

THE CORPORATION OF THE TOWN OF BLIND RIVER
BY-LAW NO. 23-43

Being a By-law to regulate the setting of open air fires and
to prevent the spread of fires in the Town of Blind River

WHEREAS subsection 7.1 (1) of the Fire Prevention and Protection Act, 1997, S.O. 1997, c.4, as amended, provides that a council of a municipality may pass by-laws regulating fire prevention, including the prevention of 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 Ontario Fire Code (Ontario Regulation 388/97), Article 2.6.3.4 provides that open air burning shall not be permitted unless approved, or unless such burning consists of a small, confined fire, supervised at all times, and used to cook food on a grill or a barbeque; and

WHEREAS subsection 7.1 (4) of the Fire Prevention Act, 1997, S.O. 1997, C.4, as amended, provides that a municipality may appoint an officer to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether by-laws enacted in accordance with this section are being complied with; and

WHEREAS the Council of the Corporation of the Town of Blind River deems it necessary and expedient to pass such a by-law;

WHEREAS Ontario Regulation 213/07, as amended, Division B, Part 2, Subsection 2.4.4. Open Flames, Article 2.4.4. (1), Open-Air Burning shall not take place unless:

- 1) It has been approved, or
- 2) The open-air burning consists of a small, confined fire that is
 - i. Used to cook food on a grill, barbeque, or spit,
 - ii. Commensurate with the type and quality of food being cooked, and
 - iii. Supervised at all times.

NOW THEREFORE the Council of the Corporation of the Town of Blind River hereby enacts as follows:

1. TITLE

This By-law shall be cited as the “Open Air Burning By-law” and shall apply to the entire Municipality.

2. **DEFINITIONS**

- a) **By-law** means this Open Air Burning By-law
- b) **Fire Chief** means a fire Chief appointed under subsection 6(1), (2), or (4) of the Fire Protection and Prevention Act.
- c) **Campfire** means a small fire for warmth and/or cooking, while in backwoods camping in a tent or RV or on Crown land, when no other means of cooking or warmth is available.
- d) **Cooking Fire** means an open air fire for the purpose of cooking food on a grill but does not include a manufactured barbeque.
- e) **Enclosed Fire Pit** means a pit dug into the ground or encased in a surrounding structure (as of masonry or steel) in which a fire is kept burning for cooking, warmth, etc. and does not exceed 3 feet in diameter.
- f) **Extinguish** means to put out or quench a fire completely, no smoke or glowing embers are to remain.
- g) **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.
- h) **Ground Cover** shall include but not limited to, leaves, grasses, weeds, tree needles, or woodchips on the ground.
- i) **Gas-fired Outdoor Campfire Devices** means listed ULC or CSA approved gas (natural, propane) appliances, which shall not constitute open-air fire under this By-law.
- j) **Nuisance** means excess smoke, smell, airborne sparks, ash, or embers that are likely to disturb others.
- k) **Officer** means a Municipal Law Enforcement Officer, Police Officer, Chief Fire Official or Designate.
- l) **Open Air** includes any open place, yard, field or construction area which is not enclosed by a building or structure.

- m) **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 campfires.
- n) **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.
- o) **Permit** means a permit issued under this By-law which authorizes a person to establish an open air fire.
- p) **Person** means an individual, business, partnership or a corporation.
- q) **Prohibited Materials** means:
 - i) garbage, trash, and residential, commercial or industrial waste;
 - ii) construction or demolition waste materials including asphalt products, shingles, metals, electrical wiring, and fiberglass;
 - iii) hazardous substances including chemicals, pesticides, flammable liquids, batteries, used oil, paints, solvents, tires, and rubber material;
 - iv) plastic materials including, but not limited to nylon, PVC or ABS plastics, polystyrene, urethane foam, synthetic fabrics, plastic films, and plastic containers;
 - v) furniture, appliances, and upholstered items;
 - vi) treated or painted wood including but not limited to plywood, composite wood products or other wood

products that are painted, varnished or treated with preservatives;

- vii) leaves, unless attached to wood waste, and grass clippings;
- viii) animal fecal deposits, manure, and animal carcasses; and
- ix) paper and cardboard, except for reasonable minimal amounts used solely for the purpose of starting an Open Air Fire.

r) **Town** means the Corporation of the Town of Blind River.

3. GENERAL

- 3.1 No person shall set or maintain a fire in open air unless a permit has been issued by the Fire Chief or designate under this By-law.
- 3.2 No person shall set or permit a fire to burn when the wind speed exceeds twenty-four (24) kilometers per hour.
- 3.3 No person shall set a fire or permit a fire to burn when the Ministry of Environment has issued a "Smog Alert" or Humidex advisory for Town of Blind River.
- 3.4 No person shall set a fire or permit a fire to burn when rain or fog is present.
- 3.5 No person shall set a fire or permit a fire to burn other than between the hours of 1900 (7pm) through 0700 (7am), unless a daytime burning permit has been issued by the Chief Fire Official, Designate or Officer.
- 3.6 No person shall burn any prohibited material, other than clean dry wood which is free and clear from any finishes, preservations or other material that may be affixed to the wood in accordance with the Environmental Protection Act, R.S.O. 1990, c.E.19, as amended.

