

## CORPORATION OF THE CITY OF BELLEVILLE

### BY-LAW NUMBER 2021-12

#### **A BY-LAW TO REGULATE "OPEN AIR BURNING" IN THE CITY OF BELLEVILLE AND TO REQUIRE NOTIFICATION OF THE CITY OF BELLEVILLE FIRE DEPARTMENT FOR THE PURPOSE OF THE CONTROL AND REGULATION OF OPEN AIR BURNING AND THE SETTING OF CONTROLLED FIRES WITHIN THE BOUNDARIES OF THE CITY OF BELLEVILLE**

WHEREAS the Municipal Act, 2001, SO. 2001, as amended, c.25, Part I authorizes a Council to pass by-laws respecting health, safety and well-being of persons;

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 the regulation of open-air burning is important for the health, safety and well-being of the inhabitants of the municipality;

NOW THEREFORE the Council of The Corporation of the City of Belleville enacts as follows:

#### Part 1 – Interpretation

#### DEFINITIONS

1. In this Bylaw:

"Adverse Effect" means impairment of the safety of any person or their ability to enjoy their property or premises and or damage to property;

"Agricultural Fire" means an open-air fire where materials to be burned that does not exceed 5 metres in height, 5 metres in width and 5 metres in length and where the open-air fire is set and maintained solely for the purposes of burning wood, tree limbs and branches;

"Approved" means approved by the "Chief Fire Official" as defined in section 1.2.1.2 on Ontario Regulation 213/07 (Ontario Fire Code), as amended, made under the Fire Protection and Prevention Act 1997, S.O. 1997, c. 4 as amended;

"Approval" means written authorization from the Chief Fire Official or designate.

"Approved Device" means a device/container that is approved or listed by a recognized national or international testing/certification organization that is designed and approved to contain an open-air fire and or as approved by the Fire Chief or designate to contain an open-air fire;

"Barbecue" means a portable or fixed device designed and intended solely for the cooking of food in the open air but does not include outdoor fireplaces or campfire;

"Balcony" means a platform projecting from a wall of a multiple unit dwelling, surrounded by a railing or balustrade;

"Brush fire" means an open-air fire where the material to be burned does not exceed 3 metres in height, 3 metres in width and 3 metres in length and where the open-air fire is set and maintained solely for the purposes of burning wood, tree limbs and branches;

"Burn Barrel" means a noncombustible or combustible barrel of any size commonly used to burn debris and other waste materials.

"Burn Permit" means a permit that is issued in accordance with this Bylaw, authorizing a "Open Air Burning, Brush Fire, Agricultural Fire or Specific Use Fire";

"By-law Enforcement Officer" means a person duly appointed by the Council of the City of Belleville to enforce by-laws;

"Campfire" means an open-air fire that is set and maintained solely for the purpose of cooking food, providing warmth and/or recreational enjoyment and is a maximum size of 1 cubic meter;

"Cooking Device" means a non-combustible device designed for and used solely for the cooking of food;

"Cooking Fire" means an Open Air fire used for the purpose of cooking food on a grill but does not include a manufactured barbecue.

"Dangerous condition" means any condition as determined by the Fire Chief that increases the risk of the spread of a fire or is averse to public safety;

"Farming business" means a farming business as defined in the Farm Registration and Farm Organizations Funding Act, S.O.1993, as amended;

"Fire Chief" means the Chief of the Fire and Emergency Services Division of the City of Belleville, or his or her designate.

"Firefighter" means the Fire Chief and any other person employed in, or appointed to, the Fire and Emergency Services Division of the City of Belleville, and assigned to undertake fire protection services.

"Flying/floating lanterns" means a combustible material warm air floating device which uses an open flame for floatation;

"FPPA" means the Fire Protection and Prevention Act, S.O. 1997, c4, as amended, and the regulations enacted thereunder as amended from time to time. or any Act or Regulation enacted in substitution therefore;

"Household waste "means combustible material such as perishable foods, plastics, paints, oils, solvents. rubber. insulation, batteries, acids, polystyrenes (Styrofoam), pressure treated or painted lumber, tires, upholstered furniture, synthetic fabrics, diapers and hazardous waste as defined in the Environmental Protection Act and all other similar and like materials;

"Highway" means a common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway and, except as otherwise provided, Includes a portion of the highway;

"Lot line" means any boundary of a lot or the vertical projection thereof;

