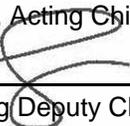




P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Item No. 14.1.5**  
**Halifax Regional Council**  
**June 14, 2016**

**TO:** Mayor Savage and Members of Halifax Regional Council  
Original Signed by 

**SUBMITTED BY:** \_\_\_\_\_  
John Traves, Q.C., Acting Chief Administrative Officer  
Original Signed by   
\_\_\_\_\_  
Jane Fraser, Acting Deputy Chief Administrative Officer

**DATE:** May 16, 2016

**SUBJECT:** Open Air Burning – Increasing Minimum Distances for Outdoor Wood Burning Appliances

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### **ORIGIN**

September 9, 2014, Regional Council motion put and passed that “Halifax Regional Council request a staff report be initiated to allow Council to consider amending By-law O-109 Respecting Open Air Burning so that outdoor wood burning appliances shall not be used within a prescribed distance of the nearest dwelling on an adjacent property

### **LEGISLATIVE AUTHORITY**

- *Halifax Regional Municipality Charter, 2008, R.S.N.S., c.39, as amended, clauses 188(1)(a) and (b), “The Council may make By-laws for municipal purposes, respecting (a) the health, well-being, safety and protection of persons; (b) the safety and protection of property”.*
- *Forests Act, R.S., c.179, s.23(4)(d).*

### **RECOMMENDATIONS**

It is recommended that Halifax Regional Council direct staff to prepare amendments to By-law O-109, the *Open Air Burning By-law*, to:

- 1) (a) prohibit open air burning and the use of outdoor solid fuel burning appliances on residential property unless a property has a septic field (2,900m<sup>2</sup>), and  
(b) if a residential property has a septic field, to restrict open air burning to a minimum distance of 50 feet (15.24m) from any structure;
- 2) Prohibit any type of homemade outdoor wood burning device, such as a modified propane barbeque to burn wood or a modified steel drum to burn wood;
- 3) Prohibit homemade food smokers; and
- 4) Restrict industrial burning permits to a minimum area of 1 acre (43,560ft<sup>2</sup> or 4,046m<sup>2</sup>),

and return to Council for consideration of the proposed amendments.

**BACKGROUND**

In early 2014, Nova Scotia Department of Natural Resources introduced new *Forest Fire Protection Regulations* which required amendments to the HRM Open Air Burning By-law to align guidelines for residents.

July 2014, a revised Open Air Burning By-law was introduced to Regional Council and in addition to meeting the requirements of the provincial regulations; additional fire prevention safety measures were included to further reduce the risk of a wildland fire. The By-law came into effect in September 2014.

After the By-law was passed, Regional Council requested that staff report back for Council to consider amending By-law O-109 Respecting Open Air Burning – providing examples of increased distances to the nearest dwelling on an adjacent property and what this would look like. The current By-law allows a minimum of 15’ clearance from the appliance to a structure.

The additional fire safety precautions implemented by the municipality and province have had minimal impact on reducing fire responses to reported illegal burns. The numbers of 9-1-1 calls, reporting “illegal burning” has not decreased, as was expected. Neighbours who find the smoke to be a nuisance, are continuing to call 9-1-1 and report the situation as an illegal burn or asking HRFE to attend and investigate the location where the smoke is coming from. When a resident reports a potential fire to 9-1-1, HRFE are required to initiate a response to investigate. Depending on the information provided to the 9-1-1 Call Taker and what is passed along to the Halifax Regional Fire & Emergency (HRFE) Captain, the response can be a Code 1 (emergency lights and siren) or Code 3 (no warning devices activated). The majority of situations reported to 9-1-1 are for reported illegal burning complaints, specifically related to burning occurring outside the stated hours of approved burning, residents not knowing the provincial and municipal burning regulations, complaints about neighbour fires smoke bothering surrounding neighbours, burning unapproved materials (construction debris), and neighbour disputes. When these types of 9-1-1, calls reporting that illegal burning occur, it unnecessarily removes the fire crew from being in a position to respond to higher level emergencies, increases response times as crews will be dispatched from further fire stations, and as well, puts the Fire Officer in a position of having to mediate disputes between neighbours

**DISCUSSION**

HRFE staff reviewed the Open Air By-laws of a number of municipalities across Canada: St. John’s, NFLD / Ottawa, ON / St. Catherines, ON / Hamilton, ON / Kitchener, ON / London, ON / Saskatoon, SK / Calgary, AB / and CBRM, NS. The results of this scan are detailed in the following chart.

