

The Corporation of the City of Kawartha Lakes

Office Consolidation of By-Law 2016-110

Consolidated on January 23, 2017

Passed by Council on May 24, 2016

Amendments:

- 1) By-law 2016-209 November 22, 2016 Sections 1 and 3

Note: This consolidation is prepared for convenience only. For accurate reference the original by-laws should be reviewed.

The Corporation of the City of Kawartha Lakes

By-Law 2016-110

**A By-Law to Regulate Times During Which Fires May Be Set In
The Open Air, The Precautions To Be Observed By Persons
Setting Fires and for The Setting of Fees for Fire Permits in The
City of Kawartha Lakes**

Recitals

1. The Municipal Act, 2001 Subsection 10(2)6 and 8 authorizes a municipality to pass bylaws respecting the health, safety and well-being of persons and the protection of persons and property.
2. The Municipal Act, 2001 Section 391, states 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 it.
3. The Ontario Fire Code O. Reg. 213/07 Division B Article 2.4.4.4 provides that open fires shall not take place unless it has been approved or the open air burning consists of a small confined fire that is used to cook food on a grill, barbecue or spit, commensurate with the type and quantity of food being cooked and supervised at all times.
4. Council approved an amendment to the Open Air Burn By-law to regulate Flying Lanterns. It was deemed appropriate to update the by-law in its entirety at this time to include legislative numbering changes and position title changes.
5. The distance for small open air fires from structures has been increased to the same distance as other open air fires for consistency and to reduce the number of complaints from adverse effects of open air fires in urban areas.
6. Council deems it desirable to regulate and prescribe conditions for open fires within the City of Kawartha Lakes municipality.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2016-110.

Section 1.00: Definitions and Interpretation

1.01 **Definitions**: In this By-law:

“**adverse effect**” means one (1) or more of:

- i) impairment of the quality of the natural environment for any use that can be made of it
- ii) injury or damage to property or to plant or animal life
- iii) harm or material discomfort to any person
- iv) an adverse affect on the health of any person or the impairment of the safety of any person
- v) rendering any property or plant or animal life unfit for use by man
- vi) loss of enjoyment of normal use of property
- vii) interference with the normal conduct of business, and
- viii) nuisances including, but not limited to, excessive smoke, odour, dust, airborne sparks, embers or reduced visibility of a traveled portion of any public or private driveway or roadway

“agricultural setback” means within 50 metres of any buildings and within 25 metres of any fences, trees, brush piles or combustible materials to constitute a hazard in the sole and absolute discretion of the Fire Chief or his/her designate.

“approved” means approved in the sole and absolute discretion of the Fire Chief or his/her designate.

“built up area” means an area with buildings on one or both sides of the road with 23 metres or less between them with a minimum grouping of five buildings. Building means school, church, residential dwelling, commercial and industrial structure.

“burn permit” means a permit issued pursuant to the provisions of this bylaw for the purpose of an open fire.

“burn barrel” means a metal barrel in sound condition no larger than a 45 gallon drum with a heavy duty screen with mesh size not greater than 7 mm over the top to prevent debris from flying out of the barrel. Vent holes must be punched in the side for ventilation, and drainage holes in the bottom with adequate clearance from surrounding vegetation or structures.

“campfire” means a fire area no larger than 60 cm in diameter, supervised at all times by an adult person.

“campgrounds” – means a Tourist Camp or Trailer Camp.

“City”, “City of Kawartha Lakes” or “Kawartha Lakes” means The Corporation of the City of Kawartha Lakes and all the lands within the geographic limits of the City.

“City Clerk” means the person appointed by Council to carry out the duties of the clerk described in section 228 of the Municipal Act, 2001, S. O. 2001;

“clean dry wood” means firewood and woodwaste that has been allowed to dry.

“close proximity” means within 15 metres of any buildings, or other structures and within 5 metres of any fences, trees, brush piles or combustible materials to constitute a hazard in the sole and absolute discretion of the Fire Chief or his/her designate.

“Consolidated Fees By-law” means City of Kawartha Lakes By-law 2016-206 or if it has been repealed any subsequent City of Kawartha Lakes By-law known as the Consolidated Fees By-law.

2016-209, effective November 22, 2016

“Council” means the municipal council for the City.

“cubic metre” means one cubic metre of combustible material, not including the flame it creates.

“farm” means properties farmed by farmers or businesses that are zoned agricultural and are required to register annually under the Farm Registration and Farm Organizations Funding Act, 1993, S.O. 1993, c.21.

“fire area” means a fire no larger than 60 cm in diameter.

“Fire Chief” means the person appointed by Council to act as Fire Chief of the Fire Department for the City and who is ultimately responsible to Council as defined in the Fire Protection and Prevention Act, 1997, S.O.1997, c.4.