"Maintain" means to allow an open-air fire to continue to burn and "maintained" and "maintaining" have a corresponding meaning;

"Material to be burned" means total volume of materials contained in the fire;

"Municipality" means The Corporation of the City of Belleville or the geographic area of the Municipality of the Corporation of the City of Belleville;

"Non-approved Device" means a container that is not listed by a recognized national or international testing/certification organization and designed and approved to contain an open-air fire and can include but are not limited to drums, barrels, oil tanks, gas tanks, wheel rims;

"Nuisance" means excessive smoke, smell, airborne sparks or embers that is likely to disturb others, or that is likely to reduce visibility on roads in the vicinity of the Open Air Burning;

Open Air Burning" means the setting of a fire in the open air for the purpose of burning grass, leaves, petroleum products, household garbage, plastics, rubber, painted or pressure treated lumber or any other rubbish and combustible material and includes burning in barrels, drums, pits, outdoor fireplaces either masonry, metal, or clay pot type, but does not include small confined fires, or fires used to cook on a grill or barbecue that are supervised at all times;

“Outdoor Appliance” means a manufactured non-combustible solid fuel burning device that:

- (a) is not contained within a building;
- (b) is wholly or partly enclosed; and
- (c) has a chamber intended to contain combustion, and may include a stack to direct the flow of air or combustion gases from the appliance and may include, but is not limited to, appliances such as stoves, furnaces, boilers.

“Outdoor Fireplace” means a non-combustible, wholly-enclosed or partially enclosed container designed to hold a fire for decorative purposes and the size of which is not larger than 1 metre in any direction, and may include, but is not limited to, chimineas or fire bowl, and which is not fueled by natural gas or propane.

“Partial Burn Ban” means a period of time which the Fire Chief declares open-air burning restricted to the use of campfires, outdoor fireplaces and cooking devices

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

“Portable appliance” means a device to convert fuel into energy, and includes all components, controls, wiring and piping for outdoor use and installed in accordance with the manufacturer’s instructions;

“Prohibited Materials” includes wet materials, green timber, household waste, rubber or rubber products, plastic or plastic products, pressure treated or painted lumber and waste petroleum products and any material or materials which are prohibited by the Environmental Protection Act, R.S.O. 1990, c.E.19, as amended;

“Prohibited Areas” are those areas within the Corporation of the City of Belleville as outlined in Schedule 1 of this By-Law;

“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:

“Registered owner” includes the person who is shown as owner of a property in the records of the Land Registry Office, a trustee acting on behalf of the registered owner, the estate trustee of a registered owner, a person with a leasehold interest in the land and an authorized representative of a corporate registered owner;

"Smog Alert" means an alert issued by the Ministry of the Environment with respect to air quality;

"Spark Screen" means a metal screen or shield placed over – above cooking or campfire to restrict sparks or embers;

"Total Burn Ban" means a period of time during which the Fire Chief declares a ban on any open-air burning, including cooking fires and campfires.

"Wind Speed" means the wind speed for Belleville as reported on the Environment Canada website.

## Part 2 – Application

### Application

2. This By-law applies within the geographical boundaries of the Corporation of the City of Belleville.

### Non-Application

3. This By-law does not apply to a person who sets a 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.1g and Regulations thereunder;
  - b) In a device which has been installed outside of a building which meets each of the 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 certification of the device is produced upon request of a By-law Enforcement Officer or Firefighter; and
    - iii. the device is in good working order;

### Listed gas appliance

Natural gas or propane fueled fire pits listed by a recognized and authorized national testing laboratory are permitted in all areas of the municipality and do not require a burn permit.

### Effect of other legislation

4. 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, S.O. 1997, c4, or other federal or provincial statute, or any

Regulation made thereunder. In the event of any conflict between the provisions of the 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 the 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.

#### Prohibition - Setting Fires

5. Except as provided in Section 4, no person shall set a fire in the Municipality unless:
  - a) The fire is in accordance with all the conditions and permit requirements included in this By-Law;
  - b) The fire set in an "approved device" and does not constitute a health or environmental concern to any resident or business;

#### Training or Demonstration Fires

6. (a) For the purpose of the By-law, a training or demonstration fire is a fire which is set in the Municipality for the purpose of demonstrating firefighting equipment or as a training exercise;  
(b) The Fire Chief is authorized to give written consent for the setting of a demonstration or training fire.