**Comparison Table of Canadian Cities – Open Air Burning**

City	Allows Burning (Y/N)	Distances Open Air Burning	Distances Campfires	Distances Burning Appliances	Special Notes	Nuisance Related (Y/N)	Burning Appliances Allowed (Y/N)
St. John’s, NF	Yes	Not specified	Not Specified	3 M	Permit needed for open air fire	Y	Y
Ottawa, ON	Yes	30 M	10 M	5 M	Must obtain permit	N	Y

City	Allows Burning (Y/N)	Distances Open Air Burning	Distances Campfires	Distances Burning Appliances	Special Notes	Nuisance Related (Y/N)	Burning Appliances Allowed (Y/N)
St. Catharines, ON	Yes	Not specified	Not Specified	5 M	Without permit between 7 am & 11 pm	Y	No chimeneas or outdoor fireplaces
<b>Oshawa, ON</b>	<b>No</b>				<b>By-law prevents open air burning</b>		
Hamilton, ON	Yes	30 M	Not Specified	Not Specified	Only permitted in rural area. Permit Needed	Y	Yes but is equal to open air burning
Kitchener, ON	Yes	20 M	3 M	5 M	Must obtain permit. Time restrictions on fires	Y	Y
London, ON	Yes	50 M	4 M	4 M	Size limitations put in place for open air burning and time	Y	Y
Saskatoon, SK	Yes	Not Specified	Not Specified	Not Specified	Permit issued for open air burn for block parties / community	Y	
Calgary, AB	Yes	Not Specified	2 M	2 M	Flames may not exceed 1 M in height	N	Y
HRM, NS (currently)	Yes	23 M	9 M	4.5 M		N	Y
CBRM, NS	Yes	Not Specified	Not Specified	3 M		Y	Y

The analysis of the information concluded there is no consistent approach to open air burning with respect to determining minimum distances for safe burning, eliminating nuisance smoke related complaints, or permitting open air burning.

After reviewing the information from other Canadian Municipalities and HRFE response information from 2015, two options were considered on how to proceed to reduce the number of fire responses to reported illegal burning: 1) to increase the minimum distance from 15' (to 25' or 50') or 4.5 M (to 7.6 M or 15 M) for outdoor burning, or 2) to implement a complete ban on all open air burning (excluding certified propane

and natural gas outdoor appliances) in high density residential neighbourhoods where serviced by municipal water. The internal review for reported illegal burning within the HRM indicated the majority of illegal burning complaints occur within higher density urban and suburban neighbourhoods and minimally in the rural communities. Upon reviewing a number of the illegal burning incident notes (from the Fire Officer), it was concluded the majority of issues in the urban and suburban neighbourhoods were related to the size of lots and the number of impacted neighbours from one outdoor wood burning appliance – especially when the items being burned were not dry seasoned firewood. The reported illegal burning complaints occurring in the rural locations were generally not related to nuisance smoke, but to the size of the fire. A further review confirmed the lot size was a significant factor in the volume of illegal burning complaints and that the lot sizes in the rural neighbourhoods were dictated by the provincial minimum land requirement for a septic field. The decision to use “having a septic field” was determined to be a means of eliminating outdoor wood burning appliances on smaller residential lots, yet still permitted the use of the appliances in locations on larger land lots. To add a further measure in eliminating nuisance wood smoke from outdoor wood burning appliances, it was determined to use 50’ (15.24m) as a minimum distance in locations which would be permitted to use an outdoor appliance (lots with septic fields, 2,900m<sup>2</sup>).

Within the Halifax Regional Municipality a number of neighbourhoods were reviewed as examples of what the impact would be if the distance was increased from 15’ to 25’ and 50’ (or 4.5 M to 7.6 M or 15 M) respectively: Lower Sackville, Halifax, Fall River, Cole Harbour, Bedford, Upper Tantallon, Timberlea, Hammonds Plains, Dartmouth, Westphal, Eastern Passage and Middle Sackville (see Attachment #1). These areas were selected as examples where HRFE has been receiving complaints related to open air burning and the nuisance from smoke.

In 2015 (April to October), HRFE responded to over 515 responses related to: “reported illegal burning / By-law investigation / brush-grass or forest fires / open garbage-debris fire / illegal burning / fire-nuisance-outside fires / chimenea-woodstove fires (changed to outside chimenea fires) / fire-cooking equipment (outside) and open garbage-debris fires. Although reported in different fire reporting categories, they all relate to outside open air fires. When responded to, many of the investigations confirmed that the open air burning met the By-law requirements and were approved to proceed. These calls were reported by neighbours who considered the fires a nuisance and wanted the fires extinguished. When this occurs, it places the fire crews in a situation trying to mediate between two (or more) neighbours who have opposing opinions on outdoor fires and the nuisance caused by smoke.

The attached maps illustrates the minimum distances from an outdoor appliance to a structure or property line from outdoor wood burning appliance using the existing minimum distance and two longer distances. As the distance increases, the number of properties where using an outdoor appliance would be permitted are reduced, this would encompass most of the higher population density neighbourhoods.

