



**City Of Kingston**

**Ontario**

**By-Law Number 2021-53**

**A By-Law to Regulate the Setting and Maintaining of  
Open Air Fires within the City of Kingston**

**(Short Title “Open Air Fires By-Law”)**

**Passed:** April 6, 2021

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**By-Law Number 2021-53**

**A By-Law to Regulate the Setting and Maintaining of Open Air  
Fires within the City of Kingston**

**Passed:** April 6, 2021

**Whereas** subsection 7.1(1) of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended, authorizes the council of a municipality to pass by-laws regulating the setting of Open Air Fires, including establishing the times during which Open Air Fires may be set; and

**Whereas** subsection 10(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes a municipality to pass by-laws respecting the health, safety and well-being of persons, the protection of persons and property, and the economic, social and environmental well-being of the municipality, including respecting climate change; and

**Whereas** the regulation of Open Air Fires will contribute to the health, safety and well-being of the inhabitants of the municipality, the protection of persons and property within the municipality, and the economic, social and environmental well-being of the municipality; and

**Whereas** section 391 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of the municipality and for the use of the municipality's property, including property under its control; and

**Whereas** the Council of The Corporation of the City of Kingston deems it necessary and desirable to enact such a by-law to regulate Open Air Fires;

**Therefore be it resolved that** By-Law 2021-53 "A By-Law to Regulate the Setting and Maintaining of Open Air Fires within the City of Kingston" is hereby enacted as follows:

**1 - Definitions**

For the purposes of this By-Law,

**"Adverse Effect"** means one or more of the following, as determined by the Fire Chief:

- (a) material impairment of the quality of the natural environment for any use that can be made of it,

- (b) injury or damage to Property, or plant or animal life,
- (c) harm or material discomfort to any person,
- (d) a detrimental effect on the health, or the impairment of the safety of any person,
- (e) loss of enjoyment of normal use of Property, or
- (f) interference with the normal operation of any business;

**“Agricultural Fire”** means an Open Air Fire that is Set and Maintained solely for the purpose of burning wood, tree limbs and branches related to a Farming Business;

**“Agricultural Fire Permit”** means an Open Air Fire Permit that authorizes an Agricultural Fire;

**“Applicant”** means the Person making an application for an Open Air Fire Permit under this By-Law;

**“Barbecue”** means a portable or fixed device designed and intended solely for the cooking of food in the open air, but does not include an Outdoor Fireplace or a Campfire;

**“Brush Fire”** means an Open Air Fire Set and Maintained solely for the purpose of burning wood, tree limbs, leaves, and branches;

**“Brush Fire Permit”** means an Open Air Fire Permit that authorizes a Brush Fire;

**“Campfire”** means an Open Air Fire that is Set and Maintained solely for the purposes of cooking food, providing warmth, or recreational enjoyment;

**“Campfire Permit”** means an Open Air Fire Permit that authorizes a Campfire;

**“Campground”** means an area of land that contains campsites for the purpose of overnight accommodations for tents, trailers and/or motorhomes in exchange for monetary payment, and that has been approved by the Fire Chief;

**“Campground Permit”** means an Open Air Fire Permit authorizing Open Air Fires at a Campground;

**“Ceremonial/Sacred Fire”** means an Open Air Fire carried out as part of or in observance of a ceremonial or sacred service;

**“City”** means the municipal Corporation of the City of Kingston or the geographic area of the City of Kingston as the context requires;

**“Dangerous Condition”** means any condition as determined by the Fire Chief or an Officer that increases the risk of the spread of a fire;

**“Extinguish”** means to put out or quench completely with no smoke, or hot or glowing embers remaining;

**“Farming Business”** means a Farming Business as defined by the *Farm Registration and Farm Organizations Funding Act, 1993*, S.O. 1993, c. 21;

**“Fees and Charges By-Law”** means City of Kingston By-Law Number 2005-10, “A By-Law to Establish Fees and Charges to be Collected by The Corporation of the City of Kingston”, as amended from time to time;

**“Fire Chief”** means the person appointed under Section 6 of the *Fire Protection and Prevention Act* as Fire Chief for the City, or his or her designate;

**“Flying/floating lantern”** means a warm air floating device made of combustible material and equipped with an open flame for floatation;

**“Fire Protection and Prevention Act”** means the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended, and the regulations enacted thereunder, as amended from time to time, or any Act or Regulation enacted in substitution therefor;

**“Highway”** means 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; and, except as otherwise provided, includes a portion of a highway;

