

Cultural Fire Authorization - Proposed Amendments to City of Toronto Municipal Code Chapter 441, Fees and Charges and Chapter 442, Fees and Charges, Administration of

Date: April 13, 2021

To: Economic and Community Development Committee

From: Acting Fire Chief, Toronto Fire Services

Wards: All

SUMMARY

The Acting Fire Chief, Toronto Fire Services is requesting City Council amend City of Toronto Municipal Code Chapters 441 and 442 to create formal service categories concerning Open Air Burn Permits and Cultural Fire Authorizations and to implement the appropriate fee structure in accordance with the City's User Fee Policy.

Under the Ontario Fire Code, open-air burning is not allowed, with a specific exemption for small supervised cooking fires, unless it has been approved by an assistant to the Ontario Fire Marshal (which includes a municipal Fire Chief or designated staff of a municipal fire department); and is supervised at all times. Toronto Fire Services (TFS) has an existing process for the open-air burning approval required by the Ontario Fire Code; applicants submit an application for a City-issued "Open Air Burning Permit" and pay the associated fees. TFS staff attend the proposed burn location to validate the information provided, identify any specific site concerns, and review safety protocols with the responsible individual.

Most applications for Open Air Burning Permits relate to individual events, or commercial purposes (such as filming a scene for a film production or for internal training purposes for a private company). However, a portion of the Open Air Burning Permits TFS processes each year are for members of various communities within Toronto seeking to utilize an open-air burn, as defined by the Ontario Fire Code, in connection with a variety of cultural or religious practices involving the use of fire (hereafter referred to as a "Cultural Fire"). One such cultural or religious practice that is practiced by many Indigenous communities is the use of fire in what is referred to as an Indigenous Sacred Fire.

TFS' review of the City's Open Air Burning Permits, noted that approximately half of the Cultural Fire related applications for Open Air Burning Permits, involve Indigenous

Sacred Fires. Because of the cultural significance of Indigenous Sacred Fires to Indigenous communities, TFS engaged with the City of Toronto Indigenous Affairs Office to ensure discussions with Indigenous community members could occur and that the proposed amendments are compatible with the City's overall reconciliation framework and strategy.

TFS is proposing to amend Municipal Code Chapter 442, Fees and Charges, Administration of, to establish two new formal service categories and application processes with respect to Ontario Fire Code approvals to reflect the community needs:

- Approvals for open-air burning conducted in connection with a specific cultural or religious practice, ceremony, or event ("Cultural Fire Authorizations").
- Approvals for other forms of open-air burning permits related to individual events, or commercial purposes ("Open Air Burn Permits").

TFS also proposes to amend Municipal Code Chapter 441, Fees and Charges, to adopt separate and differing fee categories for these two formal service categories in keeping with the City's User Fee Policy. Under the proposed amendment to Chapter 441, Open Air Burn Permits for private commercial events would be charged the current full cost recovery (\$266.17), while the Cultural Fire Authorization would not be charged a user fee to the applicant seeking to oversee open-air burning as part of a cultural or religious practice, ceremony, or event.

In accordance with User Fee Policy, while fees are appropriate for municipal services where the benefits are primarily directed to specific individuals, groups, or businesses, services which benefit the general public at large are appropriately funded by general revenues. Providing the appropriate approvals so that members of the public may participate in the cultural and religious practices using open-air burning conducted in accordance with the Ontario Fire Code provide a group benefit to the respective communities and a benefit to the public as a whole. The proposed amendment to Chapter 441 establishing two differing fees for Open Air Burn Permits and Cultural Fire Authorizations will result in an estimated financial impact of a \$3,726.00 reduction in the annual fee revenue within the Toronto Fire Services Operating Budget.

An equity analysis finds that Indigenous and Equity-seeking groups, including Immigrant, Refugee and Undocumented groups, and Racialized communities with cultural/religious practices that involve fire are positively impacted by the proposed amendments as these Equity-seeking groups will have improved access to this service required under the Ontario Fire Code.

RECOMMENDATIONS

The Acting Fire Chief, Toronto Fire Services recommends that:

1. City Council amend City of Toronto Municipal Code Chapter 441, Fees and Charges and Chapter 442, Fees and Charges, Administration of to establish two new formal service categories to be called Cultural Fire Authorizations and Open Air Burn Permits; establish corresponding application processes for these new formal service categories;

and update the fees and charges to establish an application fee for Cultural Fire Authorizations of \$0 and an application fee for Open Air Burn Permits of \$266.17, delete certain re-inspection fees related to the prior authorization process, and replace them with re-inspection fees for the new Open Air Burn Permit formal service category, as outlined in Attachment 1 to this report.