HRFE reviewed the two options, to recommend an increase of the existing 15’ clearance to 50’ compared to recommending a complete ban on all open air burning in locations of higher residential density neighbourhoods. By increasing the distance to 50’ (distance from a structure to the open air burning location), the GIS Mapping (Attachment #1) shows the increase distance would have a significant reduction with the number of locations in the higher density neighbourhoods, where an outdoor appliance would be permitted. The majority of remaining properties which would have the 50’ distance permitted to burn are not homes, but municipal properties / mercantile properties / and institutional locations (schools). There are a few homes that would have the required 50’ clearance (approximately 100’ radius) of open space. Other reasoning to recommend a complete ban on all open air burning would be to cease having the Fire Crews placed in a position to determine if outdoor appliances are commercial or homemade (especially when the owner cannot find the manufacture recommendations on use). A complete ban in the urban and suburban higher density neighbourhoods will also eliminate having the Fire Officer attempt to mediate / negotiate an agreeable outcome between two or more neighbours.

The recommended ban would not apply to the use of approved (ULC / CSA / ANSI) Propane or Natural Gas fire pits / outdoor burning appliances. These types of approved appliances would be acceptable for use, providing the device is being used according to the manufacture instructions. Also permitted would

be small ULC/CSA approved charcoal fuelled barbecues providing that they are used in accordance with the manufacture instructions.

The current Open Air Burning By-law divides areas of the municipality into locations where burning is permitted and not permitted, using two municipal services: water and sewer as a guide. Provincial standards require a minimum land area of 2,700 m<sup>2</sup> (29,062 sq. ft.) to install a septic field, this amount of area would permit enough space and distance from an outdoor wood burning appliance to a neighbour that would greatly reduce the smoke complaints – providing that there is a minimum distance of 50' from the appliance to a structure / accessory building.

The proposed amendments to the Open Air Burning By-law would prohibit: campfires, incinerators, burn drums, wood fueled barbeques, fire pits, fire bowls, chimeneas, homemade smokers, and outdoor wood fireplaces in locations where open air burning would not be permitted, which is where municipal water services exist. The existing prohibited items would continue to remain in place as not being permitted to burn. Commercially manufactured food smokers would be permitted, providing the manufacture instructions are followed. The addition of food smokers is a new recommendation because of a gradual increase of complaints related to neighbours using homemade food smokers, which are determined to be modified chimeneas or other devices burning wood.

### **FINANCIAL IMPLICATIONS**

No financial implications at this time.

### **RISK CONSIDERATION**

There are no significant risks associated with the recommendations in this Report. The risks considered rate is Low.

To reach this conclusion, consideration was given to operational risks.

### **COMMUNITY ENGAGEMENT**

No community engagement was conducted. If Council amends this By-law, HRFE will work with Corporate Communications to help make residents aware of the changes.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications as a result of this report.

If the proposed changes are accepted by Regional Council, an expected outcome would be a reduction of wood smoke in the higher residential neighborhoods.

### **ALTERNATIVES**

- 1) Council may choose to keep the existing By-law in place, as is; or
- 2) Council may choose to increase the minimum distance from an approved wood burning appliance to a structure to 25' or 50'.

**ATTACHMENTS**

Attachment 1 – Burning Setback Distances

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A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Roy Hollett, Deputy Fire Chief 902-490-5036

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Attachment 1 - Burning Setback Distances

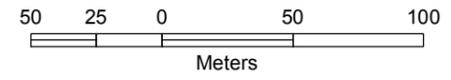
**Halifax Regional Fire & Emergency**  
**Burning Setback Distances**



# Lower Sackville



## Burning Setback Distances Halifax Regional Fire & Emergency



- Burning Permitted - 50 Foot Setback
- Burning Permitted - 25 Foot Setback
- Burning Permitted - 15 Foot Setback

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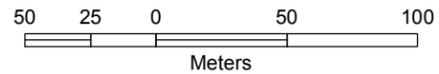
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## Burning Setback Distances

Halifax Regional Fire & Emergency



-  Burning Permitted - 50 Foot Setback
-  Burning Permitted - 25 Foot Setback
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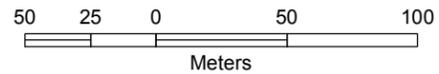
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# Fall River



## Burning Setback Distances Halifax Regional Fire & Emergency



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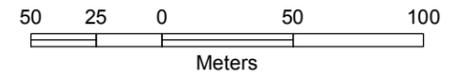
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# Cole Harbour



## Burning Setback Distances Halifax Regional Fire & Emergency



- Burning Permitted - 50 Foot Setback
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- Burning Permitted - 15 Foot Setback