- 3.7 No person shall set or maintain a fire that is creating a nuisance or has an adverse effect on a neighbouring property(s) or property owners.
- 3.8 No Person shall set or maintain a fire in a manner that creates excessive smoke.
- 3.9 No person shall set or maintain a fire that contains more than 10 cubic feet of material burning at any one time and exceeds 3 feet in diameter.
- 3.10 No person shall set or maintain a fire that is within 10 feet of any structures, hedges, fence, vehicular roadway or overhead wire or obstruction of any kind or nature whatsoever.
- 3.11 No person shall set or maintain a fire without first ensuring a person able to supervise such fire and who is equipped with adequate tools and/ or water to extinguish it promptly in the event of danger of the spread of such fire and is in constant immediate attendance at the specific place where the fire is burning.
- 3.12 No person shall leave a fire unattended without first ensuring such fire is completely extinguished.
- 3.13 No person shall set a fire or permit a fire when a fire ban is in effect.
- 3.14 No Person shall set open air fire in the Central Business District of the Town of Blind River as defined in Schedule "A".
- 3.15 At no point or under any circumstances are Chinese paper lanterns allowed to be lit and released into the air, whether controlled or otherwise.

4. PERMIT NOT REQUIRED

- 4.1 A permit shall not be required for the purpose of actively engaged in cooking food on a grill or a barbecue, gas-fired outdoor campfire devices for which is supervised at all times, shall not be deemed to be an "open air" fire for the purpose of

this By-law. This provision shall be at the discretion of the Chief Fire Official or Officer.

- 4.2 A permit shall not be required for an enclosed fire pit from November 1st of one year to March 31st of the following year from the hours of 07:00 (7am) to 19:00 (7pm) Rules within this by-law shall be adhered to otherwise.

5. POWERS OF ENTRY

- 5.1 An Officer may enter on a property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- a) The provisions of this By-law
- b) A direction or notice issued under this By-law.

- 5.2 Where an inspection is conducted by the Town, an Officer may:

- a) Require the production for inspection of documents or things relevant to the inspection;
- b) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- c) Require information from any person concerning a matter related to the inspection including their name, address, phone number and identification;

- 5.3 Every Owner or Person occupying the property shall permit an Officer to inspect any land for the purpose as set out in this By-law. An Officer may be accompanied by person under the Officer's direction.

- 5.4 Power of entry may be exercised by an Officer as defined in this By-law

6. SEVERABILITY

- 6.1 If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid such section or part

of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this By-law and it is hereby declared that the remainder of this By-law shall be valid and shall remain in force.

- 6.2 Where the provisions of this By-law conflict with the provisions of any other By-law or Act, the more restrictive provisions shall apply.

7. ADMINISTRATION/ENFORCEMENT

- 7.1 This By-law shall be administered by the Chief Fire Official and shall be enforced by the Chief Fire Official, Ontario Provincial Police and the Town's Municipal By-law Enforcement Officer.

8. OBSTRUCTION

- 8.1 No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law.
- 8.2 Any Person who has been alleged to have contravened any of the provisions of a By-law passed under the Municipal Act, 2001, as amended, shall identify themselves to the Officer upon request. Failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of the Officer's Duties.
- 8.3 It shall be an offence to furnish false information in the Application for a Permit.

9. REMEDIATION

- 9.1 The Town may recover the remedial action costs incurred by action or by adding them to the tax roll.
- 9.2 Prior to recovering remedial costs under section 9.1, the town may Invoice owners requesting voluntary payment of those remedial costs.

10. PENALTY PROVISIONS

10.1 Any owner or person who contravenes any provisions of this By-law is guilty of an offence and upon conviction is liable to a fine as Provided in the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended from time to time.

10.2 Every owner or person who knowingly concurs in the contravention of any provision of this By-law is guilty of an offence.

11. REPEAL

11.1 That By-law number 22-24 and any amendments thereto are hereby repealed on the date upon which this By-law comes into force and effect.

12. COMMERCIAL CLASS

12.1 That commercial and industrial open-pit burning may be allowed, if properly inspected via in-person initial or photo follow-up. These permits shall adhere to the same standards as residential, with the exception of sizing which will be at the discretion of the Authority Having Jurisdiction or their designate. With an applicable fee as noted in the Blind River fees by-law. All commercial or industrial class organizations shall conduct their burns in an environmentally responsible manner.

PASSED IN OPEN COUNCIL THIS 17 DAY OF July, 2023.

Mayor

CAO/Clerk

CERTIFICATION BY THE CLERK:

I, K. Scott, CAO/Clerk of the Corporation of the Town of Blind River, do hereby certify that the above is a true certified copy of By-Law No. 23-43 which was passed in Open Council on the 17 day of July, 2023.

K. Scott