



**CITY OF KINGSTON**

Ontario

**By-Law Number 2004-52**

**A By-Law To Regulate Noise**

**Passed:** March 2, 2004

**As Amended By By-Law Number:**

<b>By-law Number</b>	<b>Date Passed</b>
By-law Number 2007-51	March 6, 2007
By-law Number 2011-32	March 22, 2011
By-law Number 2017-67	April 4, 2017
By-law Number 2017-68	April 4, 2017
By-law Number 2017-69	April 4, 2017

***(Office Consolidation)***

**City of Kingston By-law Number 2004-52  
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(By-law Number 2004-52; 2007-51; 2011-32)

**City Of Kingston By-Law Number 2004-52  
A By-Law To Regulate Noise**

**Passed:** March 2, 2004

**Whereas** section 129 of the *Municipal Act, 2001* authorizes the council of every local municipality to regulate and prohibit with respect to noise;

**Therefore** the Council of The Corporation of the City of Kingston enacts as follows:

**1. Definitions:**

In this by-law,

**“Agricultural property”** means a property that is zoned for agricultural use in the zoning by-law that applies to the property;

**“Chief Fire Official”** means the assistant to the Fire Marshal who is the Fire Chief of the City of Kingston, or a member or members of Kingston Fire and Rescue appointed by the Fire Chief to be Chief Fire Officials, subject to the limitations and conditions as are set out in the appointment.

**“City”** and **“City of Kingston”** mean The Corporation of the City of Kingston, as incorporated on January 1, 1998, and all of its administrative units;

**“Construction”** includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavation, blasting and detonation of explosive devices other than fireworks, the laying of pipe and conduit whether above or below ground level, street and highway building, concreting, equipment installation and alteration and the structural installation of construction components and materials in any form or for any purpose, and includes any associated or related work;

**“Construction equipment”** means any equipment or device designed and intended for use in construction or material handling, including but not limited to air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers, trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment;

**“Council”** and **“City Council”** mean the Council of the City of Kingston;

**“Downtown Kingston Business Improvement Area”** means the geographical area as defined in Schedule E to this by-law.

**Definitions cont'd**

**“Emergency”** means a situation or an impending situation, often dangerous, caused by the forces of nature, an accident, an intentional act or otherwise, which arises suddenly and calls for prompt action;

**“Emergency vehicle”** includes a land ambulance, an air ambulance, a fire department vehicle, a police vehicle, and a motor vehicle being used to respond to an emergency;

**“Explosives Act”** means the Explosives Act, R.S.C. 1985, c. E-17, as amended, or any successor legislation thereof;

**“Explosives Regulations”** means the Explosives Regulations, 2013, SOR/2013-211, as amended, or any successor legislation thereof;

**“Fireworks”** means, in the context of this by-law, consumer fireworks as classified by the Chief Inspector of Explosives in accordance with the Explosives Act and the Explosives Regulations. It also means display fireworks and special effect pyrotechnics, as classified by the Chief Inspector of Explosives in accordance with the Explosives Act and the Explosives Regulations, when the detonation of such has been authorized by the Chief Fire Official;

**“Licensing and Enforcement Division”** means the administrative unit of the Planning, Building and Licensing Services Department that is responsible for enforcing the general by-laws of the City or, in the event of organizational changes, another administrative unit designated by Council to carry out this responsibility;

**“Manager of Licensing and Enforcement”** means the Manager of the Licensing and Enforcement Division, of the Planning, Building and Licensing Services Department, his or her designate or, in the event of organizational changes, another employee designated by City Council.

**“Motor vehicle”** includes an automobile, bus, truck, motorcycle, motor assisted bicycle and any other vehicle propelled or driven other than by muscular power, but does not include a motorized snow vehicle, traction engine, farm tractor, other farm vehicle or road-building machine;

**“Municipal service vehicle”** means a vehicle operated by or on behalf of the City or a local board of the City while the vehicle is being used for the construction, repair or maintenance of a highway, including the clearing and removal of snow, the construction, repair or maintenance of a utility, the collection or transportation of waste, or other municipal purpose;

**Definitions cont'd**

**“Noise”** means sound that is unusual or excessive, or that is unwanted by or disturbing to persons;

**“Other areas”** means the lands designated in Schedule D as “other areas”;

**“Person”** includes a corporation as well as an individual, and shall include the owner of a property;

**“Premises”** means a piece of land and any buildings and structures on it, and includes a place of business, a public highway, private road, lane, pathway and sidewalk, and any other location or place;