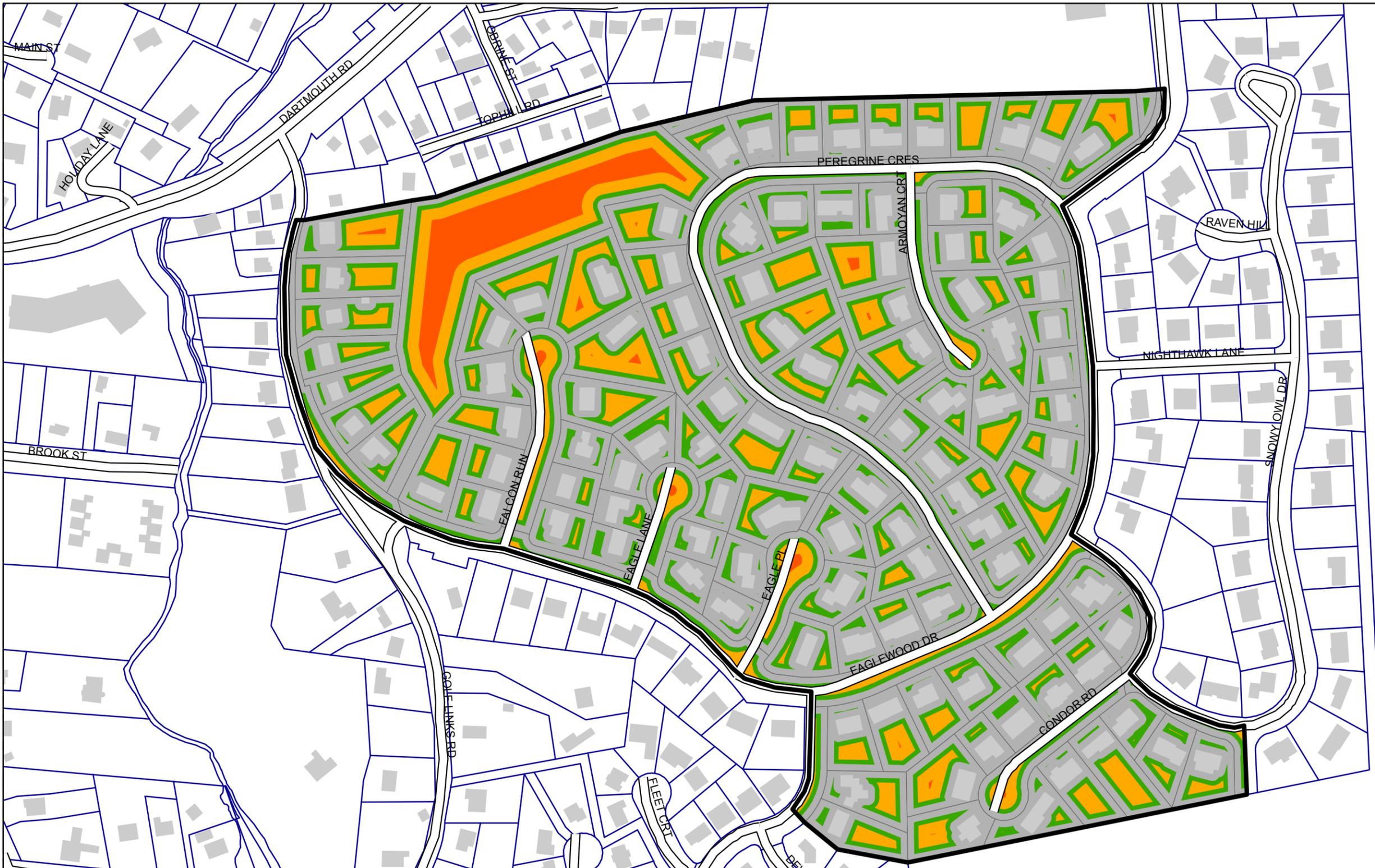
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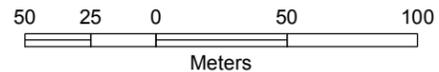
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# Bedford



## Burning Setback Distances Halifax Regional Fire & Emergency



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-  Burning Permitted - 15 Foot Setback