**“Maintain”** means to cause or permit an Open Air Fire to continue to burn;

**“Material to be Burned”** means the total volume of the materials contained in a fire;

**“Non-approved Device”** means a container that has not been approved by CSA/ULC or the Fire Chief to contain an Open Air Fire, including but not limited to drums, barrels, oil tanks, gas tanks, and wheel rims;

**“Nuisance Open Air Fire”** means an Open Air Fire that causes smoke, odour and/or airborne sparks or embers, alone or in combination, that is likely to, or does, disturb others, reduce visibility on a Highway or private driveway, and/or create a Dangerous Condition, and/or produce an Adverse Effect, inconvenience, or discomfort to others in the vicinity of the Open Air Fire;

**“Officer”** means any person who has been assigned the responsibility of administering and enforcing this By-Law and includes a Provincial Offences Officer, a Municipal Law Enforcement Officer, Fire Inspector, an Assistant to the Fire Marshal as defined in section 11 of the *Fire Protection and Prevention Act*, and an Officer of the Kingston Police or other police force assisting the Kingston Police;

**“Open Air Fire”** means the burning of material, including but not limited to untreated wood and wood fibre products such as non-laminated paper, cardboard and boxboard, brush, tree limbs, leaves, and branches, where the flame is not wholly contained, and includes Agricultural Fires, Brush Fires, Campfires and Outdoor Appliance Fires, but does not include the use of appliances with mechanical shut-offs (e.g. propane or natural gas appliances), smokers, Barbecues, or charcoal appliances;

**“Open Air Fire Permit”** means a permit issued by the City to conduct an Open Air Fire;

**“Open Air Fire Zone 1”** means the areas west of Collins Creek and all lands west that are north of the CNR tracks; all lands north of Highway 401 and Middle Road to the intersection of Highway 401 and Highway 15; and all lands east of Greenwood Subdivision, St. Lawrence Business Park, and CFB Kingston, as depicted on the map attached as Schedule A to this By-Law;

**“Open Air Fire Zone 2”** means all areas not included in the Open Air Fire Zone 1;

**“Outdoor Appliance”** means a wood burning device that is CSA/ULC approved or approved by the Fire Chief to contain an Open Air Fire;

**“Outdoor Appliance Fire”** means an Open Air Fire contained within an Outdoor Appliance;

**“Outdoor Appliance Fire Permit”** means an Open Air Fire Permit that authorizes an Open Air Fire in an Outdoor Appliance;

**“Outdoor Fireplace”** means a manufactured, non-combustible, enclosed container designed to hold a small fire for decorative purposes and the size of which does not exceed 1 m in any direction and includes, but is not limited, to a chiminea;

**“Outdoor Fireplace Permit”** means an Open Air Fire Permit that authorizes an Open Air Fire in an Outdoor Fireplace;

**“Owner”** means a Person who is shown on the parcel register maintained by the Province of Ontario as the owner of Property, and includes any Person in legal possession of a Property, and also includes a Person who for the time being manages the Property or receives rent for it, or who pays municipal taxes on the Property, whether on their own account or as an agent or trustee of any other Person, or who would carry out the aforementioned duties if the Property were let, and shall also include a tenant or occupant of the Property;

**“Partial Burn Ban”** means a period of time declared by the Fire Chief during which the Setting of Agricultural Fires, Brush Fires and fireworks are prohibited;

**“Permit Holder”** means a Person to whom an Open Air Fire Permit has been issued by the City;

**“Person”** means any individual, association, firm, partnership, corporation, agent or trustee and the heirs, executors, or other legal representative of a person to whom the context can apply according to law;

**“Prohibited Conditions”** means:

- (a) wind speeds exceeding 25 kilometers per hour, as determined by Environment and Climate Change Canada;
- (b) the duration of any smog alert/smog watch/smog advisory, as determined by Environment and Climate Change Canada; or
- (c) drought or dry weather conditions that increase the risk of a burn escaping containment and becoming a wildfire;

**“Prohibited Materials”** means combustible material, including but not limited to: rubber, rubber products, plastic, plastic products, polyethylene terephthalate, polystyrenes (Styrofoam), waste petroleum products, rubbish, demolition materials, metal, tires, rubber, plastic, fiberglass, cloth, asphalt products, shingles, insulation, electrical wiring, painted or treated wood, furniture, synthetic fabrics, composite wood waste, residential waste (such as food scraps, diapers and household trash), commercial, industrial, manufacturing, or construction waste, flammable or combustible liquids, oils, paints, solvents, batteries, acids, chemicals, explosives, radioactive, infectious, and other hazardous materials, and any material prohibited by the *Environmental Protection Act*, R.S.O. 1990, c. E. 19, as amended, but shall not include untreated wood and wood fiber products, such as non-laminated paper, cardboard and boxboard, brush, tree limbs, leaves, and branches;