**“Residence”** means a room, suite of rooms, or dwelling, including a mobile trailer, operated as a housekeeping unit that is used or intended to be used as a separate domicile by one or more persons, and that normally contains cooking, eating, living, sleeping and sanitary facilities;

**“Residential areas”** means all lands within the geographic boundaries of the City except for those lands designated in Schedule D as “other areas”;

**“Sports field”** means any area, not on property with a residential use, or vacant and eligible for a residential use, as defined in the City’s zoning by-laws, whether or not delineated by lines, that is designated as a playing surface, and includes any adjacent seating area or stands;

**“Statutory holiday”** includes Boxing Day and any day within the definition of "holiday" in the Retail Business Holidays Act R.S.O. 1990, Ch. R.30, as amended, or any successor thereof;

**“Utility”** means a system that is used to provide a utility service to the public, including water, sewage, electricity, gas, communications networks and cable services;

**“Utility service vehicle”** means a vehicle operated by or on behalf of Utilities Kingston, its subsidiary companies, and by any other company or agency that supplies or manages a utility within the City while the vehicle is being used for the construction, repair or maintenance of that utility;

**“Vehicle”** includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine and other vehicle propelled or driven other than by muscular power; and

**“Zoning by-law”** means a by-law passed under section 34 of the Planning Act that restricts the use of land.

**2. Application:**

- 2.1 The general prohibitions on activities described in Schedule A apply to the lands within the residential areas and other areas of the City designated in Schedule D at all times.
- 2.2 The prohibitions on activities by time and place described in Schedule B apply to the lands within the residential areas and other areas of the City designated in Schedule D during the days and between the hours specified in Schedule B.

**3. Administration:**

- 3.1 The Licensing and Enforcement Division is responsible for the administration of this by-law.
- 3.2 All Provincial Offences Officers with authority to enforce the by-laws of the City are responsible for enforcing the provisions of this by-law.
- 3.3 Any person may submit an application to the Licensing and Enforcement Division requesting an exemption from any of the prohibitions described in Schedules A and B.
- 3.4 Council approved exemptions will be in effect for the dates specified, and Council may impose any conditions that it considers appropriate.
- 3.5 A Council approved exemption shall be invalid if these conditions are contravened.
- 3.6 Notwithstanding sections 3.3 and 3.4, the Manager of Licensing and Enforcement, or his or her designate, has delegated authority to approve an application for exemption from the noise prohibitions listed in section 1 and section 3 of Schedule B of this by-law to permit the pouring, saw-cutting and finishing of concrete, between 1900 hours and 2300 hours, one day per week, excluding Sundays and Statutory Holidays.
- 3.7 Notwithstanding sections 3.3 and 3.4, the Manager of Licensing and Enforcement, or his or her designate, has delegated authority to approve an application for exemption from the noise prohibitions listed in section 1 and section 3 of Schedule B of this by-law to permit construction activity and the operation of construction equipment in connection with construction between 1900 hours and 2100 hours, one day per week, excluding Saturdays, Sundays and Statutory Holidays.

**Administration: cont'd**

- 3.8 Exemptions approved by the Manager of Licensing and Enforcement shall be in effect for the dates specified, and the Manager of Licensing and Enforcement may impose any conditions that he or she considers appropriate.
- 3.9 An exemption approved by the Manager of Licensing and Enforcement shall be invalid if these conditions are contravened.  
(By-law Number 2004-52; 2017-68)

**4. Regulations:**

- 4.1 No person shall, at any time, make, cause or permit the making of noise within the City that is the result of any of the activities described in Schedule A and that is audible to:
  - (1) a person in a premises or a vehicle other than the premises or vehicle from which the noise is originating; or
  - (2) a person in a residence other than the residence from which the noise is originating.
- 4.2 No person shall, during the days and between the hours specified in Schedule B, make, cause or permit the making of noise within the residential areas and other areas designated in Schedule D that is the result of any of the activities described in Schedule B and that is audible to:
  - (1) a person in a premises or a vehicle other than the premises or vehicle from which the noise is originating; or
  - (2) a person in a residence other than the residence from which the noise is originating.
- 4.3 No person shall obstruct or hinder or attempt to obstruct or hinder a Provincial Offences Officer or other authorized employee or agent of the City in the exercise of a power or the performance of a duty under this by-law.