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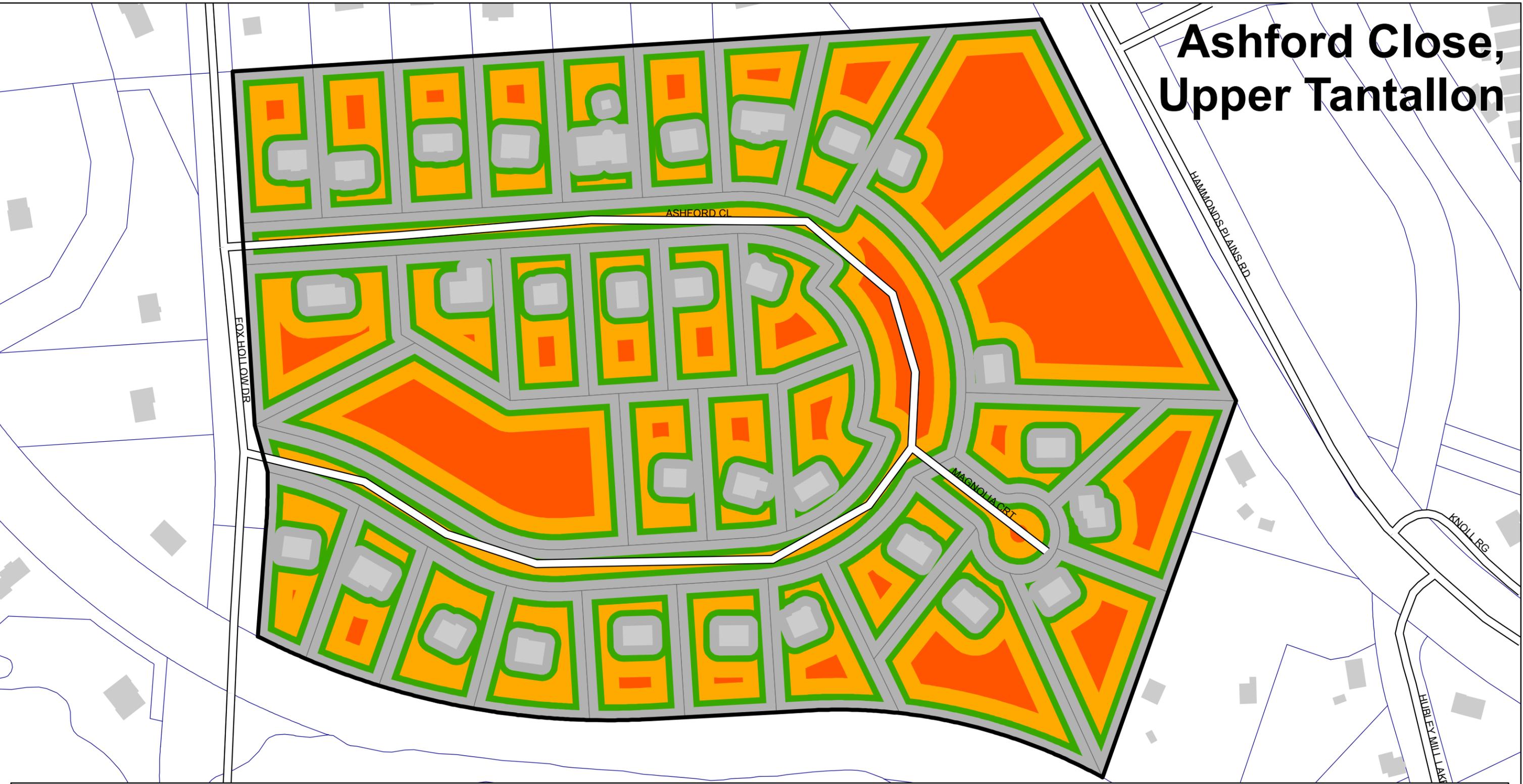
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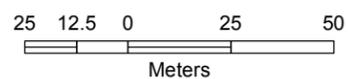
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**HALIFAX**

# Ashford Close, Upper Tantallon



## Burning Setback Distances Halifax Regional Fire & Emergency



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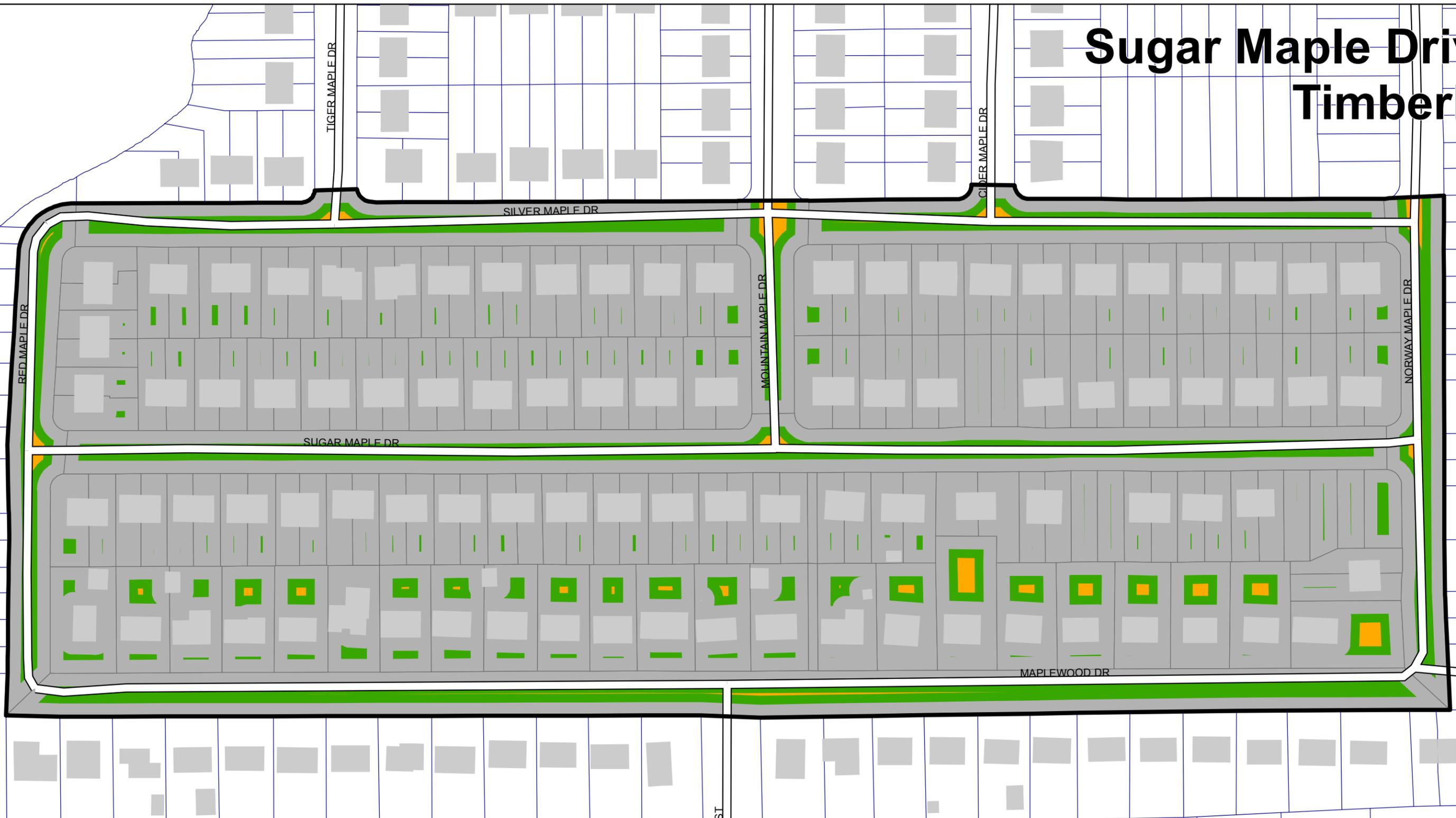
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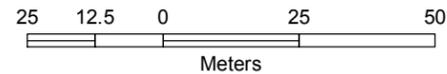
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Print Date: November 2014