“Fire Department” means the City of Kawartha Lakes Fire Rescue Service.

“Flying Lantern” means a small hot air balloon or other device designed to carry an open flame as an airborne light, also known as Sky Lantern, Chinese Lantern, Kongming Lantern or Wish Lantern, or other similar device which are devices containing a fuel pack, which fuel pack is usually a petroleum or wax based fuel that when lit causes the lantern to rise.

“Municipal Law Enforcement Officer” means a person appointed by Council under section 15 of the Police Services Act R.S.O. 1990, c.P.15 to enforce the City’s by-laws;

“open fire” means any fire started which has or has not been authorized by the issuance of a Fire Permit under this By-Law or by written permission of the Fire Chief or his/her designate.

“owner” includes:

- i. the registered owner of the property in question as revealed in the Land Registry Office of the Ministry of Consumer and Commercial Relations

- ii. any occupant of the property in question with authority to act on behalf of the registered owner
- iii. any person authorized by the registered owner to act on his or her behalf
- iv. any lessee or occupant of the property, who under the terms of a lease or occupancy agreement, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of the property as per the City Property Standards By-law
- v. and any mortgagor or receiver and manager or trustee in bankruptcy with possession and control of the property

“**permittee**” means the person who has been issued a permit to burn in the open air.

“**person**” means any individual, partnership, group or association, organization, company, corporation or cooperative.

“**property**” means a building or structure or part of a building or structure, and includes lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile buildings, structures, outbuildings, fences and erections thereon, and includes vacant property.

“**tourist camp**” means any auto camp and land equipped with cabins used for the accommodation of the public and any land used as a camping or parking ground for the public whether or not a fee is charged for the use.

“**trailer**” means any vehicle constructed to be attached and propelled by a motor vehicle and that is capable of being used by persons for living, sleeping or eating, even if the vehicle is jacked-up or its running gear is removed.

“**trailer camp**” – means any land on which a trailer is kept, as defined in 1.01 and required to be licensed by the Municipality

“**wood by-products**” means wood or wood product, including tree trunks, tree branches, brush, that do not contain chromated copper arsenate, ammoniacal copper arsenate, petachlorophenol, creosote, pesticides, paint, or any other wood treatment chemical and from which easily removable hardware, fittings and attachments, unless they are predominantly wood or cellulose, have been removed, plywood or composite wood products containing varnish or glue, an upholstered article i.e. Couches, or an article to which a rigid surface treatment is affixed or adhered, i.e. Countertops, unless the rigid surface treatment is predominantly wood or cellulose.

1.02 **Interpretation Rules:**

- (a) This By-law applies to all property as set out in the definition section within the geographic limits of the City of Kawartha Lakes and to the setting of open fires on any such land.
- (b) The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.

1.03 **Statutes:** References to laws in this By-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.

1.04 **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this By-law to be illegal or unenforceable, that portion of this By-law shall be considered to be severed from the balance of the By-law, which shall continue to operate in full force and effect.

Section 2.00: General Provisions

- 2.01 **By-law Title:** This By-law shall be known as the “City of Kawartha Lakes – Open Fire Burn By-law” and will be referred to herein as the “By-law”.
- 2.02 **Open Fire:** No person shall set or cause to be set or permit to be set an open fire in the City that exceeds the allowed fire area without obtaining

written permission from the Fire Chief or his/her designate and obtaining a burn permit and filing the same with the person/persons at an authorized issuing agent.

- 2.03 **Supervision:** No person shall leave an open fire unattended or unsupervised at any time until it has been fully extinguished unless authorized by the Fire Chief or his or her designate.
- 2.04 **Close Proximity:** No person shall set, cause to be set or permit to be set, an open fire in close proximity to any buildings, fences, trees, brush piles or other structures or combustible material of any nature whatsoever that could be ignited by flame, sparks or heat radiating from the said fire.
- 2.05 **Available Equipment:** The responsible person in charge of the fire shall have sufficient equipment and resources available at or near the location of the fire at all times during the open fire to extinguish the fire. Equipment and resources may include but not be limited to shovels, rakes, fire buckets, garden hose, water, sand, and the like
- 2.06 **Burn Barrel:** No person shall have an open fire in a burn barrel in any built up area.
- 2.07 **Weather Conditions:** No person shall set an open fire:
- (i) under weather conditions that limit the rapid dissipation of smoke;
 - (ii) when wind may cause unsafe conditions that may result in fire spread;
 - (iii) under extremely dry or arid conditions;
 - (iv) when the Ministry of the Environment has issued a Smog Advisory or Smog Alert applicable to the area;
 - (v) when the Fire Chief has placed a ban on open fires.
- 2.08 **Flying Lantern Discharge:** No person within the City shall ignite or release an ignited Flying Lantern.
- 2.09 **Flying Lantern Sale:** No person within the City shall offer for sale, cause or permit to be sold, or sell any flying lanterns.

