



THE CORPORATION OF THE TOWN OF GODERICH

BY-LAW NO. 124 OF 2016

BEING A BY-LAW TO REGULATE THE SETTING OF OPEN FIRES AND TO REPEAL BY-LAW 112 OF 2007

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, c. 25, s. 128 (1), as amended, permits a local municipality to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances.

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;

AND WHEREAS Council deems it necessary to create set fines at \$125.00;

AND WHEREAS for the purpose of proceedings under Part I of the Provincial Offences Act, the amount of fine set by the court for an offence is such amount as may be set by the Chief Judge of the Ontario Court (Provincial Division);

AND WHEREAS a copy of the Judge’s approved set fine schedule will be attached to this By-Law;

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 and fire pits.

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

“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, not limited to, 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 municipal law enforcement officers, and Police officers;

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

“Owner/Occupant” 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;

“Recreational Fire” means an Open Air Fire used for the purpose of cooking food and/or personal warmth, including, but not limited to, small fire pits, campfires, chimineas and outdoor brick fireplaces;

“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 Goderich 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 requiring solid fuels 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;
 - (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 – Recreational Fires

- (1) A person may conduct an Open Air Burning for a Recreational Fire, 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 for a Recreational Fire:
 - (a) shall only conduct the Open Air Burning from 11:00 a.m. to 11:00 p.m.;
 - (b) shall contain fire in structure that is constructed from noncombustible material, including, but not limited to, fire pit, chimineas and outdoor brick fireplaces;
 - (c) shall contain fire within structure of non-combustible material at all times;
 - (d) shall not burn or attempt to burn in a metal drum or burn barrel;
 - (e) 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;
 - (f) shall locate the Recreational Fire at least 5 metres from any building, structure, property line, tree, hedge, fence, roadway, or other combustible article; and
 - (g) shall locate the Recreational Fire on a non-combustible surface extending beyond the unit to a dimension equal to the height of the small structure containing the fire;
 - (h) shall locate the Recreational Fire at least 5 metres measured from the vertical plane from any overhead wire.
- (3) A person may conduct an Open Air Burning for a Recreational Fire, subject to the conditions set out in Part 3 Subsection 3.3.

3.2 Open Air Burning Allowed - With a Permit issued by Town's Fire Chief (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 Permit Holder shall produce the Permit on demand to an Officer conducting an inspection of the Open Air Burning;
 - (b) shall only conduct the Open Air Burning during daylight hours;
 - (c) appropriate size of fire will be determined by Fire Chief and the Permit Holder shall not have a fire larger than permitted;
 - (d) 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;

- (e) shall locate the Open Air Burning at least 5 metres from any combustible ground cover;
 - (f) 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
 - (g) 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) On the day of the Open Air Burning, the Permit Holder shall notify the Fire Chief.
 - (5) 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.
 - (6) 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.
 - (7) A person may conduct an Open Air Burning with a Permit, subject to the conditions set out in Part 3 Subsection 3.3.

3.3 Conditions of All Open Air Burning

- (1) Every person setting, permitting to be set, maintaining, or permitting to be maintained, an Open Air Burning authorized under this By-Law 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 infringe the use and enjoyment of neighbouring properties; this includes not allowing smoke to enter into neighbouring buildings
 - (n) shall not burn on the beach, Town property or flood plain;

- (2) The owner or occupant of the property wherein the Open Air Burning is 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 and any burn permits rendered prior to burn ban shall become null and void.

5.0 EXEMPTIONS

- 5.1 The Goderich Fire Department shall be exempt from the provisions of this By-law for the purposes of educating and training individuals.

6.0 SCOPE

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

7.0 SEVERABILITY

- 7.1 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.

8.0 OFFENCES

- 8.1 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.
- 8.2 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.
- 8.3 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.

9.0 ADMINISTRATION AND ENFORCEMENT

- 9.1 The Corporation of the Town of Goderich is responsible for the administration of this By-law.
- 9.2 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.

10.0 REPEAL

- 10.1 Upon the passage of this By-law, By-law 112-2007 and all amendments thereto, shall be repealed.

10.2 Any existing investigation, legal proceeding or remedy under By-law 112-2007 shall be continued as if By-law 112-2007 had not been repealed.

11.0 ENACTMENT

11.1 That the set fines shall be \$125.00.

11.2 That this By-Law shall not come into force and effect until it is filed and approved by the Regional Senior Justice, Ontario Court of Justice.

11.3 That the Mayor and Clerk are hereby authorized to execute and affix the Corporate Seal.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 7th DAY OF NOVEMBER, 2016.

MAYOR, Kevin Morrison

CLERK, Dwayne Evans