**“Property”** includes a building or structure or part of a building or structure, and includes the lands appurtenant thereto and all mobile homes, mobile buildings or mobile structures and vacant land;

**“Set”** means to light an Open Air Fire;

**“Special Event”** means an event held by the City, or by a community not-for-profit organization, school, or an event that supports the local tourism industry;

**“Total Burn Ban”** means a period of time declared by the Fire Chief during which the Setting of fireworks and all Open Air Fires, including Campfires, Outdoor Appliance Fires, Agricultural Fires and Brush Fires are prohibited, but does not include Outdoor Appliances with mechanical shut-off (i.e. propane and natural gas appliances), smokers, Barbecues, and charcoal appliances;

## **2 - Administration**

2.1 The Fire Chief shall be responsible for the administration of this By-Law.

## **3 - Application**

3.1 This By-Law applies within the geographic limits of the City.

## **4 - Interpretation**

4.1 Nothing in this By-Law shall be deemed to authorize any fire, burning or other act that is in contravention of the *Environmental Protection Act*, R.S.O. 1990, c. E.19, the *Forest Fires Prevention Act*, R.S.O. 1990, c. F.24, the *Fire Protection and Prevention Act*, or other federal or provincial statute, or any regulation made thereunder.

4.2 In the event of any conflict between the provisions of this By-Law and said Act or Acts or Regulations, the said Act or Acts or Regulations made thereunder shall govern. In the event of any conflict between the provisions of this By-Law and any other municipal by-law, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

## **5 - Exemptions**

5.1 This Bylaw does not apply to the Setting or Maintaining of a Ceremonial/Sacred Fire.

5.2 This Bylaw does not apply to an event held by the City, or by a community not-for-profit organization, school, or an event that supports the local tourism industry;

5.3 This By-Law does not apply to the use of blow torches, cutting or welding torches, paving equipment or other such apparatus associated with a service or occupation.

5.4 This By-Law does not apply to the Setting or Maintaining of an Open Air Fire:

- (a) In an incinerator operated in accordance with the Certificate of Approval issued pursuant to the *Environmental Protection Act*, R.S.O. 1990, c. E.19 and Regulations thereunder;
- (b) In a device that has been installed outside of a building and that meets each of the following conditions:
  - (i) the device is designed for and used as a source of heat or power for the building or is designed for and used for a purpose ancillary to a manufacturing process,



- (ii) the device is certified for use for a purpose described in paragraph 5(b)(i) by a recognized agency mandated in part for that purpose;
  - (iii) the certification of the device is produced upon request of an Officer or the Fire Chief, or the device has been approved by the Fire Chief; and
  - (iv) the device is in good working order; or
- (c) For the purpose of a training exercise or demonstration of firefighting equipment, if such exercise or demonstration is authorized by the Fire Chief;

## **6 – Open Air Fire Permits**

- 6.1 Every Open Air Fire Permit shall include the terms and conditions set out in Schedule B of this By-Law, as applicable.
- 6.2 An Agricultural Fire Permit shall be required prior to Setting an Agricultural Fire.
- 6.3 Only a Person who operates a Farming Business may apply for an Open Air Fire Permit for an Agricultural Fire.
- 6.4 A Brush Fire Permit shall be required prior to Setting a Brush Fire.
- 6.5 An Outdoor Appliance Fire Permit shall be required prior Setting a fire in an Outdoor Appliance.
- 6.6 An Outdoor Fireplace Permit shall be required prior to Setting a fire in an Outdoor Fireplace.
- 6.7 A Campfire Permit shall be required prior to Setting a Campfire.
- 6.8 A Special Event Fire Permit shall be required prior to Setting an Open Air Fire during or as part of a Special Event.
- 6.9 A Campground shall obtain a Campground Permit prior to Setting any Open Air Fire or permitting an Open Air Fire to be Set at a Campground.
- 6.10 Every application for an Open Air Fire Permit shall be submitted to Kingston Fire and Rescue in the form approved by the Fire Chief and shall contain the Applicant's contact information and all other information, documentation or materials as may be requested by Kingston Fire and Rescue.
- 6.11 An incomplete application for an Open Air Fire Permit may not be processed.
- 6.12 The Fire Chief may require an inspection of any Property prior to issuing an Open Air Fire Permit.