(By-law Number 2004-52; 2017-68)

**5. Exemptions:**

- 5.1 The prohibitions described in Schedules A and B do not apply if the noise is the result of measures undertaken in an emergency for the:
  - (1) immediate health, safety or welfare of the inhabitants; or
  - (2) preservation or restoration of property;unless the noise is clearly of a longer duration or of a more disturbing nature than is reasonably necessary to deal with the emergency.

- 5.2 The prohibitions described in Schedules A and B do not apply if the noise is the result of any of the activities described in Schedule C.
- 5.3 The prohibitions described in Schedules A and B do not apply if the noise is the result of an activity that has been granted an exemption under section 3.4, 3.6, or 3.7.

(By-law Number 2004-52; 2017-68)

**Resolution** Council approved the following resolution at their regular meeting held on April 3, 2007:

***That Hotel Dieu Hospital and T.A. Andre & Sons (Ontario) Limited*** be granted an exemption from the normal 19:00 (7:00 p.m.) to 07:00 (7:00 a.m.) restriction under the City of Kingston Noise Control By-Law 2004-52 Schedule "B", in order to permit noise until 24:00 (12:00 midnight) to permit ramp heating replacement at the Hotel Dieu Hospital, Brock Street ramp entrance commencing on Wednesday, April 4, 2007 and continuing six days a week from Monday to Saturday excluding Statutory Holidays until Friday, May 4, 2007.

***Also council approved the following resolution*** earlier this year: That By-Law 2004-52, "A By-Law To Regulate Noise", be amended by deleting Activity #2 of Schedule "B" "Operation of construction equipment for the removal of snow" and Prohibited Times in Residential and Other Areas and That Schedule "B", Activity 2 be amended to read "RESERVED"

**6. Schedules:**

The following schedules are attached to and form part of this by-law:

- Schedule A - General Noise Prohibitions;
- Schedule B - Noise Prohibitions by Time and Place;
- Schedule C - Exemptions from the Noise Prohibitions; and
- Schedule D - Designated Residential Areas and Other Areas
- Schedule E- Downtown Kingston Business Improvement Area

(By-law Number 2004-52; 2011-32; 2017-68)



**7. Offence And Penalty Provisions:**

- 7.1 Every person, other than a corporation, who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and \$25,000 for any subsequent offence, as provided for in subsection 429 (2) (c) of the Municipal Act, 2001, as amended from time to time
- 7.2 Every corporation that contravenes any provision of this By-Law and every officer or director of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 for a first offence and \$100,000 for any subsequent offence, as provided for in subsections 425(3) and 429(2) (a) of the Municipal Act, 2001, as amended from time to time.
- 7.3 If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

(By-law Number 2004-52; 2017-68)

**8. Validity:**

- 8.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this by-law that each and every provision of this by-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

(By-law Number 2004-52)

**9. Commencement:**

- 9.1 This by-law comes into effect three months after the day that it receives third reading and is passed.

(By-law Number 2004-52)

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## Schedule A

### General Noise Prohibitions

1. Operation of a motor vehicle or motorized snow vehicle in a race.
2. Operation of a motor vehicle in such a way that the tires squeal.
3. Operation of a combustion engine or pneumatic device without an effective exhaust muffling device that is in good working order and in constant operation.
4. Operation of any item of construction equipment without an effective exhaust muffling device that is in good working order and in constant operation.
5. Operation of a vehicle in a manner that results in banging, clanking, squealing or similar sounds because of inadequate maintenance or an improperly secured load.
6. Operation of the horn of a vehicle or other warning device except where required or authorized, or in accordance with good safety practice.
7. Operation of any outdoor auditory signaling device, including but not limited to outdoor paging systems, the ringing of bells or gongs, the use of sirens or chimes, or the sounding of whistles for any purpose other than to control organized sporting activities at a sports field, or the production, reproduction or amplification of any similar sounds by electronic means except where required or authorized by law or in accordance with good safety practice.
8. Persistent barking, calling or whining or other similar persistent noise-making by animals and birds kept as household pets.
9. Selling or advertising by shouting, yelling or amplified sound.