# Sugar Maple Drive, Timberlea



## Burning Setback Distances Halifax Regional Fire & Emergency



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- Burning Permitted - 15 Foot Setback

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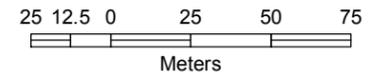
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# Vrege Court, Hammonds Plains



## Burning Setback Distances Halifax Regional Fire & Emergency



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- Burning Permitted - 25 Foot Setback
- Burning Permitted - 15 Foot Setback

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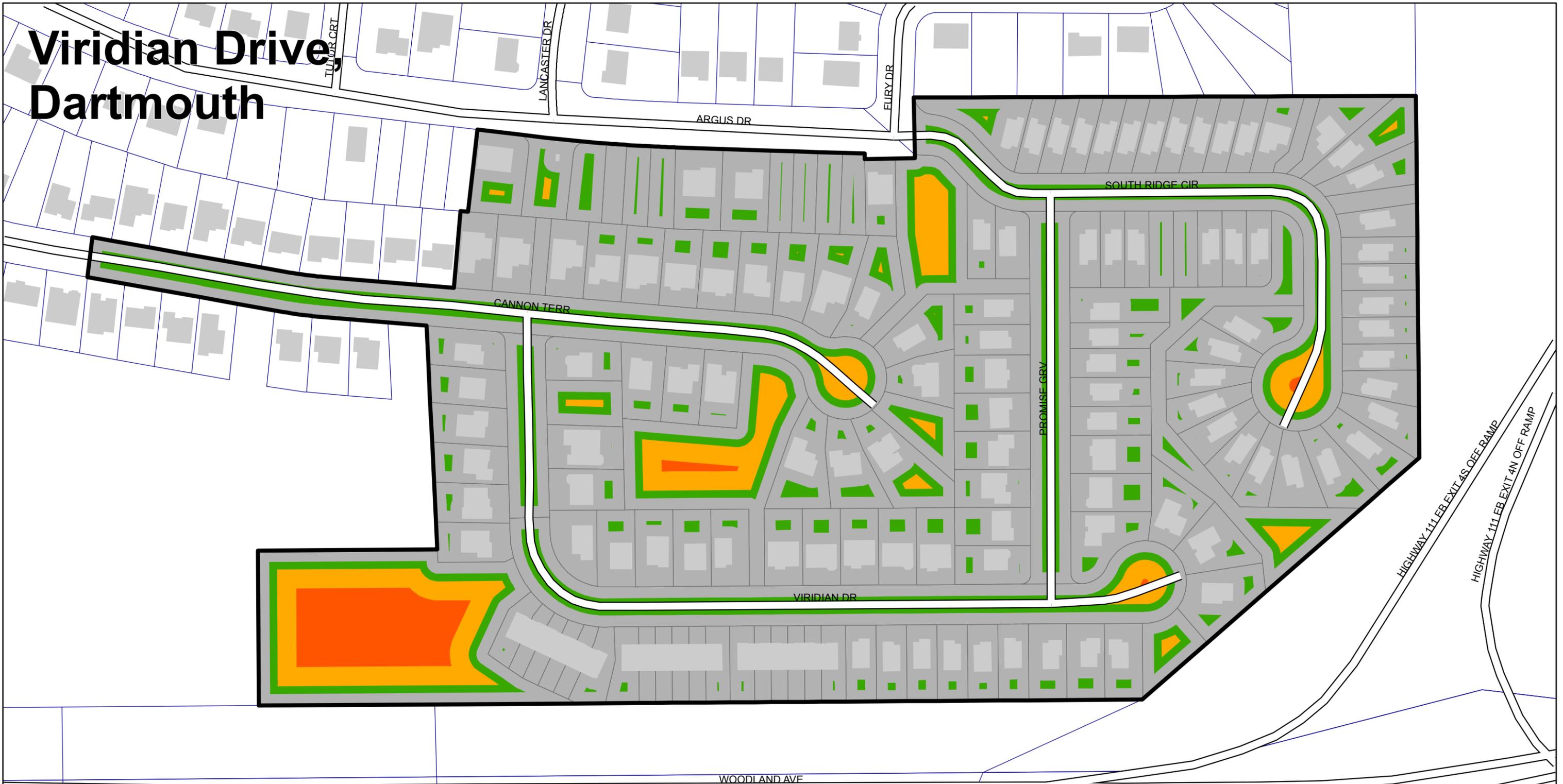
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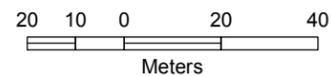