- 6.13 The Fire Chief may, in his or sole discretion, refuse to issue an Open Air Fire Permit if:
- (a) the application is incomplete;
  - (b) the Fire Chief has reasonable grounds to believe that the Open Air Fire may cause or result in an Adverse Effect or a Dangerous Condition;
  - (c) the Applicant has an outstanding debt owing to the City as a result of unpaid fees or charges or fines issued pursuant to this By-Law; or
  - (d) the Fire Chief has reasonable grounds to believe that the Open Air Fire will result in a breach of this By-Law, the *Fire Protection and Prevention Act*, or any other provincial or federal statute.
- 6.14 Where the Fire Chief refuses to issue an Open Air Fire Permit, the Fire Chief shall advise the applicant that the application has been denied and shall provide reasons for the denial.
- 6.15 An Open Air Fire Permit issued under this By-Law is personal to the Permit Holder and shall not be transferred or assigned.
- 6.16 An Open Air Fire Permit shall be valid for the calendar year in which it is issued.
- 6.17 The Fire Chief may, at any time, in his or her sole discretion, revoke any Open Air Fire Permit, if the Fire Chief has reasonable grounds to believe that:
- (a) Any of the information provided with the Open Air Fire Permit application or supporting documentation or materials is not accurate, is false or misleading;
  - (b) A provision of this By-Law or a term or condition of the Open Air Fire Permit is not being observed; or
  - (c) The Permit Holder has caused or permitted a Nuisance Open Air Fire on one or more occasions.
- 6.18 If the Fire Chief revokes an Open Air Fire Permit pursuant to section 6.17, the Fire Chief shall notify the Permit Holder using the contact information provided on the application as required by section 6.9 of this By-Law.
- 6.19 Notice of the revocation of an Open Air Fire Permit, if sent to the contact information provided on the application as required by section 6.9 of this By-Law shall, in the absence of evidence to the contrary, be deemed to be received:
- (a) on the date of delivery, if delivered personally;
  - (b) on the date and time of transmission, if delivered via email;

- (c) three (3) business days after the date of mailing, if delivered by registered mail to an address within the City;
- (d) five (5) days after the date of mailing, if delivered by registered mail to an address outside of the City;
- (e) five (5) days after the date of mailing if delivered by regular mail to an address within the City;
- (f) seven (7) days after the date of mailing if delivered by regular mail to an address outside of the City.

## **7 – General Regulations**

- 7.1 Except as provided in Section 5 - Exemptions, no Person shall cause or permit an Open Air Fire to be Set or Maintained unless that Person holds a valid Open Air Fire Permit.
- 7.2 No Person shall cause or permit an Open Air Fire to be Set or Maintained except in accordance with the provisions of this By-Law and the terms and conditions of a valid Open Air Fire Permit issued under this By-Law.
- 7.3 No Person shall cause or permit a Campfire, an Agricultural Fire or a Brush Fire to be Set or Maintained, except within the Open Air Fire Zone 1.
- 7.4 No Person shall cause or permit an Open Air Fire to be Set or Maintained in a Campground, unless the Campground has been issued a Campground Permit under this By-Law.
- 7.5 No Person shall cause or permit an Open Air Fire to be Set or Maintained in a Campground, except in accordance with the provisions of this By-Law and the terms and conditions of a valid Campground Permit issued under this By-Law
- 7.6 No Person shall cause, permit or Maintain the burning of Prohibited Materials in an Open Air Fire.
- 7.7 No Person shall cause or permit an Open Air Fire to be Set or Maintained in Prohibited Conditions.
- 7.8 No Person shall cause or permit an Open Air Fire to be Set or Maintained, during a Total Burn Ban.
- 7.9 No Person shall cause or permit an Open Air Fire to be Set or Maintained in contravention of the restrictions during a Partial Burn Ban.
- 7.10 No Person shall cause or permit fireworks to be set off during a Partial Burn Ban.

- 7.11 No Person shall cause or permit an Open Air Fire to be Set or Maintained in a Non-approved Device.
- 7.12 No Person shall cause or permit a Nuisance Open Air Fire.
- 7.13 No Person shall use, or cause or permit the use of a Flying/floating Lantern.

## **8 – Enforcement**

- 8.1 The provisions of this By-Law may be enforced by an Officer, or other authorized employee or agent of the City.
- 8.2 No Person shall obstruct or hinder or attempt to obstruct or hinder an Officer or other authorized employee or agent of the City in the exercise of a power or the performance of a duty under this By-Law.

