



28 Pulford Street, Kingsville, Ontario N9Y 1B4  
Email: [gord.queen@gmail.com](mailto:gord.queen@gmail.com) Telephone 519-733-4241

October 2018

The Council of  
The Corporation of The Town of Kingsville  
2021 Division Road North  
Kingsville, Ontario

**Subject: Past, Current and Proposed Changes to the Town By-law regarding  
Open Fires within the limits of The Town of Kingsville**



Earlier this year the Fire Department representative presented to Council a draft by-law to update our current Open Fire By-law and related regulations. At the time of the presentation I was not supportive of the document as presented.

In fairness to the staff , Council and Public as a whole I respectfully note my areas of concern and suggestions for change.

1. The Fines / Fees
2. The Definition of What is Acceptable / and Cooking versus Campfire
3. The Staffing impact
4. The Application Process ( can it be simpler )

**Item 1 the Fines**

With the last presentation to Council, it was noted the high fine possible for non-compliance. In the past more effort was put into teaching, encouraging versus a threat. **I respectfully suggest that we not approve any by-law that includes fees not included in our fees by-law and or Provincial Offences Act.**

It is not good enough to say we will not enforce till next year.

Example attached: From 2004  
Provincial Offences Act – Part 1  
Reference By-law 72-2001

<b>Set open air fire</b>	<b>Set Fine</b>	<b>\$105.00</b>
<b>Permit open air fire</b>		<b>\$105.00</b>
<b>Set Open air fire under age of 16</b>		<b>\$105.00</b>

Under by-law 72-2000 we note from item 8

*“ Every person violating any provisions of this bylaw shall be guilty of an offence and liable to a fine not exceeding One Thousand Dollars ( \$1,000.00) exclusive of costs , and such fine shall be recoverable under the Provincial Offences Act, RSO 1990 , c33 as amended.”*

*This brings the question, how many fines have ever been issued, and paid?*

#### **Item 2**

##### **What is acceptable**

During the presentation to Council of the draft it was suggested that the only acceptable fire was to be contained in a steel container or rim. I did not find that clearly in the by-law.

*I draw your attention to the definition of by-law 72-2001 , Item 1,  
Definition ( c )*

*“Container” means any earth pit, or structure or enclosure of brick, cement, metal, or other similar material in which a fire may be set.”*



*Of a town fire on the beach*

*I note the definition of Cooking mentions the size of the grill or cooking surface it does not make clear the difference between a campfire, that may be used to cook hotdogs and marshmallows.*

*I note in days of scout campfires a pie iron might also be used.*





W

C  
often  
is a  
fami  
wou  
Gaff  
idea  
vaca  
the g  
idea  
may

C  
most  
recre  
in  
The  
Stati  
of c  
park  
billio  
\$2.5  
to





Example of a family Camp fire

The Definitions and Setback requirements suggested under the draft by-law 70-2018  
Campfire size requirements are clear and in the interest of public safety.

Why reference Technical Safety Standards if you are not going to attach them so Council might read same?

**The draft is hard to believe;**

***Reference item:Section 3***

***“3.1 The issuance of the permit will require the prior inspection of the proposed burn site by the Fire Chief. “***

The Fire Chief will be busy to actually visit each site personally. It does not suggest that he may delegate. If he is away or on vacation does that mean no Permits ? Suggest we may want to include an alternate.

### **Item 3**

**Staffing, for years the old bylaws indicated the Fire Staff, Police, By-law enforcement may enforce. Similar past wording in Towns like Essex.**

### **Item 4 Applications**

**Our old approved application style or form**



# **\*\* APPLICATION FOR OPEN AIR BURNING \*\***

Kingsville Fire Department  
1720 Division Rd. North  
Kingsville, ON  
N9Y 3S2  
www.kingsvillefire.ca

**SCHEDULE 'A'**  
**TO BY-LAW 69-2015**



Phone: (519) 733-2314

Fax: (519) 733-2399

## **Note to Applicant:**

- ☒ Open air burning is regulated by Division B, Sentence 2.6.3.4.(1) of O. Reg. 213/07 (Fire Code).
- ☒ Complete all information in Part #1.
- ☒ Missing information/incorrect information will automatically void this application.
- ☒ Sign and return this application to the Kingsville Fire Department located at 1720 Division Rd. North, Kingsville or fax to (519) 733-2399.
- ☒ Only approved applications will be given an Open Burn Permit.

## **Part #1 (Open Burn Information)**

### **Applicant:**

Name:	Phone: ( )
Title :	Cell: ( )
Address:	Date of Birth (D/M/Y):
City:	Postal Code:

### **Responsible Party:**

☐ SAME AS APPLICANT

Name:	Phone: ( )
Title :	Cell: ( )
Address:	Date of Birth (D/M/Y):
City:	Postal Code:

### **Owner of Property (Location of Burn):**

Name:	Phone: ( )
Title :	Cell: ( )
Address:	Date of Birth (D/M/Y):
City:	Postal Code:

I, \_\_\_\_\_, authorize the burn proposed for this application.

