

BY-LAW NO. 21- 2004

THE CORPORATION OF THE TOWN OF CARLETON PLACE

A BY-LAW OF THE CORPORATION OF THE TOWN OF CARLETON PLACE TO REGULATE THE OPEN AIR BURNING OF BRUSH/YARD WASTE, CONSTRUCTION MATERIALS, GARBAGE, AND INFLAMMABLE MATERIALS AND THE REGULATION OF OPEN FIRE BURNING DEVICES WITHIN THE LIMITS OF THE SAID MUNICIPALITY.

WHEREAS Section 7.1 (1)(a) of the *Fire Protection and Prevention Act, 1997*, S.O., **1997, c.4**, authorizes a municipal council to pass by-laws for regulating fire prevention, including the prevention of the spreading of fires;

AND WHEREAS Section 7.1. (1) (b) of the *Fire Protection and Prevention Act, 1997*, S.O., **1997**, c.4 authorizes a municipal council to pass by-laws for regulating the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS Section 130 of the *Municipal Act, 2001*, S.O., 2001, c. 25, states that a municipality may regulate matters not specifically provided for by this Act or any other Act for purposes related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS Section 391 (1) of the *Municipal Act, 2001*, S.O., 2001, c.25, authorizes a municipality and a local board to pass by-laws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of it;

AND WHEREAS Section 427 (1) of the *Municipal Act, 2001*, S.O., 2001, c.25, states that if a municipality has authority by by-law or otherwise to direct or require that a matter or thing be done, the municipality may, in the same or another by-law direct that, in default of it being done by the person directed or required to do it, such matter or thing shall be done at the person's expense;

AND WHEREAS Section 427 (3) of the *Municipal Act, 2001*, S.O., 2001, c.25, authorizes a municipality to recover costs of doing a thing or matter under subsection (1) from the person directed or required to do it and the municipality may recover the costs by action or by adding the costs to the tax roll and collecting them as in the same manner as taxes.

AND WHEREAS Section 2.6.3.4 of the *Ontario Fire Code, O. Reg. 388/97*, provides for the prohibition of open air burning unless approved or unless such open air burning consists of the use of a barbecue to cook food, provided such devices contain a small, contained fire which is supervised at all times;

THEREFORE the Council of the Corporation of the Town of Carleton Place enacts as follows:

1 DEFINITIONS AND ADMINISTRATION

For the purposes of this by-law:

- 1.1 “**Barbecue**” appliances include permanent structures designed and intended solely for the cooking of food in the open air and other similar devices, but does not include devices predominantly designed for personal warmth, fire pits or camp fires.
- 1.2 “**By-law Enforcement Officer**” means a By-law Enforcement Officer for the Town of Carleton Place.
- 1.3 “**Corporation**” shall mean the Corporation of the Town of Carleton Place.
- 1.4 “**Council**” means the Council for the Corporation of the Town of Carleton Place.
- 1.5 “**Designate**” means a person appointed by the Fire Chief to pursue the requirements of this by-law.
- 1.6 “**Fire Chief**” shall mean the appointed Fire Chief for the Corporation of the Town of Carleton Place.
- 1.7 “**Fire Log**” shall mean a specially designed product for burning in an outdoor fire that can be bought at a store and used for outdoor burning.
- 1.8 “**Fire Season**” means a period of time between April 1st to and including the 31st day of October of any year where it is deemed dangerous and prohibited by the Fire Chief to burn wood or other inflammable materials.
- 1.9 “**Landowner**” means anyone who is the registered owner of land inside the Town of Carleton Place.
- 1.10 “**Occupant**” means anyone who owns or occupies the land by renting, leasing, or with permission of use from the registered Landowner, yards, lots, fields, property and land belonging to the said Landowner.
- 1.11 “**Open Air Burning**” shall mean the burning of any material, including without limiting the generality of the foregoing, wood, cardboard, brush, garden waste, construction material and/or garbage, where the flame is not wholly contained and is, thereby, open to the air.
- 1.12 “**Open Fire Burning Device**” shall mean a structure or container that may be used to burn wood, charcoal briquettes, and/or liquid or natural gas, contained on all sides except where screened by a wire mesh. (i.e., hibachi barbecues, stone masonry barbecues, liquid or gas barbecues). This shall also include any commercially manufactured devices for the purpose of containing a recreational fire, such as chimineas and wood burning fire pots.