FINANCIAL IMPACT

The financial impact of the report recommendations is anticipated to decrease revenues related to open-air burning approvals by approximately \$3,726.00 annually representing 17 percent of total open-air burning approval revenues of approximately \$0.020 million per year. The expected lost revenues will be absorbed within the 2021 Approved Operating Budget for Toronto Fire Services.

Table 1 contains a summary of the amount of Open Air Burning Permits issued and annual revenues historically billed for the last two years. The annual projected revenue impacts from the proposed fee-related amendments are reflected in Table 2 below.

Table 1- Annual Open Air Burning Permits and Related Revenues

Year	# of Permits			Revenues			
	Cultural Fire Related	General (Non-Cultural Fire)	Total Open Air Burning Permits	Cultural Fire Related	General (Non-Cultural Fire)	Total Revenues	Percent of Revenues related to Cultural Fires
2018	16	67	83	\$3,961.84	\$16,910.48	\$20,872.32	19
2019	12	65	77	\$3,035.22	\$16,487.36	\$19,522.58	16
Average	14	66	80	\$3,498.53	\$16,698.92	\$20,197.45	17

Table 2- Annual Projected Revenue Impacts

Current "Open Air Burning Permit" Fee	Proposed "Open Air Burn Permit" Fee	Proposed "Cultural Fire Authorization" Fee	Estimated Number of Cultural Fire Authorizations (annually)	Estimated annual Revenue Impact
\$266.17	\$266.17	\$0.00	14	(\$3,726.38)

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

EQUITY IMPACT STATEMENT

An equity analysis finds that Indigenous, and Equity-seeking groups including Immigrant, Refugee and Undocumented groups, as well as Racialized communities that have cultural and/or religious practices which involve fire are positively impacted by the proposed amendments to Municipal Code Chapters 441 and 442. The proposed change will enhance access to this service for identified communities. This service change may also positively impact these Equity-seeking group's sense of identity and belonging by formally recognizing the diverse cultural landscape and the many cultures that use fire as an important part of cultural or religious practices and events in the City. This amendment will also positively impact the safety and security of all of these identified equity deserving groups as community members can access this service and work with Toronto Fire Services to ensure that the event or practice can be done with all required fire safety provisions in place.

An intersectional analysis reveals that Indigenous, Immigrant, Refugee, Undocumented and Racialized community members with low incomes will further benefit from this amendment with enhanced access to this service for those who use fire as part of cultural or religious practices or Indigenous Sacred Fires.

DECISION HISTORY

On September 26, 2011, Toronto City Council adopted the implementation of a Corporate User Fee Policy for all city programs and local boards of the city comply with. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.EX10.2>

At its meeting on May 3, 4, and 5, 2016, City Council received a report about the calls to action from the Truth and Reconciliation Commission that recognize the role of Municipalities. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX14.1>

Toronto City Council adopted the 2021 budget on February 18, 2021, including the adoption of the Toronto Fire Services Operating Budget. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EX21.2>

COMMENTS

Open-Air Burning Approvals - Requirements

Article 2.4.4.4 of the Ontario Fire Code states that open-air burning shall not take place unless it has been approved by an assistant to the Ontario Fire Marshal, (which includes a municipal Fire Chief or designated staff of a municipal fire department). The Ontario Fire Code excludes a supervised open-air burn consisting of a small, confined fire that is used to cook food on a grill, barbecue or spit from the approval requirement. Toronto Fire Services (TFS) has established an approval process that supports applications for an Open Air Burning Permit. Most Open Air Burning Permit applications relate to private individual events, or commercial purposes, such as for film production

or company training purposes.

Applicants are required to submit an application that includes details of the proposed burn including the date and time, duration of the burn, person(s) responsible for the fire, and the materials being burned. Along with the application, and service fee, an applicant submits a site plan of the area where the open-air burning will take place including any surrounding structures and vegetation.