(Print Property Owner's Name)

Signature:	Date:
------------	-------

Date(s) & Time(s) of burn: \_\_\_\_\_

Describe proximity of proposed burn in feet or metres to: (you may also provide a

- ☒ buildings: \_\_\_\_\_ sketch of area with
- ☒ vegetation: \_\_\_\_\_ dimensions)
- ☒ overhead wires: \_\_\_\_\_
- ☒ other combustibles: \_\_\_\_\_

Describe material(s) to be burned:

\_\_\_\_\_

Estimated volume of material to be burned in cubic feet: \_\_\_\_\_ ft<sup>3</sup>

Access route to burn location:

\_\_\_\_\_

*The above information is accurate to the best of my knowledge. I understand that any false information given will void this application. If my application is approved, I agree to abide by the provisions evoked by the Kingsville Fire Department (KFD) to ensure that my open burn is done in the safest manner possible. I agree to extinguish the open burn outlined in this application immediately upon order of the KFD. I will have the open burn permit on site when the open burn takes place and understand that not having the said permit on site is grounds to have the open burn extinguished.*

Applicant's Signature

Date

## **Part #2 (Fire Department Administration)**

Application approved by Chief Fire Official: ☐ Yes ☐ No

Chief Fire Official

Date

**" Only Working Smoke Alarms Save Lives "**

(21-May-2008)

## Burn Permits



Permits are free - unnecessary fire calls are not! If you have questions about open air fires, Essex Fire and Rescue urges you to call before you burn: **519-776-7132**.

### How to obtain a burn permit

If you are planning an open air fire, please notify the fire department by completing the following online form:

[Complete Online Burn Permit Form](#)

In order to successfully complete the form, you must confirm that you have read and understand the by-law. A link to the by-law is included on the form.

As permits are issued on a daily basis, residents who plan to have open fires on more than one day must complete a separate form for each proposed burn.

After you submit the form you will be sent a confirmation of receipt.

Requirements contained in the open air burning by-law must be met at all times. A summary of the requirements appears below.

### Open air burn by-law

The Town of Essex regulates the setting of open air fires through [By-law 1399](#).

Cooking fires, camp fires and enclosed fires are allowed and do not require a permit, provided they fall within the limits set out in the by-law.

Other open air fires DO require a permit, which must be obtained in advance. Open air fires may include backyard bonfires, large campfires and fires set by farmers for the disposal of vegetable matter or vegetation on farm lands.



## Inquiries

For inquiries about open air burning, please contact Essex Fire and Rescue Services by calling Station 1 at 519-776-7132. Phones are answered as follows:

- **Monday: 8:30 a.m. to 3:30 p.m.**
- **Thursday and Friday: 8:30 a.m. to 4:30 p.m.**

Permits will not be granted through voicemail.

Residents must receive confirmation from the Fire Department prior to lighting any fires.

For any complaint concerning open burning, smoke or smell of smoke, call Essex Fire & Rescue from Monday to Friday between 8:30 a.m. and 4:30 p.m. After 4:30 p.m. Monday to Friday, Weekends and holidays please dial 911.

If Essex Fire attends to a complaint and the fire does not meet the guidelines set out in our municipal By-Law, or if the fire department has not been notified of a planned burn, they will be asked to extinguish the fire.

## General provisions for open air fires

*(Excluding cooking fires, enclosed fires and camp fires)*

- Residents must obtain a permit in advance.
- No person under 18 years of age shall set, maintain or supervise any fire.
- Permit holder must be the legal property owner or have written owner consent.
- Permit holder, or designate listed on the permit, must have readily available a suitable means of extinguishing the fire and must remain in attendance until the fire is completely extinguished.
- Size of the fire must not exceed 3 feet long by 3 feet wide by 3 feet high (91cm x 91cm x 91 cm), or the limit set by the Fire Chief or designate.
- Distance from buildings, structures, hedges, fences, roadways, overhead wires, property lines, or nature must not be less than 21 feet (7 metres), or the limit set by the Fire Chief or designate.
- No person shall set or maintain an open air fire after sunset and prior to sunrise on the day or days specified on the permit.
- No person shall set fire to materials or waste from commercial, industrial, construction or demolition sites.
- No person shall set fire to kitchen garbage or materials made of or containing rubber, plastic or tar.
- Permit holder must ensure that the fire does not create a nuisance. If smoke or embers travel to a neighbouring property or decrease visibility on any roadway, you must extinguish the fire.
- Permit holder must prevent the potential spread of fire through grass, leaves, brush, ditch banks or other vegetated areas.

