek.
- The proposed urban boundary would then follow Butternut Creek in a southwesterly direction to the external boundary of the Canadian Forces Base.
- It would then follow the external boundary of the Base in a southwesterly and then a westerly direction to the former municipal boundary in the River.
- The proposed urban boundary would then extend through the waters of the Inner Harbour in a southerly direction to the City's southern boundary where Lake Ontario flows into the St. Lawrence River.

- It would then follow the City's boundary in a westerly direction through Lake Ontario to the City's western boundary with Loyalist Township in the Lake.
- The proposed urban boundary would then follow the City's boundary with Loyalist Township in Lake Ontario in a northerly direction to Highway 401.