(By-law Number 2004-52; 2017-68)

**Schedule B**  
**Noise Prohibitions By Time And Place**

Activity	Prohibited Times	
	Residential Areas	Other Areas
1. Operation of construction equipment in connection with construction.	C and F	C and F
2. Playing of musical instruments, including percussion instruments	D	E
3. Erection, alteration, repair, dismantling, or any activity related to construction.	C and F	C and F
4. Operation of any device or group of connected devices intended for the production, reproduction, or amplification of voices or sound, except for the playing of the national anthem and for intermittent game related announcements during organized sporting activities at a sports field, on the condition that the volume does not exceed the minimum level required to be clearly audible to persons at a sports field.	A	E
5. Operation of a combustion engine that (i) is, or (ii) is used in, or (iii) is intended for use in a toy or a model or replica of a larger device, which is not a conveyance and which has no purpose other than amusement.	C	E
6. Venting, release or pressure relief of air, steam or other gaseous material, product or compound from any autoclave, boiler, pressure vessel, pipe, valve, machine, device or system.	E	E
7. Operation of a solid waste bulk lift or refuse compacting equipment, except within the geographical boundaries of the Downtown Kingston Business Improvement Area.	C	D

8.	Operation of commercial car wash equipment.	E	E
9.	Operation of any powered rail car including but not limited to locomotives and refrigeration cars while stationary on property not owned or controlled by a railway company governed by the Railway Safety Act (Canada).	C	D
10.	Operation of any motorized conveyance other than on a highway or other place intended for its operation.	C	D
11.	Outdoor operation of any powered or non-powered tool for domestic purposes other than snow removal.	D	E
12.	Loading, unloading, delivering, packing, unpacking or otherwise handling any containers, products, other materials or refuse, unless necessary for the maintenance of essential services or the moving of private household effects.	C and F	F
13.	Operation of a pit or quarry.	C and F	C and F
14.	Take-off or landing of a power-assisted hang glider, parafoil, or aircraft of any type.	A	C
15.	Yelling, shouting, hooting, whistling or singing, except during organized sporting activities at a sports field.	D	E
16.	Yelling, shouting, hooting, whistling or singing during organized sporting activities at a sports field.	H	I
17.	Amplification of voices or sound for the playing of the national anthem and for intermittent game related announcements during organized sporting activities at a sports field.	G	I

18. Whistles when used to control organized sporting activities at a sports field.	G	G
19. Collecting waste and refuse, including operation of a solid waste bulk lift or refuse compacting equipment within the geographical boundaries of the Downtown Kingston Business Improvement Area.	N/A	J
20. Setting off of fireworks.	K	K

(By-law Number 2004-52; 2017-68; 2017-69)

### Prohibited Times

- A. At any time
- B. 1700 hours (5:00pm) of one day to 0700 hours of the next day (0900 Sundays)
- C. 1900 hours (7:00pm) of one day to 0700 hours of the next day (0900 Sundays)
- D. 2100 hours (9:00pm) of one day to 0700 hours of the next day (0900 Sundays)
- E. 2300 hours (11:00pm) of one day to 0700 hours of the next day (0900 Sundays)
- F. All day Sundays and Statutory Holidays
- G. 2230 hours (10:30 pm) of one day to 0800 hours of the next day
- H. 2230 hours (10:30 pm) of one day to 0700 hours of the next day (0800 Sundays)
- I. 2300 hours (11:00 pm) of one day to 0700 hours of the next day (0800 Sundays)
- J. 2100 hours (9:00pm) of one day to 0600 hours of the next day
- K. At any time except:
  - a) between dusk and 2300 hours (11:00 pm) on Victoria Day;
  - b) between dusk and 2300 hours (11:00 pm) on the day immediately preceding Victoria Day;
  - c) between dusk and 2300 hours (11:00 pm) on Canada Day;
  - d) between dusk and 2300 hours (11:00 pm) on the day immediately preceding Canada Day;
  - e) between dusk on New Year's Eve and 0030 hours (12:30 am) on New Year's Day; or,
  - f) when authorized by the Chief Fire Official.