## Cooking fires and personal warmth devices

A permit is **not** required for domestic barbecues and permanent outdoor fireplaces used solely for the cooking of food on a grill.

Domestic personal warmth devices that use natural gas, propane, charcoal or clean dry wood do not require a

Encl .

Past Fees under the Provincial Offences Act.

Report to include

Past By-law and Town of Essex Example with plain language summary

## Recommendation:

1. **Do not enclose fees that are never collected**
2. **Make the application and approval system simple and clear**
3. **Use a softer approach to teach and gain compliance versus threats of big fines**
4. **Be clear about what is a Campfire that might be set with field stones versus a Cooking fire**
5. **Develop a simple flyer as Essex did on the Web that outlines the process in plain**



THE CORPORATION OF THE TOWN OF KINGSVILLE

BY-LAW 72 - 2001

*Being a by-law restricting the setting of  
open fires within the Town of Kingsville.*

WHEREAS the Municipal Act, R.S.O. 1990, c.M.45 Subsection 210(35) authorizes a municipality to pass by-laws relating to the setting of fires in the open air;

AND WHEREAS the Ontario Fire Code, O.Reg 388/97 as amended by O. Reg. 398/98 and 428/98 which restricts open burning in non-agricultural areas;

AND WHEREAS pursuant to reports from the Fire Chief there have been instances within the municipality, that in the opinion of the Fire Department, is detrimental, and hazardous to the welfare of its inhabitants;

AND WHEREAS the municipality has generally promoted the restriction of any burning or setting of fires within the municipality;

AND WHEREAS it is deemed expedient by the Council of the Town of Kingsville to restrict the setting of fires in the open air in the Town of Kingsville.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF KINGSVILLE ENACTS AS FOLLOWS:

1. In this by-law:
  - (a) "Town of Kingsville" means the new restructured and amalgamated municipality known as the Corporation of the Town of Kingsville created by a Province of Ontario Order made under the Municipal Act R.S.O. 1990, c.M.45 subsection 25.2(6)(B) and dated November 19, 1997, and being composed of the former municipalities of the Township of Gosfield North, Township of Gosfield South and the Town of Kingsville.
  - (b) "Fire in the open air" or other phrases similar thereto means any fire set outside of a building.
  - (c) "Container" means any earth pit or structure or enclosure of brick, cement, metal or other similar material in which a fire may be set.
  - (d) "Officer" means the Fire Chief or any member of the Fire Department appointed by the Chief of the Fire Department for the Town of Kingsville or Municipal By-law Enforcement Officer as appointed by the Town of Kingsville or any Ontario Provincial Police Officer.
  - (e) "Brush" means small trees and shrubs growing together.
2. No persons shall set or cause or permit to set a fire in the open air within the Town of Kingsville.
3. (a) Notwithstanding the provisions of section 2 of an area zoned Agricultural pursuant to the Town of Kingsville's Zoning By-law in and/or the zoning by-laws for the former Township of Gosfield North, Township of Gosfield South and the Town of Kingsville in effect at the time of the setting of the fire, a person may set or cause to be set an open air fire that is not in a container whereby said person may burn the remains of any crop grown and/or harvested or brushed. Non-grown materials related to farming/agricultural use including but not limited to such items as plastics, nylon, oil products and insulation are strictly prohibited from being burned by open air fire.

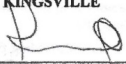
Corporation of the Town of Kingsville  
By-law 72 -2000

- (b) No person under the age of sixteen (16) years shall set fire in the open air or be permitted by any other person setting such a fire to be in the immediate proximity thereof.
  - (c) No person shall set an open fire referred to in section 3(a) without notifying the Fire Chief or his designate of the Town of Kingsville Fire Department prior to the time of setting such a fire at least (2) hours prior to the time of setting such fire.
- 4. No person other than the Environmental Services Manager, Drainage Superintendent, Public Works Manager, Arena Complex and Parks Manager or their designate(s) shall set or cause to be set any fire in the open air on property owned or controlled by the Town of Kingsville.
  - 5. Every persons setting a fire as permitted by this by-law shall exercise due care and take the necessary precautions in connection therewith to avoid endangering persons and property in the vicinity thereof and, shall remain in constant attendance at such fire until the same is completely burned or extinguished.
  - 6. Fires in this by-law shall not be deemed to include a small confined fire supervised at all times and used to cook on a grill or a barbeque.
  - 7. Any officer or officers are hereby authorized to enter at all reasonable times upon any property in order to ascertain whether the provisions of this by-law are obeyed, such officer or officers are authorized to enforce and carry into effect the provisions of this by-law.
  - 8. Every person violating any provisions of this by-law shall be guilty of an offence and liable to a fine not exceeding One Thousand Dollars (\$1,000.0) exclusive of costs, and such fine shall be recoverable under the Provincial Offences Act, R.S.O. 1990, c.33 as amended.
  - 9. Any by-law of the former municipalities of the Town of Kingsville, Township of Gosfield South and Township of Gosfield North, which are inconsistent with or repugnant to this by-law, be and the same are hereby repealed as of the date of passing this by-law.
  - 10. This by-law shall come into force and take effect upon the final passing thereof.