#### Permitted Fire

7. For the purposes of this By-law, a permitted fire is a fire that complies with all Regulations and conditions as described within this by-Law.

#### General Prohibitions

8.
  - a) No person shall set or maintain an open-air fire that is in contravention with any part of this By-Law;
  - b) No person shall set or maintain any open-air "Brush Fire" within any of the identified area in Schedule 1 Zone A or B of this By-Law unless approved;
  - c) No person shall set or maintain a fire in a burn barrel or other non- approved container within the city of Belleville unless approved;
  - d) No person shall set or burn grass;
  - e) No person shall burn prohibited materials or household waste in an open-air fire;
  - f) No person shall use a flying/floating lantern as defined;
  - g) No person shall use gasoline, diesel fuel or any other type of hydrocarbon fuel to start a fire.
  - h) No person shall set or maintain any open-air fires other than a permitted campfire as defined and the use of cooking devices as defined, when a partial burn ban on open-air fires has been issued by the Fire Chief or designate;

- i) No person shall set or maintain any open-air fire when a total burn ban on open-air fires has been issued by the Fire Chief or designate without approval;

#### Consent of Registered Owner

9. No person shall set or maintain a permitted fire on any property in the Municipality unless:
  - a) The person setting or maintaining the fire is the registered owner or the authorized designate of the property on which the fire is set;
  - b) The person setting or maintaining the fire has the written consent of at least one registered owner of the property on which the fire is set.

#### Prohibited Conditions

10. No person shall set or maintain a permitted fire in the Municipality in a location or in a condition likely to cause or result in:
  - a) a decrease in visibility on any highway from smoke;
  - b) cause a nuisance, inconvenience or irritation to others from smoke or fumes to a neighboring property, resident or business;
  - c) The spread of the fire due to the proximity of any combustible materials;
  - d) Wind driven flames from high wind conditions {Wind speed not to exceed 24 kilometers per hour (kph)}

#### Part 4 – Prohibition on Specific Types of Fires

##### Campfires

11. No person shall set or maintain a campfire unless all of the following conditions are met:
  - (a) No person shall conduct or permit open air burning without obtaining a permit as outlined in Part 5
  - (b) The campfire shall occur between the hours of 5pm and 11 pm;
  - (c) The campfire is contained within an area of noncombustible metal, masonry, ceramic or stone or is contained within a pit in the ground and has a maximum diameter or 60 centimeters and is located in Zone A of schedule 1;
  - (d) The material burned in the campfire is clean, dry, untreated wood in a single pile that is less than 60 centimeters in height, width and length;
  - (e) The campfire is located not less than six (6) metres from any building, hedge, fence, overhead wiring or other combustible material and be located 15 metres from the lot line;
  - (f) The person tending the campfire has tools or water adequate to contain and if required extinguish the fire within the campfire area;

- (g) The fire is not set or maintained during a period identified as having a "Total Burn Ban" in place.

#### Fire in an Outdoor Fireplace / Burning Appliance

12. No person shall set or maintain a fire in an outdoor fireplace / burning appliance unless all of the following conditions are met:

- a) No person shall conduct open air burning without obtaining a permit as outlined in Part 5
- b) The outdoor fireplace /burning appliance is constructed of non-combustible metal, masonry, ceramic or stone on grade;
- c) The outdoor fireplace is not located on a balcony or deck;
- d) The outdoor fireplace is not located on any combustible surface;
- e) The outdoor fireplace is in good working order;
- f) The fire in the outdoor fireplace/ burning appliance shall occur between the hours of 5 pm and 11 pm;
- g) The outdoor fireplace / burning appliance is located not less than three (3) metres from any structure, overhead wiring or other combustible material and be three (3) meters from the lot line;
- h) The person burns only clean, dry, untreated wood or commercial charcoal in the outdoor fireplace;
- i) Any fire in an outdoor fireplace within the areas identified in Zone A or B of Schedule 1, the appliance or fireplace must be equipped with a spark screen or cover with a maximum opening of 13mm, and flames shall not extend more than 15 cm through and above the spark arrestor;
- j) The fire is not set or maintained during a period identified as having a "Total Burn Ban" in place;