(By-law Number 2004-52; 2017-68)

## Schedule C

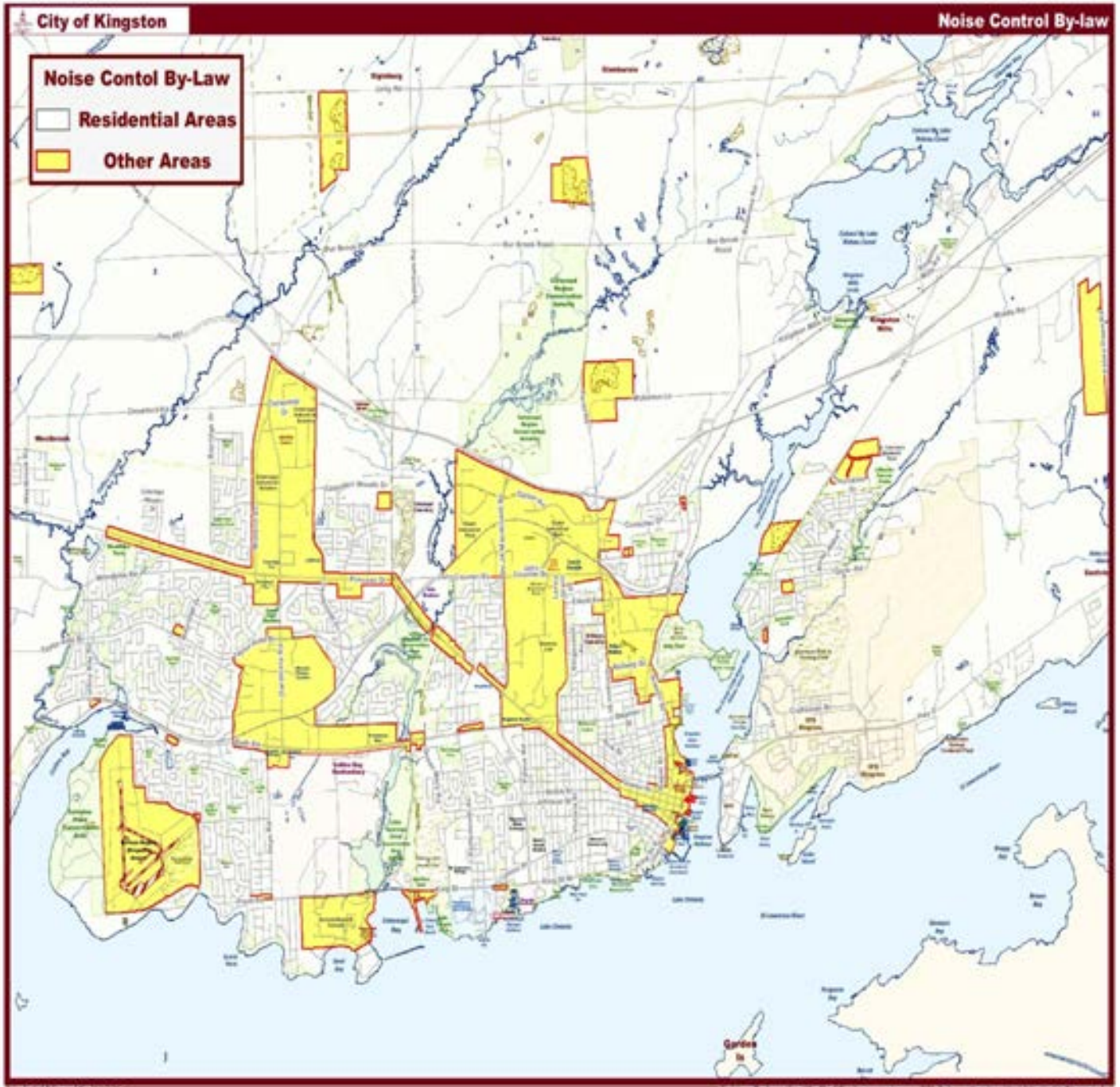
### Exemptions From The Noise Prohibitions

1. Operation of emergency vehicles.
2. Operation of municipal service vehicles and related equipment.
3. Operation of utility service vehicles and related equipment.
4. Midways that have been authorized by the City.
5. Circuses that have been authorized by the City.
6. Races, parades, processions, and events for ceremonial, religious or traditional purposes that have been authorized by the City.
7. Operation of bells, chimes, carillons and clocks in places of worship and public buildings.
8. Cultural, recreational, educational and political events in parks and other public places that have been authorized by the City.
9. Neighbourhood events on municipal highways and other municipal property that have been authorized by the City.
10. Aviation activities at Norman Rogers Airport.
11. Agricultural activities on agricultural properties.

