

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

BY-LAW 2008-215

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 010(2) 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. 388/97 Section 2.6.3.4 provides that open fires shall not be permitted unless approved or unless such burning consists of a small contained fire supervised at all times and used to cook food on a grill or a bar-be-cue.
4. 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 2008-215.

Article 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) obstruction of a traveled portion of any public or private driveway or roadway

“**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 in the form attached as Schedule A 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, in accordance with Schedule “D”.

“**campfire**” means a fire area no larger than 60 cm in diameter, supervised at all times by an adult person and used for personal warmth or to cook food

“**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*;

“**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.

“**Council**” means the municipal council for the City.

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

“Director of Emergency Services” means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council;

“farm” means properties farmed by farmers or businesses that declare gross farm income of \$7,000.00 or more (for income tax purposes). These farmers and businesses are required to register annually under the *Farm Registration and Farm Organizations Funding Act*.

“fire area” means a fire no larger than 60 cm in diameter used to cook food on a grill or bar-be-cue or for personal warmth.

“Fire Chief” means the Director of Emergency Services and 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*.

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

“Municipal Law Enforcement Officer” means a person appointed by Council under section 15 of the *Police Services Act* 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 Number 2002-119
- 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 are not contaminated with paint, chromated copper arsenate, ammoniacal copper arsenate, petachlorophenol or creosote, 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, but does not include 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 or plywood or particle board on which the wood is held together with a chemical substance such as glue or any other chemical.

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 Schedules attached to this By-law form part of the By-law, and are enforceable as such.

(c) 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.

Article 2.00: General Provisions

2.01 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 No person shall set or cause to be set or permit to be set an open fire in the City :

- (i) without obtaining a burn permit as set out in Schedule “A” attached to and forming part of this By-law, and filing the same with the person/persons at an authorized issuing agent as set out in Schedule “B” attached to and forming part of this By-law.
- (ii) Without obtaining written permission from the Fire Chief or his/her designate through the issuing of a permit by that same person.
- (iii) That exceeds the allowed fire area without obtaining written permission from the Fire Chief or his/her designate.

2.03 No person shall leave an open fire unattended or unsupervised at any time until it has been fully extinguished.

2.04 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 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 No person shall have an open fire in a burn barrel in any built up area.

2.07 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) under smog alert conditions
- (v) when the Fire Chief has placed a ban on open fires.

2.08 A permit may be issued by any issuing agent listed on Schedule “B” attached to and forming part of this By-law.

Article 3.00: Permit Requirements
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3.01 **Burn Permit:** A permit as set out in Schedule “A” 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. The Fire Chief may from time to time make amendments to the permit application forms, that are administrative in nature.

3.02 **Annual Burn Permit:** A permit as set out in Schedule “A” 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 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 as set out in Schedule “A” shall be 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 **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.
- 3.05 **Agricultural Burn Permit:** The owner/lessee of a farm shall obtain a permit as outlined in Schedule A for an open fire located on farm property. The permit may include more than one property that is owned and/or operated by the owner/lessee. Approval may be obtained to permit the fire to smolder over night if special conditions apply. This article 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 year it is issued. The holder of the agricultural burn permit may call 705-324-5731 Ext 500 to report when an agricultural open fire is occurring.
- 3.06 **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 used to cook food or the fire area is used for personal warmth and only when no other means of heating and/or cooking are available;
 - (iv) the fire area is within an approved area or pit designed for said use;
 - (v) 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;
 - (vi) the fire area shall be a minimum of five (5) metres from any building or other structures and 5 metres from any fences, trees brush piles or combustible materials.

Article 4.00: Burn Restrictions

- 4.01 No person shall have an open fire in “burn barrels” unless the burn barrel meets the design attached in Schedule “D” to this By-law, complete with 7 mm screen top.
- 4.02 No person shall have an open fire for the purpose of burning grass clippings, or leaves.
- 4.03 No person shall have an open fire in a factory built outdoor fireplace that does not meet the requirements as set out in this By-law.
- 4.04 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 No person shall have an open fire for the purpose of burning material other than wood or wood by-products within the City of Kawartha Lakes.
- 4.06 No person shall have an open fire for the purpose of burning pressure treated wood.
- 4.07 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.