## **9 - Right of Entry**

- 9.1 Upon producing proper identification, an Officer or the Fire Chief may, at any reasonable time, enter upon and inspect any Property to determine if there is a contravention of this By-Law and to enforce or carry into effect the provisions of this By-Law.

## **10 - Extinguishing Any Fire**

- 10.1 The Fire Chief may direct any person to Extinguish any Open Air Fire where the Fire Chief has reasonable grounds to believe that the Open Air Fire is in contravention of this By-Law or of the terms and conditions of an Open Air Fire Permit.
- 10.2 Where the action taken by such person pursuant to 10.1 is, in the opinion of the Fire Chief not adequate, the Fire Chief may take such action as he or she considers necessary to control and Extinguish the fire.
- 10.3 No action or other proceeding for damages shall be instituted against a firefighter, a fire coordinator, a fire inspector, a community fire safety officer, a member or employee of the Fire Safety Commission, an assistant to the Fire Marshal, the Deputy Fire Marshal, the Fire Marshal, or a person acting under his or her authority, or any other person directed by the Fire Chief pursuant to section 10.1 or 10.2, for any act done in good faith in the execution or intended execution of his or her power or duty or for any alleged neglect or default in the execution in good faith of his or her power or duty.

## **11 - Costs of Action Regarding Fires**

- 11.1 The Owner(s) of Property may be responsible for any and all extraordinary costs and expenses of any action(s) taken by the Fire Chief pursuant to section 10.1 and/or section 10.2 of this By-Law with respect to responding to, controlling or Extinguishing an Open Air Fire on that Property that is caused by, or results from, a contravention of this By-Law, or is caused by or results from the failure to comply with any of the provisions of this By-Law or the terms and conditions of an Open Air Fire Permit issued pursuant to this By-Law.
- 11.2 For the purposes of section 11.1 of this By-Law, extraordinary costs and expenses include, but are not limited to: the costs and expenses related of any actions related to the burning of Prohibited Materials or in Prohibited Conditions; the costs and expenses of multiple responses to the same address due to contraventions of this By-Law; the costs and expenses related to the spread of an Open Air Fire onto property owned by the City, including to repair or replace damaged property.
- 11.3 The costs and expenses in section 11.1 of this By-Law shall be assessed in accordance with the City's Fees and Charges By-law and are payable to the City.
- 11.4 If costs or expenses are assessed against an Owner under this By-Law, the City shall deliver an invoice to each such Owner and the Owner shall pay the fee within thirty (30) days of receipt of the invoice or as may be otherwise specified on the invoice.
- 11.5 The City may deliver such invoice personally, by registered mail, or by regular mail to the Owner(s)'s last known address.
- 11.6 Receipt of the invoice shall be deemed to have occurred: a) on the date of delivery, if delivered personally; b) three (3) business days after the date of mailing, if delivered by registered mail to an address within the City; c) five (5) days after the date of mailing, if delivered by registered mail to an address outside of the City; d) five (5) days after the date of mailing if delivered by regular mail to an address within the City; e) seven (7) days after the date of mailing if delivered by regular mail to an address outside of the City.
- 11.7 If any amount payable under this By-Law remains unpaid after thirty (30) days of receipt of the invoice, the City may add such amount to the tax roll for any Property for which all the Owners are responsible and may collect the amount in the same manner as municipal taxes or through the use of other legal means as deemed appropriate.

## **12 – Offence and Penalty Provisions**

- 12.1 Every person who contravenes any provision of this By-Law is guilty of an offence as provided in the *Provincial Offences Act*, R.S.O. 1990, c. P.33 as amended.
- 12.2 Subject to section 12.3 and section 12.4 of this By-Law, upon conviction, every Person who contravenes any provision of this By-Law is liable to a minimum fine of not less than One Hundred Dollars (\$100) and a maximum fine of not more than Twenty-Five Thousand Dollars (\$25,000) for a first offence and not more than Fifty Thousand Dollars (\$50,000) for any subsequent offence.
- 12.3 A corporation that has contravened any provision of this By-Law is, upon conviction, liable to a minimum fine of not less than One Hundred Dollars (\$100) and a maximum fine of not more than Fifty Thousand Dollars (\$50,000) for a first offence and not more than One Hundred Thousand Dollars (\$100,000) for any subsequent offence.
- 12.4 Where a corporation contravenes any provision of this By-Law, every director and officer of the corporation who knowingly concurs in the contravention is guilty of an offence and, upon conviction, is liable to a minimum fine of not less than One Hundred Dollars (\$100) and a maximum fine of not more than Twenty-Five Thousand Dollars (\$25,000) for a first offence and not more than Fifty Thousand Dollars (\$50,000) for any subsequent offence.
- 12.5 If a Person has been convicted of an offence under this By-Law, the Ontario Court of Justice or any court of competent jurisdiction thereafter may, in addition to any penalty imposed on the Person convicted, issue an order prohibiting the continuation or repetition of the offence by the Person convicted, and/or requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
- 12.6 In accordance with section 398 of the *Municipal Act*, the treasurer of the City may add any unpaid fees, charges and/or fines imposed under this By-Law to the tax roll and collect them in the same manner as property taxes.

