



THE CORPORATION OF THE TOWN OF GODERICH

BY-LAW NO. 112 OF 2007

BEING A BY-LAW TO REGULATE THE SETTING OF OPEN FIRES AND TO REPEAL BY-LAW 30 OF 1975

WHEREAS the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4, as amended (the “FPPA”) provides that a council of a municipality may pass by-laws regulating fire prevention, the prevention of the spreading of fires, and regulating the setting of open air fires, including establishing the times during which Open Air Fires may be set;

AND WHEREAS the Council of The Corporation of the Town of Goderich (“Council”) deems it expedient to regulate the setting of open fires, including establishing the times during which open air fires may be set;

AND WHEREAS Council is empowered under Section 128 of the Municipal Act, 2001, S.O. 2001, c.25, as amended to pass by-laws to prohibit and regulate public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisance;

AND WHEREAS Council considers excessive smoke, smell, airborne sparks with ember to be or could become or cause public nuisance by creating negative health effects on neighbouring residents, increasing fire exposure hazards, infringing the use and enjoyment of neighbouring properties;

AND WHEREAS the Town has a Town-wide yard waste collection program in which yard waste is collected and composted, which program decreases the need to burn yard waste;

NOW THEREFORE BE IT ENACTED as a By-law of The Corporation of the Town of Goderich as follows:

1.0 DEFINITIONS

1.1 For the purpose of this By-law:

“Barbeque” means a manufactured device or structure with a grill which is designed, intended and used solely for the purpose of cooking food outdoors, and includes a hibachi, but does not include devices or structures designed for personal warmth, fire pits, or Outdoor Fire Containers;

“Camp Site” means a site designated for camping purposes;

“Cooking Fire” means an Open Air Fire used for the purpose of cooking food;

“Fire Chief” means the person appointed by Town Council to act as Fire Chief for the Town as defined in the *Fire Protection and Prevention Act, 1997* or designate. For the purpose of this by-law it may also refer to the Town administrator or by-law enforcement officer;

“Flood Plain” means level land that may be submerged by flood waters;

“Noxious Materials” includes tires, plastics, rubber products, drywall, demolition waste, construction waste, paint, animal organic waste, vegetable waste, food waste, biomedical waste, tar, asphalt products, battery boxes, pressure-treated wood, creosote-treated wood, and painted wood;

“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;

“Officer” means the Fire Chief, Town of Goderich by-law enforcement officers, and Police officers;

“Open Air Burning” means a fire set outside of a building;

“Outdoor Fire Container” means a non-combustible container used to hold a small fire, and includes, but is not limited to, chimineas, metal tubs, fire pits, and outdoor brick fireplaces;

“Owner” means any person, firm or corporation having control over any portion of the building or property under consideration and includes the persons in the building or property;

“Permit” means a permit issued by the Fire Chief to set a fire in the Open Air for a specified time period;

“Permit Holder” means a person to whom a Permit has been issued by the Fire Chief;

“Person” means an individual or a corporation;

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

“Strike” means a strike as defined in the *Labour Relations Act, 1995*, S.O. 1995, c.1, Schedule. A;

“Town” means The Corporation of the Town of Goderich;

“Wind Speed” means the wind speed for London as reported on the Environment Canada Website;

“Yard Waste” includes but is not limited to leaves, brush, grass and vegetation clippings, wood chips, peat moss and other material which contents include the aforementioned.

2.0 GENERAL

- 2.1 No person shall set, maintain, or permit to be set or maintained, an Open Air Burning except as authorized under this By-law.
- 2.2 This By-law shall not apply to:
- (a) a person using a Barbeque to cook food;
 - (b) a person using a fire in a device installed outside of a building that is used as a source of heat or power for the building or that is ancillary to a manufacturing process, and provided that such device is certified for the purpose by a recognized agency;
 - (c) a person using a device designed to heat pitch or asphalt;
 - (d) a person using welding equipment;
 - (e) a person setting or maintaining a fire at a Strike site in a metal 45 gallon drum;

