

THE CORPORATION OF THE TOWN OF BLIND RIVER

BY-LAW NO. 15-39

BEING A BY-LAW TO CONTROL OPEN AIR BURNING IN THE CORPORATION OF THE TOWN OF BLIND RIVER AND TO REPEAL BY-LAW # 2186

WHEREAS Section 7.1 (1) of the Fire Prevention and Protection Act, S.O. 1997 as amended, provides that the Council may pass By-laws regulating the setting of open air fires, including establishing the times during which open air fires may be set; and

WHEREAS the Fire Prevention and Protection Act, S.O. 1997 provides that the Chief Fire Official is required to approve open air burning and appropriate fire safety provisions; and

WHEREAS Section 130 of the Municipal Act, S.O. 2001, provides that the Council may regulate matters related to the health, safety, and well-being of the inhabitants of the municipality; and

WHEREAS Section 129 of the Municipal Act, S.O. 2001, provides that Council can prohibit and regulate matters that it deems to be a public nuisance; and

WHEREAS Section 391 of the Municipal Act, S.O. 2001, provides that municipalities may pass By-laws imposing fees or changes on any class of persons for services or activities provided or done by or on behalf of it; and

WHEREAS Section 427 of the Municipal Act, S.O. 2001, provides that where a municipal council has the authority to direct or require by By-law or otherwise that any matter or thing be done, the council may by By-law direct that, in default of its being done by the person directed or required to do it, such matter or thing shall be done at the person's expense and the corporation may recover the expense incurred in doing it by action or by adding the costs to the tax roll and collecting them in the same manner as taxes;

NOW THEREFORE the Council of the Corporation of the Town of Blind River **ENACTS AS FOLLOWS:**

1. DEFINITIONS

For the purpose of this By-law the following definitions shall apply:

- 1.1 **"Applicant"** means a person, organization, company or group that makes application to the Fire chief or designate for permission to set or conduct an open air burning.
- 1.2 **"Barbecue"** appliances include a hibachi, a permanent structure designed and intended solely for the cooking of food in the open air and other similar devices

designed and intended solely for the cooking of food in the open air, but does not include devices predominantly designed for personal warmth, fire burn areas or camp fires.

- 1.3 **“By-Law”** means this Open Air Burning By-Law.
- 1.4 **“Chief Fire Official”** means the Fire Chief and/or his or her designate.
- 1.5 **“By-Law Enforcement Officer”** means the Towns Chief By-law Enforcement Officer and/or his or her designate and any other employee of the Town designated by Council to carry out duties specified in this By-Law.
- 1.6 **“Cooking Fire”** means an open air fire used for the purpose of cooking food on a grill but does not include a manufactured barbeque.
- 1.7 **“Controllable Fire”** means a fire is no greater than one (1) cubic metre of material at a time and that may be extinguished by use of on-site resources.
- 1.8 **“Dwelling Unit”** means a building, structure or suite operated or suite operated as a housekeeping unit, used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities.
- 1.9 **“Extinguish”** means to put out or quench a fire completely, no smoke or glowing embers are to remain.
- 1.10 **“Fire Ban”** means a complete ban of all open fires, A Fire Ban is enacted by the Chief Fire Official or Designate within the Town by the authority of the Fire Protection and Prevention Act.
- 1.11 **“Fire Pit”** means a fire burn area specifically designed for open air burning.
- 1.12 **“Fire Department”** means The Blind River Fire Department.
- 1.13 **“Ground Cover”** shall include but not limited to, leaves, grasses, weeds, tree needles, or wood chips on the ground.
- 1.14 **“Gas-fired Outdoor Campfire Devices”** means listed ULC or CSA gas (natural, propane) appliances, which shall not constitute open air fire under this By-law.
- 1.15 **“Nuisance”** means excess smoke, smell, airborne sparks, ash, or embers that are likely to disturb others.

- 1.16 **“Open Air”** includes any open place, yard, field or construction area which is not enclosed by a building or structure.
- 1.17 **“Open Air Burning”** means the burning of any material outside of a building, including without limiting the generality of the foregoing, wood, cardboard, yard waste where the flame is not wholly contained and is, thereby, open to the air.
- 1.18 **“Outdoor Burning Device”** means a manufactured non-combustible to hold a small fire for decorative purpose and the size of which is no larger than 0.3 meters in any direction, and may include chimaneas.
- 1.19 **“Outdoor Cooking Device”** means a cooking appliance fuelled by a commercially produced charcoal or briquette, which includes a barbeque, a hibachi, a structure designed and intended solely for the cooking of food in the open, and other similar commercially-manufactured devices designed and intended solely for the cooking of food in the open air, but does not include devices predominantly designed for personal warmth, fire pits or campfires.
- 1.20 **“Owner”** includes any person, entity, firm or corporation having control over any portion of a building, land or property and includes the person in the building or property.
- 1.21 **“Permit”** means a permit issued under this By-law which authorizes a person to establish an open air fire.
- 1.22 **“Person”** means an individual, business, partnership or a corporation.
- 1.23 **“Town”** means The Corporation of the Town of Blind River.
- 1.24 **“Yard Waste”** includes but is not limited to grass, leaves, trees, brush trimmings, spent flowers, garden plants, weeds, and pine needles.