#### Permit and Specific Approval Required for Brush, Agricultural and Special Events

##### Brush Fire

13. No person shall set or maintain a brush fire unless they ensure all the following conditions are met:

- a) No person shall conduct a brush fire without obtaining a permit as outlined in Part 5;
- b) The Brush fire shall occur between two (2) hours before sunset until two (2) hours after sunrise;
- c) The fire is set and maintained at no less than twenty (20) metres from any building, hedge, fence, overhead wire or other combustible material, or lot line;
- d) The pile of materials to be burned in the fire do not exceed three (3) metres in length, three (3) metres in width, and three (3) metres in height;
- e) They have the necessary means immediately available at the site of the fire to permit them to extinguish the fire, to limit its spread, and if necessary, to summon Belleville Fire & Emergency Services;



- f) Brush fires are only permitted in Zone A as identified in Schedule 1 of this By-Law;
- g) That the person present and in control of the Brush Fire is the person identified in the Burn Permit

#### Agricultural Fire

14. No person shall set or maintain an agricultural fire unless they apply in writing to the Fire Chief for the Agricultural required burning and if they ensure all of the following conditions are met:

- a) No person shall conduct a agricultural fire without obtaining a permit as outlined in Part 5
- b) The fire is set and maintained at no less than Fifty (50) metres, from any building, hedge, fence, overhead wire or other combustible material, or lot line;
- c) The materials to be burned in the fire do not exceed five (5) metres in length, five (5) metres in width and five (5) metres in height with a maximum of four (4) piles burning simultaneously unless otherwise approved;
- d) The agricultural fire shall occur between two (2) hours before sunset and two (2) hours after sunrise
- e) The person setting the fire has the necessary means immediately available at the site of the fire to permit them to extinguish the fire, to limit its spread, and if necessary, summon Belleville Fire & Emergency Services;
- f) Agricultural Fires are only permitted in area identified as zone A in Schedule 1 of this By-Law;
- g) Authorization approval issued is valid only for the time(s), conditions and day(s) set out as approved by the Chief Fire Official and has issued Authorization to Burn Permit
- h) That the person present and in control of the Agricultural Fire is the person identified in the Authorization.

#### Specific Event

15. A community not-for-profit organization, school, religious Institution or a resident may apply in writing to the Fire Chief for a specific event permit to conduct open air fires for cultural, religious or recreational specific event and if they ensure all of the following conditions are met:

- a) No person shall conduct a specific event fire without obtaining a permit as outlined in Part 5
- b) All conditions as set out on the permit and approval are followed;
- c) The person or organization issued the permit has the necessary means immediately available at the site of the permit to extinguish the fire or to limit its spread and if necessary, summon Belleville Fire & Emergency Services;
- d) Authorization approval issued is valid only for the time(s) and day(s) set out on the issued Authorization to Burn;

- e) That the person present and in control of the Specific Event Fire is the person identified in the Burn Permit and/or the authorization from the Chief Fire Official;

#### Fire in a Cooking Device

16. No person shall set or maintain a fire in a cooking device unless they ensure all the following conditions are met:

The cooking device:

- a) Is not located on a balcony of a multi-unit residential building;
- b) Is located at least one (1) metre from any building or structure; and is in good working order, and/or the clearances labelled on the device can be met;
- c) The person burns only commercial charcoal, compressed gas or wood in the cooking device, as is appropriate for the design of that cooking device.

#### Heating During Construction

17. No person may set or maintain a fire in a portable appliance during a construction or maintenance process unless they ensure all the following conditions are met:

- a) The portable appliance is designed for that purpose;
- b) The portable appliance is only used for that purpose;
- c) The portable appliance is used in accordance with manufacturer's instructions;
- d) The portable appliance is in good working order;
- e) Burn Barrels or drums are not permitted

#### Request for a Burn Permit

18. Any person eighteen (18) years of age or older may apply for an open air fire burn permit prior to the proposed date of any open-air burning;

- a) The applicant for a burn permit shall provide all the information and such other documentation or materials as may be requested by City of Belleville prior to obtaining the burn permit.