A TFS Fire Prevention Inspector will attend the property to validate the application information and identify any exposure concerns. The TFS Fire Prevention Inspector will review all safety protocols with the applicant or person responsible (i.e., safe distances of persons, fire extinguisher/water supply close by etc.) with the goal of ensuring that the proposed open-air burn can be done safely. TFS Communication division is notified of the approval to ensure all the appropriate fire suppression responses are in place in response to any calls concerning the open-air burn.

TFS has identified that a portion of the approvals issued every year are applications received from members of the public seeking approval under the Ontario Fire Code to conduct an open-air burn as part of an Indigenous Sacred Fire; or, other cultural, or religious ceremonies. TFS recommends that a specific approval process and fee structure for open-air burning approvals for Cultural Fires should be implemented ("Cultural Fire Authorization").

Open Air Burn Permits/Cultural Fire Authorization- Creation of Formal Service Categories

Given the diversity of the City of Toronto population, many communities, including Indigenous communities, use fire as a part of cultural or religious practices. TFS recognizes the significance of these practices and the legal protections that they are afforded in S. 35 of the *Constitution Act, 1982* (concerning Indigenous Sacred Fires), as well as the *Charter of Rights and Freedoms* and the *Ontario Human Rights Code* for Cultural Fires generally. As such, TFS is recommending the amendments in this report to the municipal application processes for the open-air burning approval required by the Ontario Fire Code to reflect the differing purposes for which the approvals are sought.

The municipal processes associated with applying for open-air burning approvals from TFS are not currently documented as formal service categories in Municipal Code Chapter 442, Fees and Charges, Administration of, TFS, having obtained a greater understanding of the public's use and needs related to the open-air burning approvals, is proposing an amendment to Municipal Code Chapter 442, Fees and Charges, Administration of, to create a formal service category for both Cultural Fire Authorizations and Open Air Burn Permits.

The proposed new service category of Open Air Burn Permit would be required for open air burns for individual events, or commercial purposes while the proposed new service category of Cultural Fire Authorization would be for open-air burning conducted in connection with a specific cultural or religious practice, ceremony, or event. The proposed application processes would outline relevant information about the burn and site review procedures required by TFS staff for the proposed new service categories.

In 2019, TFS approved approximately 77 applications for open-air burning approvals, totalling \$19,522.58 in revenues per annum. As shown in table 3, a proportion of these approvals were identified for purposes fundamentally different than a typical Open Air Burning Permit, relating not to a private interest but a part of a Cultural Fire, (meaning community based cultural or religious practice or event, or Indigenous Sacred Fires). Based on the TFS review of past years approximately 17 percent of the annual volume of open-air burning applications were identified (either by the applicant, or during the inspection process) as being for Indigenous Sacred Fire or Cultural Fire purposes.

Table 3: TFS Open Air Burning Permits data 2018-2019

Year	Cultural Fire Related	Non-Cultural Fire Related	Total number of Open Air Burning Permits	Percent of applications identified as Cultural Fire Related
2018	16	67	83	19 percent
2019	12	65	77	15 percent
Average	14	66	80	17 percent

Specific Significance of Indigenous Sacred Fires

In TFS' review of the Open Air Burning Permit process, it was identified that of the total Open Air Burning Permits issued in relation to fires for the purposes of cultural/religious ceremonies almost half were associated with members of Toronto's many Indigenous communities seeking approval for an Indigenous Sacred Fire. The other applications received annually related to fires for cultural or religious practices or events came from a variety of different cultural communities within Toronto such as the Iranian Community's annual Fire Festival.

As a result, in preparing this report, TFS consulted with Indigenous community members to better understand Indigenous Sacred Fires. TFS also worked with the City of Toronto Indigenous Affairs Office to ensure that outreach to Indigenous communities, this review and proposed amendments were compatible with the City's overall reconciliation framework & strategy. The recommended amendments concerning Cultural Fires seek to provide an appropriate approval process for Indigenous Sacred Fires, recognizing that they are an Indigenous cultural practice.

While there are many Indigenous communities within the City of Toronto, all with different practices when it comes to Indigenous Sacred Fires, it was identified during consultations with Indigenous community members that Indigenous Sacred Fires are common at most events where Indigenous communities gather for ceremonies, celebrations and funerals. Section 35 of the *Constitution Act, 1982*, recognizes and affirms existing "aboriginal and treaty rights" of Canada's Indigenous communities, including those relating to specific cultural practices. TFS supports Toronto's Indigenous communities and Indigenous cultural and ceremonial practices, while seeking to ensure fire safety in relation to these practices.