2. GENERAL PROHIBITIONS

- 2.1 No person shall conduct or engage in open air burning in the Town between the hours of seven o'clock in the morning and seven o'clock in the evening, except as permitted under Parts 3 and 4 of this By-law.
- 2.2 No person shall conduct or engage in open air burning in the Town's designated NO BURNING ZONE (see Schedule “A”)

- 2.3 No person shall conduct or engage in open air burning in the Town at any other time except as permitted under Parts 3, 4, 5 and 6 of this By-law.
- 2.4 Notwithstanding the exceptions set out in Parts 3, 4, 5, and 6 of this By-law, the Chief Fire Official may declare a total ban against open air burning when atmospheric conditions or local circumstances make such fires hazardous. Bans against burning shall be advertised.
- 2.5 No person shall set or maintain a fire when a burning ban or fire ban has been issued by the Chief Fire Official or there designate(s).
- 2.6 No person shall set or maintain a fire when a permit is required unless a permit has been issued by the Chief Fire Official or designate(s) under this by-law.

3. GENERAL EXCEPTIONS

- 3.1 Barbecues used to cook food shall be exempt from this By-law provided the following conditions are followed.
 - a) The barbeque shall be supervised at all times;
 - b) The barbeque shall be placed on non-flammable material; and
 - c) The fuel used is a commercially produced charcoal, briquette, or a flammable liquid commercially produced for the purpose of cooking, such as natural gas and propane gas.
- 3.2 The Fire Department is exempt from the provisions of this By-law with respect to open air burning set or conducted for the purpose of education and training exercises.

4. PERMITS

- 4.1 Notwithstanding any other provisions of this By-law, the Chief Fire Official or designate may issue a fire permit to an applicant and approve any open air burning subject to the fire being adequately supervised, and to any special conditions the Chief Fire Official may direct. Night Time Burning Permits will be issued at the Town of Blind River Office and Daytime Burning Permits or Special Burning Permits will be issued at the Blind River Fire Hall from the Fire Chief or their Designate(s).
- 4.2 An applicant setting, conducting or permitting an outdoor fire authorized by a permit issued under this By-law shall comply with all conditions of such permit and the provisions of this By-law.

- 4.3 A permit is required:
- a) If the pile is greater than two (2) metres in diameter and two (2) metres in height; and
 - b) burning during prohibited times.

4.4 The Chief Fire Official may withdraw permission for and/or stop an open air burning if, in his or her opinion, the fire presents a fire hazard, smoke produced by the fire is causing visibility concerns on roads in the area of the burn, the weather has deteriorated and has become unfavorable for an open air burning, conditions attached to the granting of permission are not adhered to, or if this By-law is being contravened.

4.5 Upon the notification of the withdrawal of permission by the Chief Fire Official or designate, the applicant or the owner shall immediately extinguish the fire. If the applicant or owner fails to immediately extinguish the fire upon such notification, the Chief Fire Official or designate may take action to have the fire extinguished, and the applicant and/or owner may be held liable for any and all costs incurred by the Fire Department to extinguish the fire. Where applicable, such costs shall be calculated in accordance with the Fees By-law.

5. RECREATIONAL OPEN AIR BURNING (campfires)

5.1 Every person conducting a recreational open air burning shall confine the fire to either an open air burning device or to a fire pit with a burn area no larger than (2) feet (61cm) by (2) feet (61cm) in size.

5.2 Every person conducting a recreational open air burning shall take all reasonable steps to ensure that adjacent properties and individuals are protected from any fire hazard and are not adversely affected by the products of combustion.

5.3 No person conducting a recreational open air burning shall burn materials other than commercially produced charcoal, briquettes or clean, dry, seasoned wood, and in particular no painted wood, pressure treated wood or creosote treated wood, or any type of yard waste may be burned.

5.4 No person conducting a recreational open air burning shall burn wood having a dimension greater than the size of the open air burning device or burn pit. All such fires shall be totally confined within the open burning device or fire pit at all times.