## **13 - Schedules**

- 13.1 The following Schedules are attached to and form part of this By-Law:
- (a) Schedule A: Open Air Fire Zones
  - (b) Schedule B: Open Air Fire Permit Conditions

#### **14 - Validity**

14.1 Should a court of competent jurisdiction declare any provision, or any part of any provision, of this By-Law to be invalid or of no force and effect, the provision or part shall be deemed severable from this By-Law and it is the intention of Council that the remainder of the By-Law survive and be applied and enforced in accordance with its terms to the extent possible under law.

#### **15 - Short Title of By-Law**

15.1 This By-Law may be referred to as the "Open Air Fires By-Law".

#### **16 – Commencement**

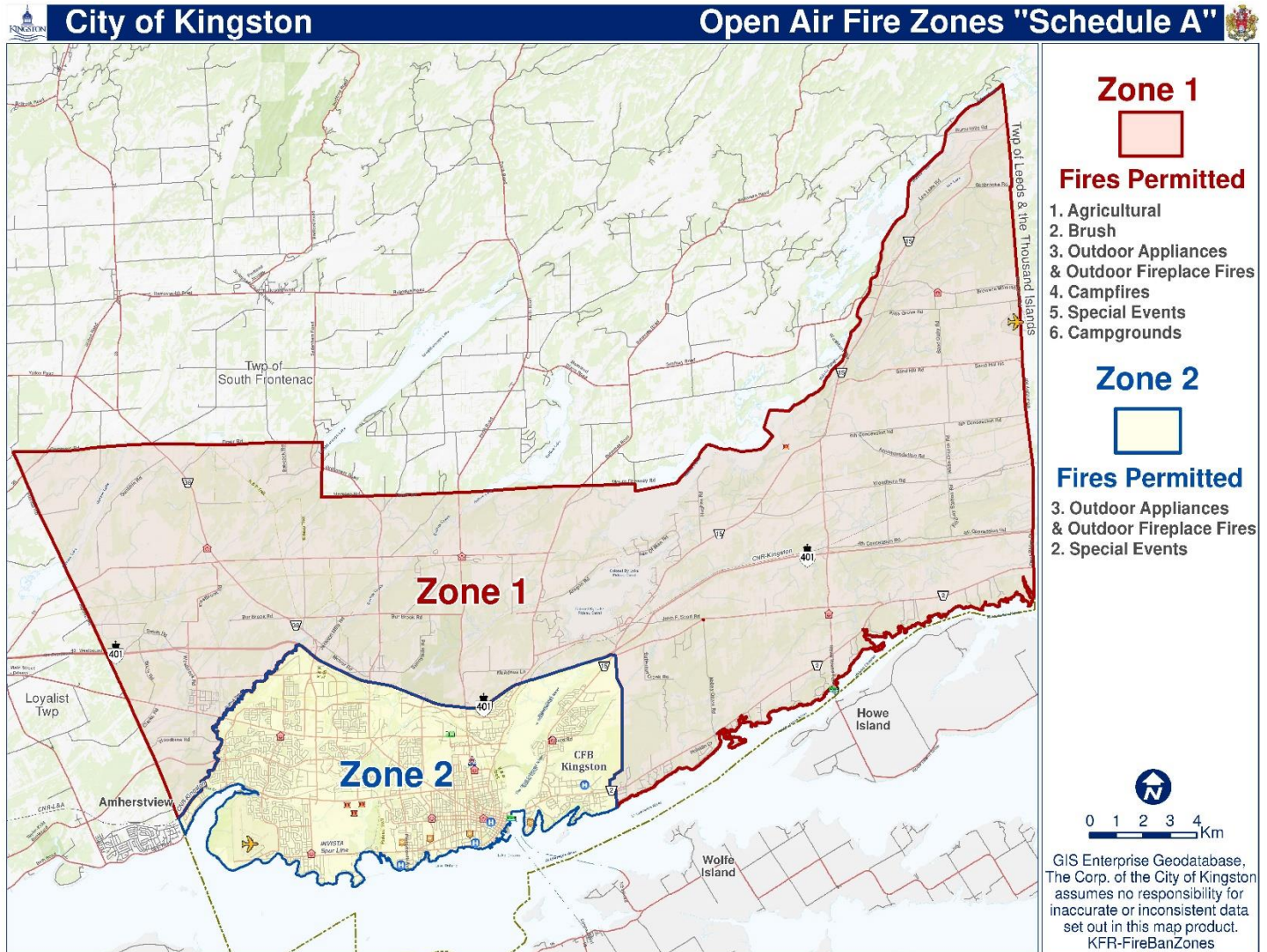
16.1 This By-Law shall come into force and take effect on the date of its passing.