Proposed Fee Structure

Currently, a single user fee is collected for all open-air burning applications, both those which would be captured within the new proposed Cultural Fire Authorization formal service category and the new Open Air Burn Permit formal service category. This user fee is on a cost recovery basis for the services of the Fire Prevention Inspector to verify fire safety at the proposed site and process the application at a cost of \$266.17 in accordance with Municipal Code, Chapter 441, Fees and Charges. Under the City of Toronto's User fee policy, user fees are appropriate for municipal services where the benefits are primarily directed to specific individuals, groups or businesses. These sorts of applications reflect the majority of open-air burning approval applicants.

TFS recognizes the significance of open-air burning in relation to cultural and religious practices of many communities of Toronto and is proposing an amendment to Municipal Code Chapter 441, Fees and Charges, which would create a second user fee category specifically for the Cultural Fire Authorization service category. Under the User Fee Policy, Division Heads are accountable for ensuring that user fees for services are properly charged, collected, deposited and in general, are administered in compliance with the principles set out in the policy.

Under the proposed amendment to Chapter 441, the newly established Open Air Burn Permit for private commercial events will be charged at a Full Cost Recovery (\$266.17), while the Cultural Fire Authorization would not be charged a user fee to the applicant seeking to oversee open-air burning as part of a cultural or religious practice, ceremony, or event. This approach aligns with the fee structures for other municipal services where permits and authorizations are issued without user fees being imposed where the permits and authorizations relate to cultural events for the public, rather than commercial or private events.

By creating a second category for the open-air burn approval process which provides a specialized approval for the public's cultural or religious ceremonies or events, TFS will be able to administer the approval, as required under the Ontario Fire Code, while also recognizing the community benefit that the approval would provide to the communities that utilize fire as part of their cultural ceremonies or events.

Conclusion

These proposed changes to Municipal Code Chapters 441 and 442 will allow TFS to administer the approval for the various forms of open-air burning, as required under the Ontario Fire Code, in a manner that recognizes the role of Indigenous Sacred Fires in Indigenous culture, as well as cultural and religious rights of non-Indigenous communities who also burn open fires as part of their religious and cultural beliefs. Respect for rights is balanced with public safety in these proposed changes.

TFS specifically worked with Indigenous community members to ensure that proposed amendments to the City of Toronto Municipal Code establishing the Cultural Fire Authorization process were responsive to the needs of Indigenous communities conducting Indigenous Sacred Fires. The Acting Fire Chief, Toronto Fire Services believes that these recommendations shall address many of the concerns held by members of Indigenous communities around the current approval process for open-air burning within the City of Toronto, required by the Ontario Fire Code.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1 - Proposed Changes to City of Toronto Municipal Code Chapter 441,
Fees and Charges and Chapter 442, Fees and Charges, Administration of

**ATTACHMENT 1 - PROPOSED CHANGES TO CITY OF TORONTO
MUNICIPAL CODE CHAPTER 441, FEES AND CHARGES AND CHAPTER
442, FEES AND CHARGES, ADMINISTRATION OF**

To amend City of Toronto Municipal Code Chapter 441, Fees and Charges, and Chapter 442, Fees and Charges, Administration of, to address the application and approval process for Open Air Burn Permits.

The Council of the City of Toronto enacts:

- Chapter 441, Fees and Charges, is amended by inserting the following after Line 115 of Appendix B - Schedule 1, Fire Services Fees and Charges:

* To unnumbered column

*	To Column I	To Column II	To Column III	To Column IV	To Column V	To Column VI
116	Fire Prevention, Inspection & Enforcement	Cultural Fire Authorization, site visit, reviewing plan for approval for compliance with Provincial Legislation open air burning requirements	City Policy	Per application	\$0.00	No

- Chapter 441, Fees and Charges, is amended by deleting existing lines 95, 96, 97, and 98 of Appendix B - Schedule 1, Fire Services Fees and Charges and substituting the following therefore:

* To unnumbered column

*	To Column I	To Column II	To Column III	To Column IV	To Column V	To Column VI
95	Fire Prevention, Inspection & Enforcement	Open Air Burn Permit, site visit, reviewing plan for approval for compliance with Provincial Legislation open air burning requirements	Full Cost Recovery	Per application	\$266.17	Yes