Article 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*, the *Environmental Protection Act*, and/or other statues 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;

Article 6.00: Cancellation of a Permit
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- 6.01 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 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.

Article 7.00: Exemptions

- 7.01.1 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* 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, as per Schedule "C" attached, including the costs of the personnel, and equipment.
- 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.

Article 9.00: Miscellaneous Provisions
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- 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* 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 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)

Article 10.00: Repeal of Prior Historic By-Laws; Effective Date

- 10.01 **Effective Date:** This By-law shall come into force on the date it is finally passed.
- 10.02 **Effect of Pre-Existing By-laws:** Notwithstanding Article 10.01, 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 25th day November 2008.

Mayor

Clerk

INDEX OF SCHEDULES

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Schedule A Burn Permit



**OPEN AIR BURN PERMIT APPLICATION
THE CITY OF KAWARTHA LAKES FIRE
RESCUE SERVICE**



9 CAMBRIDGE STREET NORTH LINDSAY ON K9V 4C4
EMERGENCY 911 ADMIN 324-5731 ext 500

Under section 2.6.3.4. of the Ontario Fire Code, and the regulations and subject to the limitations thereof, and subject to City of Kawartha Lakes By-law 2008- thereof, and subject also to the terms and conditions here, this permit is issued to:

Name in full	
Permittee's House number and street	
Burn Location Address	
Date of Permit (YYYY-MM-DD)	
Telephone number	

To start a fire upon the following lands:

For the Purpose of:	
Cost:	
Permit Num:	
Former Mun.	
Issuer Location	
SPECIAL:	
FROM THE	TO AND INCLUDING THE
YYYY-MM-DD	YYYY-MM-DD

NOTE: This permit does not authorize the burning of any materials that would not be permitted by the Ministry of the Environment.

1. The Permittee shall keep the permit at the site of the burning operation conducted under this permit.
2. The person in charge of the burning operation conducted under this permit, shall produce and show this permit to any official of the City of Kawartha Lakes Fire Rescue Service and/or Municipal Law Enforcement Officer and/or Ministry of Natural Resources Officer whenever requested by that officer.
3. The amount to be burned at one (1) time shall not exceed one (1) cubic metre pile unless authorized by an agricultural or special permit or by written permission of the Fire Chief or his designate.
4. All slash and land clearing debris shall be in piles, separated by a distance of at least five (5) metres unless by special permission of the Fire Chief or his designate.
5. The Permittee shall have at the location of the fire, personnel and firefighting equipment in a serviceable condition such as a hose or pails of water, rakes, shovels, etc.
6. It is understood and agreed by the Permittee that the City of Kawartha Lakes Fire Rescue Service will not be held responsible for any damages caused by the permitted in any manner by reason of the issuance of this permit.
7. It is understood and agreed by the Permittee that it shall be the sole responsibility of the Permittee or agent whom this permit is issued to maintain the fire in a safe location and under control at all times.
8. It is understood and agreed by the Permittee that Appendix "A", attached hereto, forms part of the Permit, and that the Permittee has reviewed and agrees to abide by the Tips, Conditions and Regulations set out therein.

Signature of Permittee		Signature of Issuing Agent
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Appendix "A"

SAFE BURNING TIPS

1. Burn at a safe time, never on dry or windy days
2. Keep your burning job small enough that you keep it under control at all times.
3. Never leave the fire until it is dead out.