**This By-Law was given three Readings and Passed April 6, 2021**

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## Schedule A

## Open Air Fire Zones





## **Schedule B**

### **Open Air Fire Permit Conditions**

#### **1. Application**

- 1.1 The terms and conditions set out in this Schedule apply to and form part of every Open Air Fire Permit.

#### **2. Agricultural Fires**

- 2.1 No Person shall Set or Maintain an Agricultural Fire, or cause or permit an Agricultural Fire to be Set or Maintained, unless all of the following conditions are met:
- (a) The Agricultural Fire is contained on a Property within the Open Air Fire Zone 1;
  - (b) Kingston Fire & Rescue has inspected and approved the location of the Agricultural Fire;
  - (c) Kingston Fire & Rescue dispatch / communications has been notified prior to Setting the Agricultural Fire;
  - (d) The Agricultural Fire shall be Set and Maintained at a distance of no less than 90 metres (295 feet), or at such greater distance as may be specified in the Agricultural Fire Permit, from any building, hedge, fence, overhead wire, trees, or other combustible material, or the lot line;
  - (e) The Material to be Burned shall not exceed 6 metres (20 feet) in height, 6 metres (20 feet) in width and 6 metres (20 feet) in length or as otherwise approved by the Fire Chief;
  - (f) The Agricultural Fire is not Set or Maintained except during the timeframes set out on the issued Open Air Fire Permit;
  - (g) Necessary means are immediately available at the site of the Agricultural Fire to permit the fire to be Extinguished, and/or to limit the spread of fire, and if necessary, to summon Kingston Fire & Rescue;
  - (h) There is a Person present and in control of the Agricultural Fire at all times;
  - (i) The Person present and in control of the Agricultural Fire is the Person identified in the Open Air Fire Permit; and
  - (j) Kingston Fire & Rescue dispatch / communications is notified as soon as is practicable after the Agricultural Fire is Extinguished.

### **3. Brush Fires**

3.1 No Person shall Set or Maintain a Brush Fire, or cause or permit a Brush Fire to be Set or Maintained, unless all of the following conditions are met:

- (a) The Brush Fire is contained on a Property within the Open Air Fire Zone 1;
- (b) Kingston Fire & Rescue has inspected and approved the location of the Brush Fire;
- (c) Kingston Fire & Rescue dispatch / communications has been notified prior to Setting the Brush Fire;
- (d) The Brush Fire shall be Set and Maintained at a distance of no less than 30 metres (98 feet), or such greater distance as may be specified in the Open Air Fire Permit, from any building, hedge, fence, overhead wire, trees, or other combustible material, or the lot line;
- (e) The Material to be Burned shall not exceed 3 metres (10 feet) in height, 3 metres (10 feet) in width and 3 metres (10 feet) in length or as otherwise approved by the Fire Chief;
- (f) The Brush Fire is not Set or Maintained except during the timeframes set out on the issued Open Air Fire Permit;
- (g) Necessary means are immediately available at the site of the Brush Fire to permit the fire to be Extinguished, and/or to limit the spread of fire, and if necessary, to summon Kingston Fire & Rescue;
- (h) There is a Person present and in control of the Brush Fire at all times;
- (i) The Person present and in control of the Brush Fire is the Person identified in the Open Air Fire Permit; and
- (j) Kingston Fire & Rescue dispatch / communications is notified as soon as is practicable after the Brush Fire is Extinguished.