- 5.5 Every person conducting a recreational open air burning shall confine the fire to a location that provides for a minimum distance of 3 meters in all directions from adjacent properties.
- 5.6 Every person conducting a recreational open air burning shall confine the fire to a location that provides for a minimum distance of 3 meters from combustible structures or objects.
- 5.7 Every person conducting a recreational open air burning shall have immediately available for use an effective extinguishing agent or device of sufficient size and with the capacity of extinguishing the fire.
- 5.8 Every person conducting a recreational open air burning shall ensure the fire is attended, controlled and supervised at all times by a competent adult and that the fire is completely extinguished before the open air burn site is vacated.
- 5.9 No person shall conduct a recreational open air burning when the wind speed exceeds 30 kilometers per hour, or at time when a smog alert for an area including the Town has been declared by the Ministry of the Environment for Ontario.
- 5.10 Every person conducting a recreational open air burning shall take any other precautions as may be reasonably necessary to prevent the fire from getting beyond control, causing damage, or becoming a danger to life and/or property.
- 5.11 If the Fire Department attends at a recreational open air burning to respond to public safety concerns due to fire hazard, whether in response to a complaint or otherwise, the Chief Fire Official or designate has the discretion to order the fire extinguished and/or brought into compliance with this By-law and this order shall be final. Any person conducting such fire and the owner shall comply with the order of the Chief Fire Official or designate. If the person conducting the fire or the owner fails to comply as directed, the Chief Fire Official or designate may take action to have the fire extinguished or otherwise brought into compliance, and that person and/or the owner may be held liable for any and all costs incurred by the Fire Department to extinguish the fire or bring it into compliance. Where applicable, such costs shall be calculated in accordance with the Fee By-law.
- 5.12 Every owner shall ensure that all recreational open air burning on his or her land complies with sections 5.1 through 5.11 of this By-law.

6. NON-RECREATIONAL OPEN AIR BURNING

- 6.1 No person shall conduct a non-recreational open air burn pile greater than two (2) meters (6.5 ft.) in diameter and two (2) meters (6.5 ft.) in height.
- 6.2 No person shall conduct any non-recreational open air burning in which any kitchen garbage, construction materials or materials made of/or containing rubber, plastic or tar.
- 6.3 Every person conducting a non-recreational open air burning shall burn only clean, dry seasoned wood or yard waste as defined in this By-law.
- 6.4 Every person conducting a non-recreational open air burning shall confine the fire to a location that provides for a minimum distance of four (4) meters from any adjacent dwelling units.
- 6.5 Every person conducting a non-recreational open air burning shall take all reasonable steps to ensure that adjacent properties and individuals are protected from any fire hazard and are not adversely affected by the products of combustion.
- 6.6 Every person conducting a non-recreational open air burning shall ensure the fire is attended, controlled and supervised at all times by a competent adult and that the fire is completely extinguished before the open air burn site is vacated.
- 6.7 Every person conducting a non-recreational open air burning shall have immediately available for use an effective extinguishing agent or device of sufficient size and with the capability of extinguishing the fire.
- 6.8 No person shall conduct a non-recreational open air burning when the wind speeds exceeds 30 kilometers per hour, or at time when a smog alert for an area including the Town has been declared by the Ministry of the Environment for Ontario.
- 6.9 Every person conducting a non-recreational open air burning shall take any other precautions as may be reasonably necessary to prevent the fire from getting beyond control, causing damage, or becoming a danger to life and/or property.
- 6.10 If the Fire Department attends at a non-recreational open air burning to respond to public safety concerns due to fire hazard, whether in response to a complaint or otherwise, the Chief Fire Official or designate has the discretion to order the fire extinguished and/or brought into compliance with this By-law and this order shall be final. Any person conducting such fire and the owner shall comply with the order of the Chief Fire Official or designate. If the person conducting the fire

or owner fails to comply as directed, the Chief Fire Official or designate may take action to have the fire extinguished or otherwise brought into compliance, and that person and/or the owner may be held liable for any and all costs incurred by the Fire Department to extinguish the fire or bring it into compliance. Where applicable, such costs shall be calculated in accordance with the Fee By-law.

- 6.11 Every owner shall ensure that all non-recreational open air burning on their land complies with sections 6.1 through 6.10 of this By-law.

7. RESPONSE TO COMPLAINTS

- 7.1 The Chief Fire Official, designate or the By-law Enforcement Officer may give an owner and or a person conducting an open air burn a verbal notice of remedy and require immediate action or other means of remediation, where in the sole discretion of either there is an immediate risk to public health or safety.
- 7.2 When the Blind River Fire Department is dispatched to a fire hazard created by an open air burning, whether upon a complaint or notification of a prohibited open air burning not authorized under this By-law or otherwise, the Chief Fire Official, designate or By-law Enforcement Officer can order the owner or person conducting the burn to immediately extinguish the fire.
- 7.3 Any owner or person conducting an open air burning shall extinguish the fire when ordered to do so by the Chief Fire Official, designate or By-law Enforcement Officer. If such owner or person fails to immediately extinguish the fire upon such notification, the Chief Fire Official, designate or By-law Enforcement Officer may take action to have the fire extinguished, and the owner and/or the person conducting the fire may be held liable for any and all costs incurred by the Fire Department to extinguish the fire. Where applicable, such costs shall be calculated in accordance with the Fee By-law.