3.0 WHEN OPEN AIR BURNING ALLOWED

3.1 Open Air Burning Allowed - Outdoor Fire Container

- (1) A person may conduct an Open Air Burning in an Outdoor Fire Container, subject to the conditions set out in this Part.
- (2) A person conducting an Open Air Burning shall comply with the following conditions for an Open Air Burning in an Outdoor Fire Container:
 - (a) shall only conduct the Open Air Burning between 4:00 p.m. and 11:00 p.m.;
 - (b) shall only use an Outdoor Fire Container that is constructed from noncombustible material;
 - (c) shall not burn or attempt to burn a volume of combustible material greater than 46 centimetres wide by 46 centimetres long by 30 centimetres high;
 - (d) shall contain the fire within the Outdoor Fire Container at all times;
 - (e) shall locate the Outdoor Fire Container at least 5 metres from any building, structure, property line, tree, hedge, fence, roadway, or other combustible article; and
 - (f) shall locate the Outdoor Fire Container on a non-combustible surface extending beyond the unit to a dimension equal to the height of the Outdoor Fire Container;
 - (g) shall locate the Outdoor Fire Container at least 5 metres measured from the vertical plane from any overhead wire.

3.2 Open Air Burning Allowed - Cooking Fires

- (1) A person may conduct an Open Air Burning for a Cooking Fire, subject to the conditions set out in this Part and in Subsection 3.1(2), save and except Subsection 3.1(2)(a).
- (2) A person conducting an Open Air Burning shall comply with the following condition for a Cooking Fire, shall only conduct the Open Air Burning between 11:00 a.m. and 11:00 p.m..

3.3 Open Air Burning Allowed - With a Permit (Fires Greater than 46cm x 46cm x 30cm)

- (1) A person may conduct an Open Air Burning if the person has been issued a Permit, and if the person complies with all of the conditions set out in this Part.
- (2) Every Permit is subject to the conditions in this Part of obtaining and continuing to hold a Permit, all of which shall be performed and observed by the applicant or the holder of the Permit:
 - (a) the applicant shall pay the Application Fee and, if the application is approved, a Permit Fee as set out in the applicable Fees and Charges By-law;

- (b) the Permit Holder shall produce the Permit on demand to an Officer conducting an inspection of the Open Air Burning;
 - (c) shall only conduct the Open Air Burning between 6:00 a.m. and 8:00 p.m.;
 - (d) shall only use a non-combustible container, and shall contain the fire within it at all times;
 - (e) shall not have a fire larger than 1 metre in length, by 1 metre in width, by 1 metre in height;
 - (f) shall locate the Open Air Burning at least 50 metres away from any building, structure, property line, tree, hedge, fence, roadway, overhead wire or other combustible article;
 - (g) shall locate the Open Air Burning at least 5 metres from any combustible ground cover;
 - (h) any additional requirements or exemptions the Fire Chief considers necessary in the interest of public safety, or to minimize inconvenience to the general public, or advisable in the circumstances, or to give effect to the objects of this by-law; and
 - (i) the Permit Holder shall indemnify and save harmless The Corporation of the Town of Goderich and its employees from any and all claims, demands, causes of action, costs or damages that the Town may suffer, incur or be liable for resulting from the Open Air Burning as set out in this by-law, whether with or without negligence on the part of the Permit Holder, the Permit Holder's employees, directors, contractors and agents.
- (3) An application for a permit must be completed on the forms provided by the Town.
- (4) A Permit shall only be valid for the date indicated on the Permit, or 7 days after the Permit has been issued, whichever is shorter.
- (5) The Fire Chief may refuse to issue a Permit:
- (a) if the proposed Open Air Burning would contravene this by-law; or
 - (b) if the Owner or Permit Holder has previously contravened any Permit conditions or other provisions of this by-law, an Order under this by-law.