*	To Column I	To Column II	To Column III	To Column IV	To Column V	To Column VI
96	Fire Prevention, Inspection & Enforcement	Re-inspection - Inspector conducting Fire Prevention Re-inspection arising from Open Air Burn Permit review	Full Cost Recovery	Per hour or portion thereof	\$95.86	Yes
97	Fire Prevention, Inspection & Enforcement	Re-inspection - Captain conducting Fire Prevention Re-inspection arising from Open Air Burn Permit review	Full Cost Recovery	Per hour or portion thereof	\$115.88	Yes
98	Fire Prevention, Inspection & Enforcement	Re-inspection - District Chief conducting Fire Prevention Re-inspection arising from Open Air Burn Permit review	Full Cost Recovery	Per hour or portion thereof	\$133.09	Yes

3. Chapter 442, Fees and Charges, Administration of, is amended as follows:

A. By amending Section 442-1 by adding the following definitions in alphabetical order:

CULTURAL FIRE - An open air burn conducted in connection with a specific cultural or religious practice, ceremony, or event;

CULTURAL FIRE AUTHORIZATION - Approval for purposes of compliance with Article 2.4.4.4 of the Ontario Fire Code granted by the Fire Department with respect to open air burning conducted as a Cultural Fire;

OPEN AIR BURN - shall have the same meaning as the phrases "open-air burn" or "open-air burning" as those phrases are used in the Ontario Fire Code;

OPEN AIR BURN PERMIT - Approval for purposes of compliance with Article 2.4.4.4 of the Ontario Fire Code granted by the Fire Department for all other purposes other than

specific cultural or religious practices, ceremonies, or events; including, but not limited to, film shoots, private events not associated with a specific cultural or religious practice, ceremony, or event, or general fire pits;

(2) By amending Section 442-2 by adding the following as subsections K and L:

K. Cultural Fire Authorization.

(1) An applicant for a Cultural Fire Authorization shall file with the City the application and other required documents in the form and manner approved by the Fire Chief prior to the first proposed date for a Cultural Fire, such application and documentation to include the following:

- (a) Name, address and telephone number of the applicant and any other person(s) who may be responsible for the supervision of the Cultural Fire;
- (b) Location where Cultural Fire is to be placed;
- (c) Site plan illustrating the location of the Cultural Fire on the location, as well as the distances of all structures located on the property or on neighbouring premises to the proposed location of the Cultural Fire;
- (d) Start date for the commencement of Cultural Fires at the location;
- (e) Duration of time for which a Cultural Fire Authorization for Cultural Fires at the location is being requested;
- (f) the cultural or religious practices, ceremonies, or events to which the Cultural Fires relate; and,
- (g) Burnable materials to be included in the Cultural Fires.

(2) The Fire Chief shall not issue a Cultural Fire Authorization which exceeds 12 months from the start date of commencement of Cultural Fires with respect to an application;

(3) Where an application for a Cultural Fire Authorization inactive or incomplete for six months after it is submitted, the Fire Chief, without further notice, may deem the application to have been abandoned and cancel the application.

L. Open Air Burn Permit.

(1) An applicant for an Open Air Burn Permit shall pay the fee prescribed in Chapter 441, Fees and Charges, and file with the City the application and other required documents in the form and manner approved by the Fire Chief prior to the proposed date for the commencement of the open air burn, such application and documentation to include the following:

- (a) Name, address and telephone number of the applicant and any other person(s) who may be responsible for the supervision of each open air burn;
- (b) Location where each open air burn is to be placed;
- (c) Site plan illustrating the location of the open air burn on the location, as well as the distances of all structures located on the property or on neighbouring premises to the proposed location of the open air burn;
- (d) Date of each open air burn;
- (e) Where there are more than one open air burn scheduled, the person responsible for each open air burn;

- (f) Purpose for each open air burn; and,
- (g) Burnable materials to be included in the open air burn.

(2) The Fire Chief shall not issue an Open Air Burn Permit which exceeds 6 months from the date of the first open air burn with respect to an application for a specific location;

(3) Where an application for an Open Air Burn Permit inactive or incomplete for six months after it is submitted, the Fire Chief, without further notice, may deem the application to have been abandoned and cancel the application.

(4) Where an application for an Open Air Burn Permit is abandoned, the application fee is not refundable.

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