CONDITIONS AND REGULATIONS

1. A Fire Permit is required before starting a fire. For cooking or warmth is excepted.
2. "Open Fire" shall mean, a fire not contained within an approved incinerating device for purposes other than heating and/or cooking.
3. "Close Proximity" shall mean 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.
4. "Contaminant" shall mean any solid, liquid gas, odor, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that may cause an adverse effect.
5. "Adverse Effect" shall mean 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 effect 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 the use of man
 - vi) Loss of enjoyment of the normal use of property
 - vii) Interference with the normal conduct of business, and
 - viii) obstruction of a travelled part of any public or private driveway or roadway
6. No person shall discharge a contaminant or cause or permit the discharge of a contaminant into the natural environment that causes or is likely to cause an adverse effect.
7. A permittee who does not comply with the conditions of this permit is liable to prosecution under the above mentioned by-laws.
8. An open fire shall be supervised at all times by an adult person until it has been fully extinguished.
9. No person shall set an open fire in the close proximity to any buildings, fences, trees, brush piles or other structures or combustible materials, that could be ignited by sparks or heat radiating from the said fire.
10. All persons setting an open fire must assume full responsibility for the fire control, and shall:
 - a. Be responsible for any damage to property or injury to persons occasioned by said fire;
 - b. Be liable for the cost incurred by the Fire Department including personnel, equipment and apparatus necessary and called to extinguish said fire, and shall reimburse the Fire Department upon demand for such costs;
 - c. Assume full responsibility for conducting the controlled burning in accordance with the safety measures required by the Police and Fire Services as well as the Ministry of Natural Resources, the "Environmental Protection Act" and/or other regulatory bodies having jurisdiction.
11. All fires must be completely extinguished before leaving the scene and no fires may be left burning overnight.
12. Agricultural Burn Permit: The owner/lessee of a farm shall obtain a permit for an open fire located on a farm property. The permit may include more than one property that is owned and/or operated by the owner/lessee. Approval may be obtained to permit the fire to smolder over night if special conditions apply. This article shall not apply to the residential areas of a farm.

Schedule "B" attached to By-law 2008-215

**List of Issuing Agents and Locations
Regular/Annual Burn Permits and Agricultural Permits**

Municipal Service Centres and Libraries

Fenelon Falls Chamber of Commerce
City of Kawartha Lakes Municipal Service Centres
City of Kawartha Lakes Libraries

Fire Halls

City of Kawartha Lakes Fire Rescue Service fire halls

Issuing Agents for Special Burn Permits

Fire Prevention Personnel
Fire hall Captains

Issuing Agents for Campground Burn Permits

City Licensing Officer

Schedule "C" Fees and Charges

PERMIT FEES

Burn Permit as set out in section 3.01	\$ 5.00
Annual Permit as set out in section 3.02	\$ 50.00
Special Permit as set out in section 3.03	\$ 10.00
Campground/Trailer Camp permit as set out in section 3.04	\$100.00
Agricultural Permit as set out in section 3.05	\$ 10.00

FIRE DEPARTMENT CHARGES

As per Article 8.0 entitled "Enforcement and Penalties", if the Fire Department has to attend to extinguish a fire, the following charges will apply:

\$350.00 per vehicle for the first hour or part thereof.

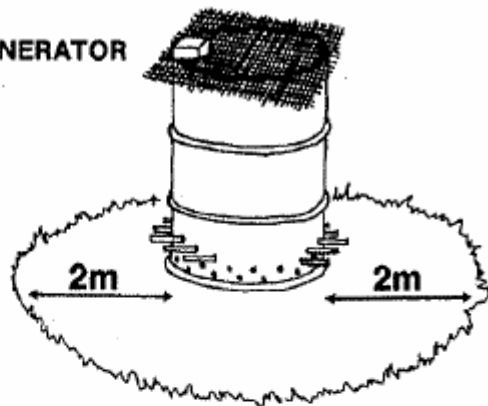
\$175.00 per vehicle for each additional one half hour or part thereof.

\$20.00 per man hour to extinguish the fire

Schedule D attached to Bylaw 2008-215
A Drawing of an Acceptable Burn Barrel Design

HOME INCINERATOR TIPS For Your Safety and Protection

BURN IN A SAFE INCINERATOR



Metal Barrel
In good condition.

Heavy Screen Mesh
Heavy duty Screen with mesh size
not greater than 7 mm.

Help Combustion and Clean Burning
Punch holes and shove steel rods or pipes through
barrel. This will hold burning material up and give a
clean fast burn.

Ground Cleared
and maintained at least 2 metres around incinerator
of all material that could cause your fire to escape.
More clearance may be required.

Draft Holes
Near the bottom not larger than 2.5 cm in diameter.