(By-law Number 2004-52; 2017-68)

Schedule D

Designated Residential Areas and Other Areas

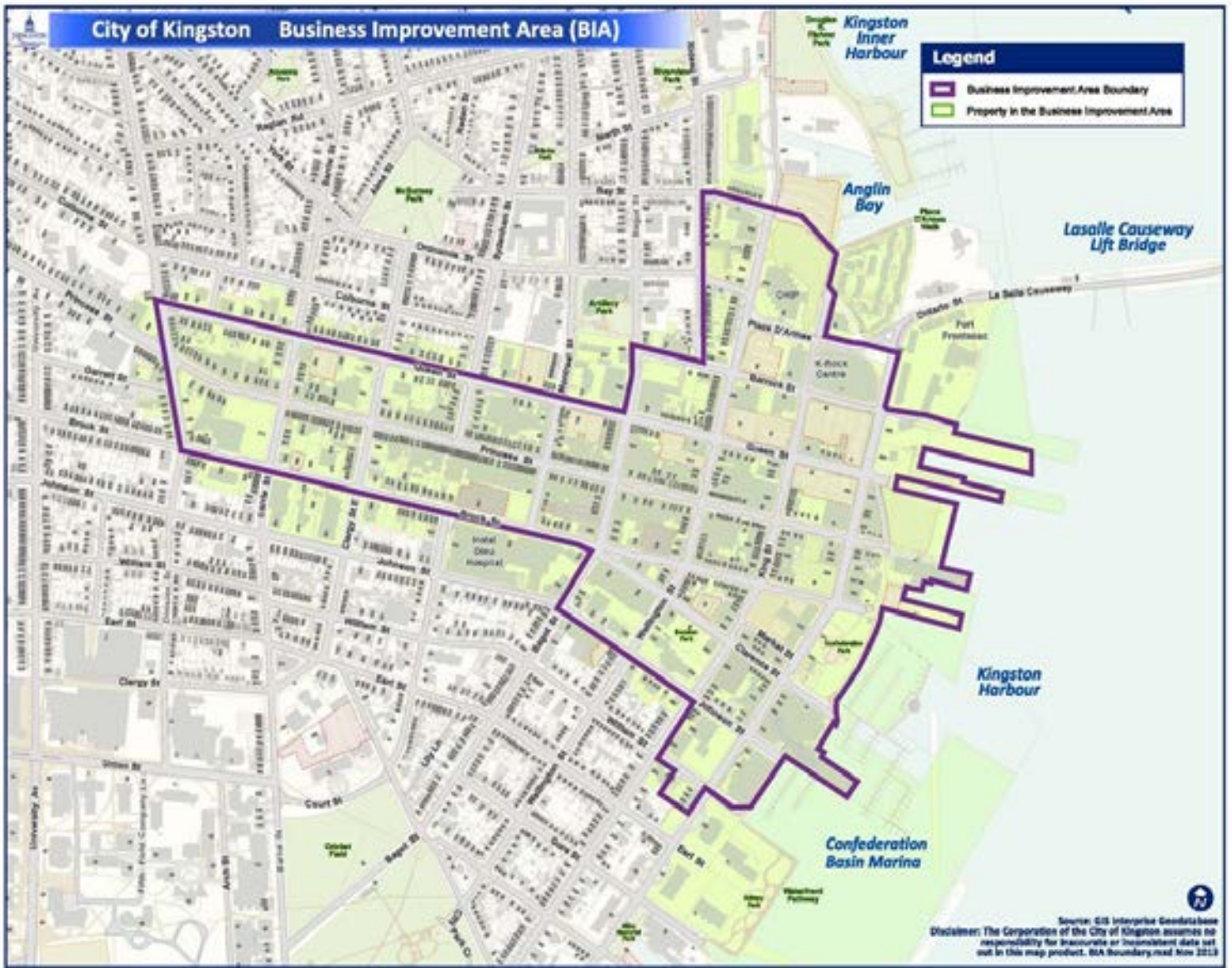


(By-law Number 2004-52; 2011-32; 2017-68; 2017-67)

**Note: 11x18 Schedule D is attached to the PDF formatted By-law.**

Schedule E

Downtown Kingston Business Improvement Area



(By-law 2004-52; 2017-68)