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# Viridian Drive, Dartmouth



## Burning Setback Distances Halifax Regional Fire & Emergency



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- Burning Permitted - 25 Foot Setback
- Burning Permitted - 15 Foot Setback

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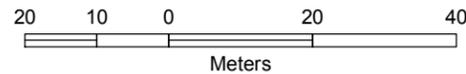
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# Karen Drive, Westphal



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- Burning Permitted - 15 Foot Setback

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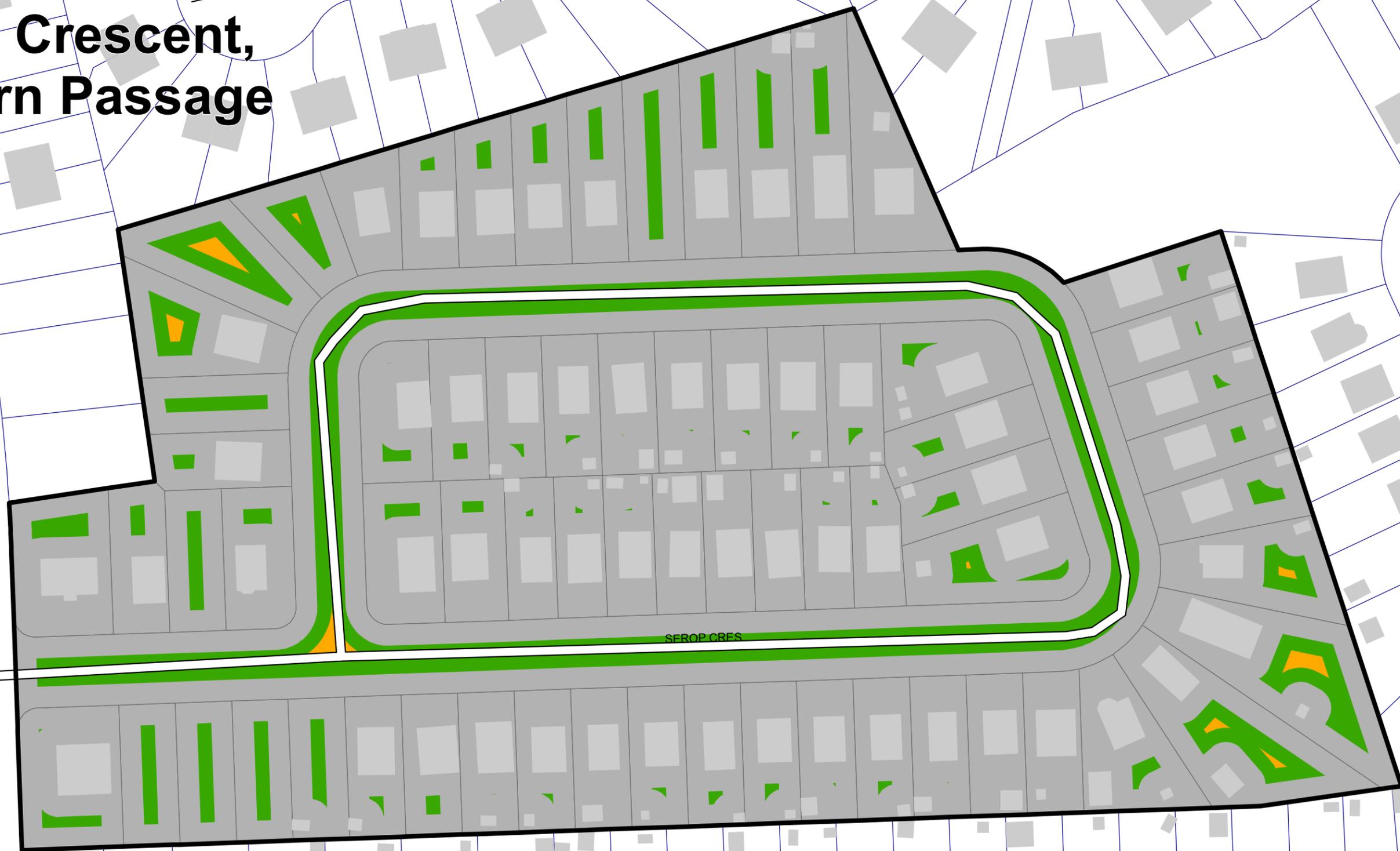
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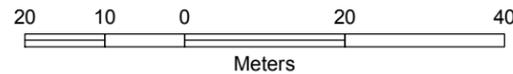
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**HALIFAX**