### **4. Outdoor Appliance and Outdoor Fireplace Fires**

4.1 No Person shall Set or Maintain a fire in an Outdoor Appliance or Outdoor Fireplace, or cause or permit a fire to be Set or Maintained in an Outdoor Appliance or Outdoor Fireplace, unless all of the following conditions are met:

- (a) The Outdoor Appliance or Outdoor Fireplace is not located on a balcony;
- (b) The Outdoor Appliance or Outdoor Fireplace is not located on any combustible surface;
- (c) The Outdoor Appliance or Outdoor Fireplace is in good working order;

- (d) The Outdoor Appliance is located at a distance of not less than 5 metres (16 feet) from any building, structure, hedge, fence, overhead wiring, trees, or other combustible material or the lot line;
- (e) The Outdoor Fireplace is located at a distance of not less than 3 metres (10 feet) from any building, structure, hedge, fence, overhead wiring, trees, or other combustible material or the lot line;
- (f) The Outdoor Appliance or Outdoor Fireplace is equipped with a spark arrester or protective cover placed over the fuel, chimney or opening so that it contains sparks and embers;
- (g) The Material to be Burned is clean dry wood in a single pile and does not exceed 45 centimetres (1.5 feet) in height, width and length;
- (h) Necessary means are immediately available to permit the fire to be Extinguished, and/or to limit the spread of fire, and if necessary, to summon Kingston Fire & Rescue;
- (i) There is a Person present and in control of the fire at all times; and
- (j) The Person present and in control of the Fire is identified in the Open Air Fire Permit.

## **5. Campfires**

5.1 No Person shall Set or Maintain a Campfire, or cause or permit a Campfire to be Set or Maintained, unless all of the following conditions are met:

- (a) The Campfire is contained on a Property within the Open Air Fire Zone 1;
- (b) The Campfire is contained within an area of non-combustible metal, masonry, ceramic or stone or is contained within a pit in the ground that does not exceed 90 centimetres (3 feet) in height, width and length;
- (c) The Material to be Burned in the Campfire is clean dry wood in a single pile and does not exceed 90 centimetres (3 feet) in height, width and length;
- (d) The Campfire is located at a distance of not less than 5 metres (16 feet) from any building, structure, hedge, fence, overhead wiring, trees, or other combustible material or the lot line;
- (e) Necessary means are immediately available at the site of the Campfire to permit the fire to be Extinguished, and/or to limit the spread of fire, and if necessary, to summon Kingston Fire & Rescue;
- (f) There is a Person present and in control of the Campfire at all times; and

- (g) The Person present and in control of the Campfire is the Person identified in the Open Air Fire Permit.

## **6. Open Air Fires during or as part of a Special Event**

- 6.1 No Person shall Set or Maintain an Open Air Fire during or as part of a Special Event, or cause or permit an Open Air Fire to be Set or Maintained during or as part of a Special Event, except in accordance with any specific terms and conditions that the Fire Chief imposes pursuant to section 6.2 of this Schedule, and unless all the following terms and conditions are met:
- (a) Necessary means are immediately available at the site of the Open Air Fire to permit the fire to be Extinguished, and/or to limit the spread of fire, and if necessary, to summon Kingston Fire and Rescue;
  - (b) There is a Person present and in control of the Open Air Fire at all times; and
  - (c) The Person present and in control of the Open Air Fire is the Person identified in the Special Event Fire Permit.
- 6.2 The Fire Chief may, in his or her sole discretion, may impose, as part of a Special Event Fire Permit, any other terms and conditions as the Fire Chief deems necessary, in addition to those set out in this By-Law and Schedule, including but not limited to restricting the time(s) or day(s) during which an Open Air Fire is permitted.

## **7. Campgrounds**

- 7.1 No Person shall Set or Maintain an Open Air Fire in a Campground, or cause or permit an Open Air Fire to be Set or Maintained in a Campground, except in accordance with any specific terms and conditions that the Fire Chief imposes pursuant to section 7.2 of this Schedule, and unless all the following terms and conditions are met:
- (a) Necessary means are immediately available at the Campground to permit an Open Air Fire to be Extinguished, and/or to limit the spread of fire, and if necessary, to summon Kingston Fire and Rescue; and
  - (b) There is a Person present and in control of the Open Air Fire at all times.

- 7.2 The Fire Chief may, in his or her sole discretion, require as a condition of any Campground Permit, specific terms and conditions in addition to those set out in this By-Law and Schedule.
- 7.3 Every owner/operator/supervisor of a Campground shall be responsible for ensuring compliance with the provisions of this By-Law and the terms and conditions of an issued Campground Permit.