Section 3.00: Permit Requirements

- 3.01 **Burn Permit:** A permit is required for each open fire of materials up to one cubic metre excluding campfires up to 60 cm in diameter. No burn permits shall be issued for an open fire in a built up area.
- 3.02 **Annual Burn Permit:** A permit is required for all open fires of materials up to one cubic metre excluding campfires up to 60 cm in diameter and is issued on an annual basis and expires on the last day of the calendar year it is issued. No annual burn permits shall be issued for an open fire in a built up area.
- 3.03 **Special Burn Permit:** A special permit is required for each open fire larger than one (1) cubic metre or any open fire where special provisions as required by the issuer are necessary.
- 3.04 **Long Term Special Burn Permit:** A person, other than the owner/lessee of a farm, may request special permission for a permit issued under Section 3.03 to be for an extended time frame to include more than one burning event. The Fire Chief or his/her designate has authority to grant this permit.
- 3.05 **Agricultural Burn Permit:** An agricultural burn permit is required for open air burning on farm property that is part of normal farm practices for fires up to 3 metres by 3 metres of material and must adhere to agricultural setbacks. The permit may include more than one property that is owned and/or operated by the owner/lessee This section shall not apply to the residential areas of a farm. An agricultural burn permit is issued on an annual basis and expires on the last day of the calendar year it is issued.

- 3.06 **Agricultural Special Burn Permit:** An agricultural special burn permit is required for open air burning on farm property for fires larger than 3 metres by 3 metres of material or any open air burning on farm property where special provisions as required by the issuer are necessary. Open air burning on farm property must adhere to agricultural setbacks. Approval may be obtained to permit the fire to smolder over night if special conditions apply. This section shall not apply to the residential areas of a farm. The holder of the agricultural special burn permit shall call the Fire Department to report when an agricultural open fire under this permit is scheduled.
- 3.07 **Campground/Trailer Camp/Tourist Camp Burn Permit:** The owner of a campground/trailer camp/tourist camp shall obtain an annual permit for campfires within the designated campground/trailer camp/tourist camp from the City of Kawartha Lakes licensing officer.
- 3.08 **No Permit Required:** A person may have an open fire without obtaining a permit provided the conditions below are met, and/or providing no other City-wide or provincial burn bans are in effect:
- (i) the fire area is no larger than 60 cm in diameter;
 - (ii) the fire area is supervised at all times by an adult person;
 - (iii) the fire area is within an approved area, burn barrel, or pit designed for said use;
 - (iv) the fire area does not violate any other laws, by-laws, rules or regulations including rules or regulations passed by any competent authority or otherwise set out in this By-law;
 - (v) the fire area shall be a minimum of fifteen (15) metres from any building or other structures and five (5) metres from any fences, trees brush piles or combustible materials and property lines.
- 3.09 **Fees:** Fees for Burn Permits are charged in accordance with “with Schedule C-4 to the Consolidated Fees By-law.

2016-209, effective November 22, 2016

Section 4.00: Burn Restrictions

- 4.01 **Burn Barrel Requirements:** No person shall have an open fire in “burn barrels” unless the burn barrel meets the design as defined in section 1.01.
- 4.02 **Grass, Clippings or Leaves:** No person shall have an open fire for the purpose of burning grass clippings, or leaves.
- 4.03 **Uncertified or Unlisted Devices:** Chimineas and other unlisted appliances shall be considered as an open fire and shall be required to comply with By-law requirements.
- 4.04 **Burn Ban:** No person shall set a fire within the City of Kawartha Lakes while a burn ban is imposed for any reason other than for the sole purpose of heating and/or cooking and only when no other means of heating and/or cooking are available. The fire shall be extinguished as soon as the fire is no longer required and it cannot exceed 60cm in size.
- 4.05 **Material:** No person shall have an open fire for the purpose of burning material other than clean dry wood or wood by-products within the City of Kawartha Lakes.
- 4.06 **Health Safety:** No person shall have an open fire that causes an adverse effect on the health, safety or well-being of persons or property within the City.
- 4.07 **April Burn Ban:** An annual burn ban shall be in affect during the month of April.
- 4.08 **Balconies:** No solid fuel barbeques or open burning of any kind shall be permitted on balconies of residential buildings.

- 4.09 **Strikes:** Open air burning during a strike shall be subject to a special permit and the conditions attached to it.