#### Issuing of a Burn Permit

19. The Fire Chief/designate shall review the request for a burn permit and the documentation or materials filed with the request and shall:

- a) Approve the request and issue the burn permit to the applicant if all fees are paid;

- b) conditionally approve the request subject to such restrictions, regulations or conditions as the Fire Chief in his/her sole and absolute discretion consider advisable if all fees are paid;
- c) May refuse to approve the request;
- d) Where the Fire Chief refuses to approve a request for an open air burn permit, the Fire Chief shall advise the applicant that the request has been refused;

## Part 5 - Burn Permit

### 20. Burn Permits

- a) Any permit issued under this by-law is personal to the permit holder and shall not be transferred or assigned;
- b) A permit shall be valid only for the period of time for which it was issued and shall expire on December 31<sup>st</sup> or in the manner specified in the authorization;
- c) The person who was issued the burn permit is responsible for any costs associated with Belleville Fire & Emergency Services being required to attend to extinguish or control the fire;

### Permit Holder

21. No person holding a burn permit or specific event permit shall set or maintain a fire under the authority of the authorization, except in accordance with the terms and conditions of authorization/permit and this by-law:

### Revocation of Burn Permit

- 22 The Fire Chief may, at any time, in their sole and absolute discretion, revoke any burn permit, if the Fire Chief reasonably believes that:
- a) Any of the information provided with the request or supporting documentation or materials are not accurate;
  - b) A term or condition of the bum permit is not being observed;

## Part 6 – Approved Devices

- 23 Any propane or natural gas outdoor fireplace or cooking appliance is considered an approved device as long as it is operated within the manufacture's specifications and has the approved listing of a testing and certification organization;

## Part 7 – Enforcement and Cost Recovery

## Enforcement

- 24 No person shall obstruct, hinder or in any way interfere with any person designated to enforce this By-law:
- 25 A person is guilty of an offence if the person:  
(a) furnishes false information in an application for a Permit under this By-law;  
(b) contravenes any provision of this By-law; or  
(c) contravenes an order issued under section 15.
- 26 A person who is convicted of an offence under this by-law is liable to a fine and penalty as pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, c.P.33.
- 27 A Permit issued under this By-law may be revoked by Fire Chief if the Permit holder fails to comply with the requirements of the Permit or any other provision of this By-law.
- 28 In accordance with section 7.1 of the FPPA, a Firefighter may enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether this by-law is being complied with.

For the purposes of an inspection pursuant to s. 28 above, an Officer may:

- (1) require the production for inspection of documents or things relevant to the inspection;
- (2) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (3) require information from any person concerning a matter related to the inspection; and
- (4) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- (5) If an Officer is satisfied that this by-law has been contravened, the Officer may requiring the person contravening the by-law to immediately extinguish the fire or take action to extinguish the fire.

## Right of Entry

- 29 Upon producing proper identification, a By-law Enforcement Officer or the Fire Chief or his/her representative may, at all reasonable times 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 by-law.
- 30 A Firefighter may order a fire to be extinguished immediately if the fire:  
(1) is not set in compliance with this By-law;  
(2) is determined upon inspection by the Firefighter to constitute a safety hazard or concern; or

- (3) is not set in compliance with a Permit.

#### Cost to Extinguish Fire

- 31 Any costs and expenses of any action by the Municipality with respect to controlling or extinguishing a fire that is caused by, or results from, the conduct of a person acting contrary to this by-law, or is caused by or results from a person disobeying or refusing or neglecting to carry out any of the provisions of this by-law, will be assessed in accordance with the City of Belleville Fees Bylaw at the time of the infraction, and are payable by that person to the Corporation of the City of Belleville on the date specified in the request for payment and if not paid on the date specified, such costs and expenses together with costs of collection, including legal fees and disbursements, are recoverable as a debt due to the Municipality by any remedy or procedure available to the Municipality by law and may be recovered in a like manner as taxes;

#### Civil Action

- 32 Nothing in this by-law affects or shall be held to limit or interfere with the right of any person to bring and maintain a civil action for damages occasioned by fire.

#### Offence

- 33 Every person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to a fine as provided in the Provincial Offences Act, R.S.O. 1990, c.P.33 as amended or as assessed in accordance with the City of Belleville Fees Bylaw

#### Conflict with Other By-laws

- 34 That By-law 99-30 is hereby repealed and in the event of any conflict between the provisions of this by-law and any other by-law regarding the regulation of open air fires the provisions of this by-law shall prevail, but nothing in this by-law shall invalidate the enforceability of other provisions of those by-laws.
- 35 The Clerk of the City of Belleville is hereby authorized to make any minor modifications or corrections of an administrative, numerical, grammatical, semantically or descriptive nature or kind to the By-Law and schedule as may be deemed necessary after the passage of this By-Law, where such modifications or corrections do not alter the intent of the By-Law;



SCHEDULE "1"

This Bylaw shall restrict type and size of allowable fires specifically in the following areas:

See attached MAP

# By-law 2021-12 - Schedule "1"

MUNICIPALITY OF CENTRE HASTINGS

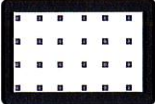


**BELLEVILLE**  
*on the Bay of Quinte*

**CITY OF  
BELLEVILLE**

## Legend

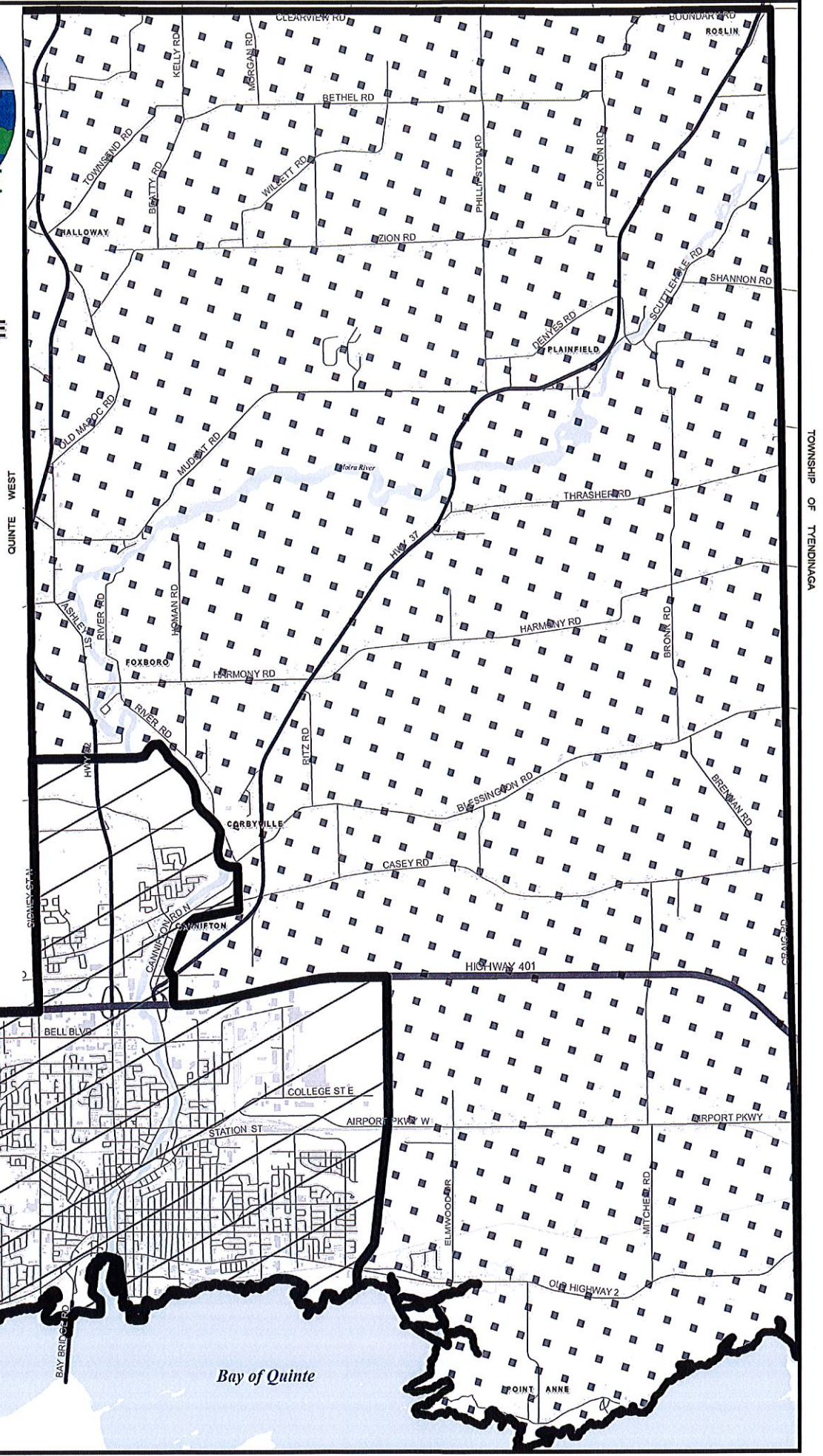
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Kilometers



QUINTE WEST

QUINTE WEST

TOWNSHIP OF TENDENAGA

Bay of Quinte