3.4 Conditions of All Open Air Burning (Under this Part)

- (1) Every person setting, permitting to be set, maintaining, or permitting to be maintained, an Open Air Burning authorized under this Part shall comply with the following conditions:
- (a) shall allow, at any reasonable time, an Officer to inspect the location or proposed location of the Open Air Burning;
 - (b) shall have legal title to the property at which the Open Air Burning is to occur, or the person, or Permit Holder, as the case may be, shall obtain the prior written consent of the person having legal title to the property;
 - (c) shall only burn commercially produced charcoal, briquettes, or clean, dry, seasoned wood;
 - (d) shall not burn Noxious Materials;
 - (e) shall have an effective extinguishing agent of sufficient size and with the capability of extinguishing the Open Air Burning immediately available for use;
 - (f) shall attend, control and supervise the Open Air Burning at all times;
 - (g) shall completely extinguish the Open Air Burning before the site is vacated;
 - (h) shall ensure the Wind Speed does not exceed 15 km per hour during the Open Air Burning;
 - (i) shall not burn if it is rainy or foggy;
 - (j) shall not burn if a Smog Alert has been declared;
 - (k) shall comply with the provisions of the *Environmental Protection Act*, R.S.O. 1990, c.E.19, as amended;
 - (l) shall protect adjacent properties from the potential spread of fire; and
 - (m) shall ensure the Open Air Burning does not create a Nuisance; this includes not allowing smoke to enter into neighbouring buildings

- (n) shall not burn on the beach, Town property or flood plain;
 - (o) no person shall make or light any fire or light, set off or throw any firecracker, squib, serpent, or other noisy, offensive or dangerous substance or firework in any street.
- (2) The owner or occupant of the property wherein a the Open Air Burning if occurring must give access to the property by the Officer at all times during the Open Air Burning

4.0 BURN BAN

- 4.1 Notwithstanding the provisions of this By-law, the Fire Chief may institute a burn ban at any time, as may be deemed necessary in the opinion of the Fire Chief and it is in the interests of public safety. No person, organization, partnership, company or group shall be entitled to a burn permit during a burn ban.
- 4.2 No person shall open air burn or allow open air burning at any time during a burn ban.

5.0 EXEMPTIONS

- 5.1 No permit shall be required for a barbeque; or outdoor fire container.
- 5.2 The Goderich Fire Department shall be exempt from the provisions of this By-law for the purposes of educating and training individuals.
- 5.3 The Corporation of the Town of Goderich

6.0 USER FEES

- 6.1 In addition to the burn permit fee(s) required under this By-law, the Fire Chief may charge user fees for the attendance of the Fire Chief at any location to control, extinguish or regulate open air burning or recreational fires in accordance with this By-law, said user fees as set by the Town's User Fee By-laws.
- 6.2 In the event that payment is not received by the Town within 90 days, the outstanding balance may be collected and recovered in the same manner and in the same priority as municipal taxes.

7.0 SCOPE

- 7.1 This By-law shall apply to all land within the geographic limits of the Town of Goderich.

8.0 SEVERABILITY

- 8.1 Should any section of this By-law be declared by a court of competent jurisdiction to be ultra vires or illegal for any reason, the remaining parts shall nevertheless remain valid and binding, and shall be read as if the offending section or part had been struck out.

9.0 OFFENCES

- 9.1 Any person who contravenes any provision of this By-law is guilty of an offence and liable on conviction to a penalty not exceeding \$5,000 exclusive of costs and the provisions of the Provincial Offences Act, R.S.O. 1990, c.P.33 as amended, shall apply to the said fine.
- 9.2 In the event of a contravention of any of the provisions of this By-law, the Town, in addition to any other remedies contained herein may enter upon the lands and do such work as is necessary to rectify the breach and all expenses thereof which

shall be recoverable from the owner(s) in the same manner and in the same priority as municipal taxes.

- 9.3 A burn permit issued under this By-law may be revoked by the Fire Chief if the permit holder fails to comply with the requirements of the permit and/or any of the provisions of this By-law.

10.0 ADMINISTRATION AND ENFORCEMENT

- 10.1 Town administration is responsible for the administration of this By-law.
- 10.2 Any Police Officer or Municipal Law Enforcement Officer of the Town designated by Council for the purpose of this Section is authorized to enforce this By-law.

11.0 REPEAL

- 11.1 Upon the passage of this By-law, By-law 30-1975 and all amendments thereto, shall be repealed.
- 11.2 Any existing investigation, legal proceeding or remedy under By-law 30-1975 shall be continued as if By-law 30-1975 had not been repealed.

12.0 ENACTMENT

- 12.1 This By-law shall come into force and effect immediately upon the passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 29th DAY OF OCTOBER, 2007.

MAYOR, Deb Shewfelt

CLERK, Larry J. McCabe