8. RIGHT OF ENTRY

- 8.1 The Chief Fire Official, designate or By-law Enforcement Officer may enter upon lands or into structures at any reasonable time to inspect the land to determine whether an open air burning is being conducted in accordance with this By-law.
- 8.2 The Chief Fire Official, designate or By-law Enforcement Officer may enter upon lands or into structures at any reasonable time to inspect barbecues, fire pits or open air burning devises that are being used or can be used for open air burning to determine whether such things are in compliance with this By-law.

- 8.3 The Chief Fire Official, designate or the By-law Enforcement Officer may enter upon lands or into structures at any reasonable time to direct or require that a matter or thing be done, and in default of that matter or thing being done, to do such matter or thing in accordance with this By-law.
- 8.4 A person exercising a power of entry on behalf of the Town under this By-law may be accompanied by any person under his or her direction.
- 8.5 A person exercising a power of entry on behalf of the Town under this By-law must, on request, display or produce proper identification.

9. REMEDIATION

- 9.1 The Chief Fire Official, designate or By-law Enforcement Officer is authorized to order any person to extinguish any fire or to cause such a fire to be extinguished when there is a breach of any of the provisions of this By-law or where, in his sole discretion, there is a danger of such fire spreading or otherwise endangering life or property and the person shall comply with any such order.
- 9.2 Where an owner is in default of doing any matter or thing directed or required to be under this By-law, The Chief Fire Official or the Municipal By-law Enforcement Officer may direct such matter or thing to be done at the owner's expense.
- 9.3 The Town may recover the remedial action costs incurred under sections 4.5, 5.11, 6.10, 7.3 or 9.2 by action, or by adding them to tax roll and collecting them in the same manner as taxes in accordance with section 446 of the *Municipal Act*.
- 9.4 Prior to recovering remedial costs under section 9.3, the Town may invoice owners requesting voluntary payment of those remedial costs.

10. OFFENCES AND PENALTIES

- 10.1 Every person who contravenes any of the provisions of this By-law is guilty of an offence.
- 10.2 Every person who is convicted of an offence under this By-law shall be subject to a fine of not more than Five Thousand Dollars (\$5000.00) for each offence. Such fines shall be recoverable under the *Provincial Offences Act*, R.S.O.1990, c.P.22, as amended.

- 10.3 The provisions of this By-law may be enforced pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P.33 as amended, and where any provision of this By-law is contravened and a conviction entered, in addition to any other remedy and to any other penalty the person convicted may also be prohibited from continuing or repeating the offence in accordance with the provisions of section 442 of the *Municipal Act*.
- 10.4 Every person who is guilty of an offence under this By-law may, if permitted under the *Provincial Offences Act*, R.S.O, c. P.33, as amended, pay a set fine, and the Chief Judge of the Ontario Court of Justice shall be Requested to establish set fines as set out in the Fees By-law.

11. OBSTRUCTION

- 11.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, an officer exercising a power or performing a duty under this by-law.
- 11.2 Any person who has been alleged to have contravened any of the provisions of this By-law shall identify themselves to the officer upon request, and the failure to do so shall be deemed to constitute an obstruction or hindrance of the officer in the execution of his duties.

12. TOWN NOT LIABLE

- 12.1 The Town assumes no liability for property damage or personal injury resulting from remedial action or remedial work undertaken with respect to any person or property that is subject of this By-law.

13. SEPARATE OFFENCE

- 13.1 For the purpose of this By-law, each day of a continued offence shall be deemed to be a separate offence.

14. ADMINISTRATION

- 14.1 A fire permit may be cancelled or suspended at any time by the Fire Chief or his

designate and immediately upon receiving notice of such cancellation or suspension, the holder of said permit shall extinguish any fire started under permit.

- 14.2 This By-law applies to the entire geographic area of the Town.
- 14.3 This By-law shall come into effect upon the passing thereof.
- 14.4 When this By-law comes into effect, as per Section 7.3, By-law No. 2186 is Hereby repealed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED IN OPEN COUNCIL THIS XX DAY OF XXXXX, 2015.

MAYOR

CLERK

CERTIFICATION BY THE CLERK:

I, K. Scott, Clerk-Administrator of the Corporation of the Town of Blind River, do hereby certify that the above is a true certified copy of By-Law No. 15-39 which was passed in Open Council on the XX Day of XXXXX, 2015.

K SCOTT

SCHEDULE "A"