# Serop Crescent, Eastern Passage



## Burning Setback Distances Halifax Regional Fire & Emergency



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- Burning Permitted - 15 Foot Setback

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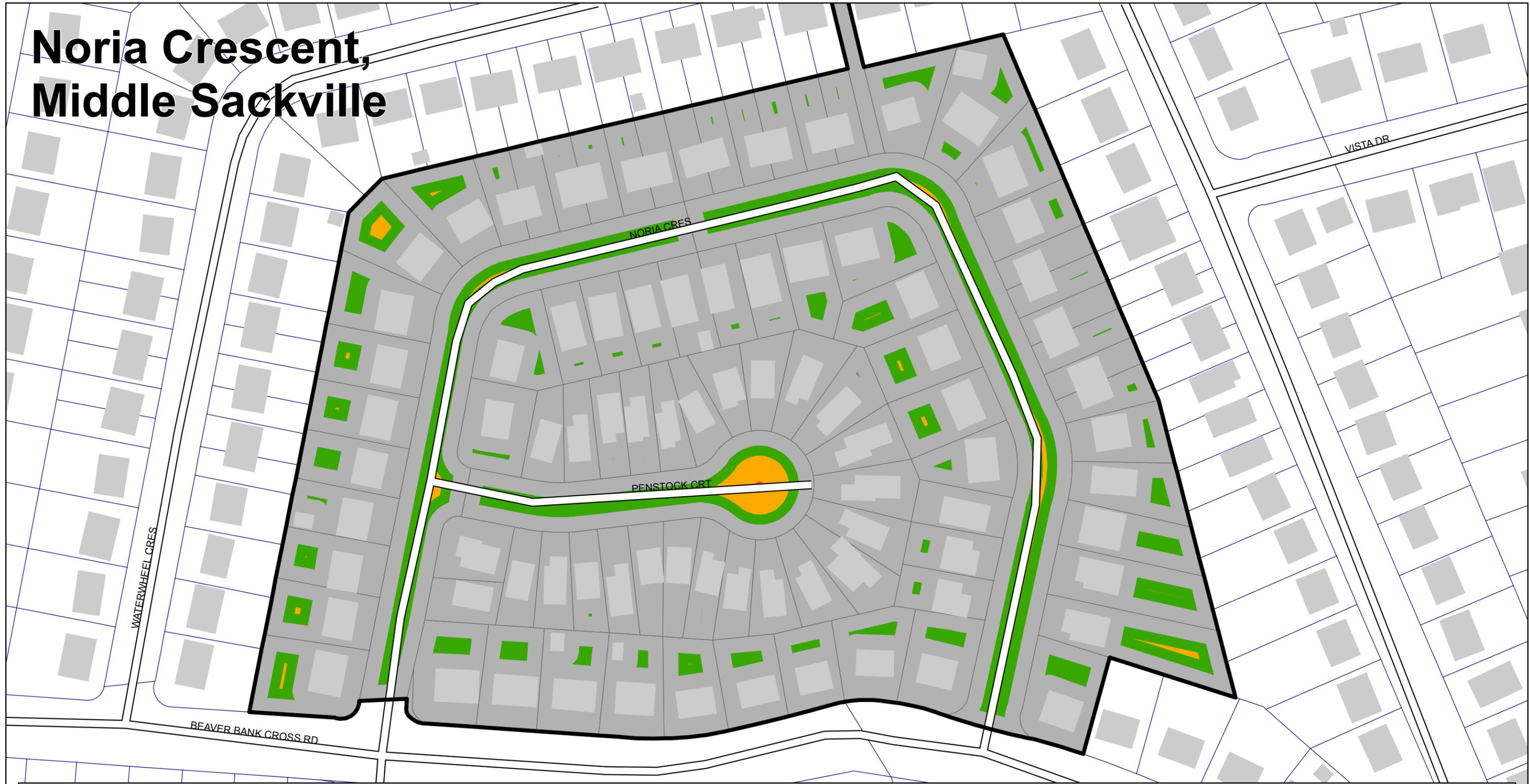
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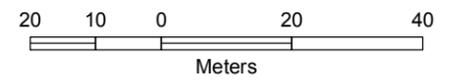
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# Noria Crescent, Middle Sackville



## Burning Setback Distances Halifax Regional Fire & Emergency



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