READ a FIRST and SECOND time this 25<sup>th</sup> day of June, 2001.

READ a THIRD and FINALLY PASSED this 25<sup>th</sup> day of June, 2001.

THE CORPORATION OF THE TOWN  
OF KINGSVILLE

  
MAYOR, Patrick M. O'Neil

  
ACTING CLERK, Linda Burling

OFFICE OF THE REGIONAL SENIOR JUSTICE  
ONTARIO COURT OF JUSTICE  
WEST REGION



CABINET DU JUGE PRINCIPAL REGIONAL  
COUR DE JUSTICE DE L'ONTARIO  
REGION DE L'OUEST

COURT HOUSE  
15TH FLOOR, UNIT "G"  
80 DUNDAS STREET  
LONDON, ONTARIO  
N6A 6B3

TELEPHONE/TÉLÉPHONE (519) 660-2292  
FAX/TELECOPIEUR (519) 660-3138

March 30, 2004

Ms. Linda Burling, Acting Clerk  
Corporation of the Town of Kingsville  
2021 Division Road North  
Kingsville ON N9Y 2Y9

Dear Ms. Burling:

**Re: Set Fines - Provincial Offences Act - Part I  
Town of Kingsville**

Enclosed herewith are copies of Orders, and copies of schedules of set fines for the By-Laws listed below, the By-laws indicated in the schedules:

23-2001	25-2001	31-2000	30-2000
23-2000	103-2003	72-2001	69-2003
28-1999			

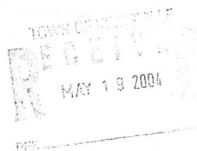
The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

I have forwarded the originals of the Orders and the schedules of the set fines to the Ontario Court of Justice in Windsor, together with a certified copy of the By-law.

Yours truly,

Alexander M. Graham  
Regional Senior Justice  
West Region

Enclosures  
/ec




ONTARIO COURT OF JUSTICE

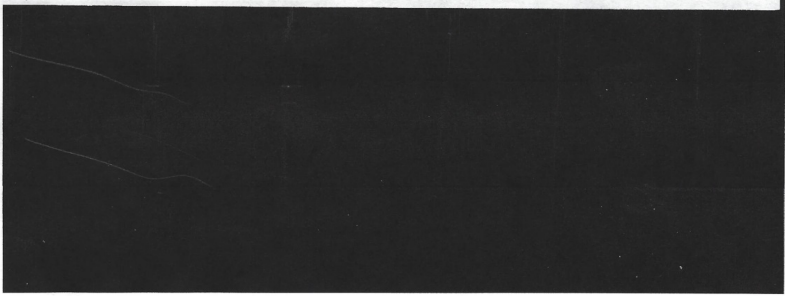
PROVINCIAL OFFENCES ACT

PART I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 72-2001 of the Town of Kingsville, attached hereto is the set fine including costs, for those offences. This Order is to take effect March 30, 2004.

Dated at London this 30<sup>th</sup> day of March, 2004.

  
Alexander M. Graham  
Regional Senior Justice  
West Region





ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 OFFENCE CREATING PROVISION OR DEFINING OFFENSE	COLUMN 3 SET FINE (includes costs)
1.	Set open air fire	Section 2	\$105.00
2.	Permit open air fire	Section 2	\$105.00
3.	Set open air fire while under the age of sixteen (16) years	Section 3(b)	\$105.00
4.	Permit person under sixteen (16) years of age to be in immediate proximity of open air fire	Section 3(b)	\$105.00
5.	Fail to notify Fire Chief or designate of open air fire in agricultural zone as prescribed	Section 3(c)	\$105.00
6.	Set open air fire on town property	Section 4	\$105.00

COLUMN 1 - SHORT FORM WORDING	COLUMN 2 - OFFENCE CREATING PROVISION OR DEFINING OFFENCE	COLUMN 3 - SET FINE (includes costs)
7.	Cause open air fire to be set on town property Section 4	\$105.00
8.	Fail to exercise due care in attending at open air fire Section 5	\$105.00

NOTE: The general penalty provision for the offences listed above is section 61 of the Provincial Offences Act, R.S.O. 1990, c.P.33.