Section 5.00: Responsibilities of the Permit Holder

- 5.01 Any person who sets an open fire in the City assumes full responsibility for fire control and shall:
- (i) be responsible for any damage to property or injury to persons or animals occasioned by said fire;
 - (ii) assume full responsibility for conducting the controlled burning in accordance with the safety measures required by the fire services as well as the Forest Fires Prevention Act R.S.O. 1990, c.F.24, the Environmental Protection Act R.S.O. 1990, c.E.19, and/or other statutes or regulatory bodies having jurisdiction;
 - (iii) attend the fire at all times or ensure that it is attended by an adult person;
 - (iv) permit only one (1) fire to be burning at a time with the exception of registered campgrounds or trailer camps/parks and agricultural burns;

Section 6.00: Cancellation of a Permit

- 6.01 **Cancellations:** A burn permit may be cancelled or suspended at any time by the Fire Chief, his/her designate or Municipal Law Enforcement Officer.
- 6.02 **Extinguish:** Upon receiving written notice of such cancellation or suspension of the burn permit, the permittee shall extinguish any open fire started under the permit. Once a permit has been cancelled, the permittee shall obtain a new permit for any subsequent open fire.

Section 7.00: Exemptions

- 7.01 City and City Departments may be exempt if approval is obtained from the Fire Chief or his/her designate and the fire is used for education, training or in the interest of public safety.

Section 8.00: Enforcement and Penalties

- 8.01 **Enforcement:** This By-law may be enforced by every Municipal Law Enforcement Officer and Police Officer.
- 8.02 **Obstruction:** No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this By-law.
- 8.03 **Offence and Penalty:** It is an offence for a person to contravene any provision of this By-law, and every person who contravenes this By-law is guilty of an offence and, on conviction, is liable to a fine in accordance with the provisions of the Provincial Offences Act R.S.O. 1990, c.P.33 and to any other applicable penalty.

Any person who knowingly, repeatedly or spitefully causes a response from the Fire Department upon any person having an open fire legally under this By-law is a contravention of the Bylaw. The Fire Chief or his/her designate has the sole and absolute discretion in determining contravention of the Bylaw.

Any person who sets an open fire in the city assumes full responsibility for fire control and may be liable for costs incurred by the Fire Department, including the costs of the personnel and equipment as authorized and set out in the City Fees By-law in effect at the time of the incident and authorized by the Fire Chief or his or her designate.

- 8.04 **Multiple Offences:** The conviction of a person for the contravention of any provision of this By-law shall not operate as a bar to a prosecution against

the same person for any subsequent or continued contravention of this By-law.

- 8.05 **Court Order:** 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.

Section 9.00: Miscellaneous Provisions

- 9.01 **Acts or Omissions:** No action or other proceedings for damages lies or shall be instituted against the Fire Chief, his/her designate or a Municipal Law Enforcement Officer of the City of Kawartha Lakes for an act or omission by him/her in good faith in the execution of any power or duty under this By-law.
- 9.02 **Environmental Protection Act:** Nothing in this By-law releases any person from complying with all other applicable laws including but not limited to the Environmental Protection Act R.S.O. 1990, c.E.19 and its regulations.
- 9.03 **Conflicts:** Where provisions of this By-law conflict with the provisions of any other City By-law, the provisions of this By-law shall prevail.
- 9.04 **Permit Refusal:** An application for a permit may be refused by the Fire Chief or his/her designate if there has been a past contravention of the By-law by the permittee. The Fire Chief or his/her designate has the sole and absolute discretion in determining if a permit is issued.
- 9.05 **Revoke:** The Fire Chief and/or his/her designate shall revoke the issued burn permit of any person who contravenes any provisions of this By-law and such person shall be subject to the penalties as set out in Section 61 of the Provincial Offences Act, R.S.O. 1990, c.P.33 as amended from time to time.
- 9.06 **Invoices:** Any person so invoiced shall pay the costs as invoiced forthwith.
- 9.07 **Cost Recovery:** Where Section 8.03 of this By-law is invoked, all costs associated with the work may be added to the tax roll of the property to which the offence occurred, and shall be collected in the same manner as municipal taxes pursuant to the Municipal Act 2001, c. 25, s. 398 (2)

Section 10.00: Administration and Effective Date

- 10.01 **Administration:** The Fire Chief is responsible for the administration of this by-law.
- 10.02 **Effective Date:** This By-law shall come into force on the date it is finally passed.
- 10.03 **Effect of Pre-Existing By-laws:** Notwithstanding Section 10.02, any By-law which was in effect in the City on the date of passage of this By-law that covers the same subject matter shall remain in effect only for the purposes of completion of any procedure that was commenced under that By-law.

By-law read a first, second and third time, and finally passed, time this 24th day of May, 2016.

Andy Letham, Mayor

Judy Currins, City Clerk