- 1.13 **“Open Fire”** means any fire lit or maintained in the open air for the removal of dead grass/brush or other vegetation, the clearing of land, the disposal of construction materials, garbage and inflammable materials or for the enjoyment of spectators or other like purpose, but shall not include;
- 1.13.1 A small fire in an approved open fire burning device used to burn dry firewood, or other approved fuel, confined on all sides except where it is screened, with the fuel and chimney covered by a protective grate, supervised at all times by a competent person, and may be used to cook food on a grill or a barbecue. (“Open Fire Burning Device” in 1.12 above).
- 1.13.2 Fire in blowtorches, cutting torches, highway paving equipment or other fire incidental to the use of the apparatus associated with such equipment, trade service or occupation;
- 1.13.3 Fire from smoking tobacco
- 1.14 **“Police Officer”** means an officer of the Police Force having jurisdiction within the Corporation of the Town of Carleton Place.
- 1.15 **“Premises”** means yards, lots, fields, property and land to which an open fire is capable of being lit and maintained upon.
- 1.16 **“Structure”** means anything constructed or erected, either permanent or temporary, the use of which requires location on the ground or attachment to something having location on the ground, this includes sheds, garages, dwelling houses, and other similar type objects.
- 1.17 **“Wood”** means the hard fibrous material from trees or plants that has not been treated, painted, or coated or processed in any way. This does not include leaves, grass, flowers or other similar yard waste material.
- 1.18 **“Wood Burning Fire Pots”** means clay, terra cotta and metal, and other pot-bellied stoves made of similar material used to burn wood in.

2 ADMINISTRATION

- 2.1 The Fire Chief shall administer this by-law.

3 EXCEPTIONS

- 3.1 The Ocean Wave Fire Company for the Corporation of the Town of Carleton Place shall be exempt from the provisions of this by-law with respect to open air fires for the purposes of training, educating individuals in fire safety or for research purposes.

- 3.2 The Town of Carleton Place shall be exempt from the provisions of this by-law with respect to open-air fires related to municipal/public works if granted permission by the Fire Chief.

4 GENERAL REGULATIONS

- 4.1 No person shall light or maintain an open fire within the limits of the Town of Carleton Place.
- 4.2 The Fire Chief may publicly declare a fire season where no burning of wood and/or inflammable materials shall be permitted until further notice from the said Chief.
- 4.3 No person shall locate any open fire burning device whether approved by the Fire Chief or not, within 4.5 metres (15 feet) of the side of a building, tree, and wires, etc. This shall include but not be limited to the examples listed above.
- 4.4 No person shall while burning wood, or other inflammable materials permit smoke or ashes to bother adjacent properties.
- 4.5 No person shall burn during weather that will render the burning of wood, or inflammable materials dangerous to do so, even if authorization from the Fire Chief has already been granted. This shall include but not limited to windy, foggy, rainy or smog alert days as declared by the Ministry of Environment for Ontario.
- 4.6 No person shall leave an open fire burning device unattended.
- 4.7 No person shall light or maintain a fire in an open fire burning device, whether authorized or not by the Fire Chief, without having an appropriate source readily available to put out the fire.
- 4.8 No person shall light or maintain a fire in an open fire burning device on land or premises without written authority of the Owner of the land or premises.
- 4.9 No person shall burn wood or inflammable materials in a barrel whether the opening is screened or not.
- 4.10 No person shall burn in an open fire burning device any fuel or combustible material or substance which has not been specifically approved for the said open fire burning device. The list of approved fuels for open fire burning devices is listed in Schedule "B", attached hereto. Burning of brush/yard waste, construction materials, garbage, and materials other than those specified in Schedule "B" in any open fire burning device is strictly prohibited.

5 FIRE DEPARTMENT RESPONSE

- 5.1 If upon inspection the Fire Chief or his designate finds an infraction pursuant to this by-law, the Fire Chief or designate may order the landowner or occupant to immediately extinguish the fire.
- 5.2 No person shall fail to extinguish a fire immediately if an order to extinguish said fire has been issued by the Fire Chief or designate. Failure to put out the fire may result in the Fire Chief or designate extinguishing said fire himself/herself or calling in the Ocean Wave Fire Company to come and extinguish the fire.
- 5.3 In the event the Ocean Wave Fire Company is required to extinguish a fire that was not extinguished by the landowner or occupant, the landowner or occupant who is responsible for the fire may, at the discretion of the Fire Chief, be liable for all expenses incurred from attending and extinguishing said fire and other related expenses incurred by the Ocean Wave Fire Company for attending and extinguishing the fire. Such costs are as set out in Schedule "A" of this by-law as attached hereto.
- 5.4 At the Fire Chief's discretion, an invoice shall be issued to the landowner or occupant for the cost incurred from attending a fire call, pursuant to Section 5.3 above.
- 5.5 If the landowner or occupant fails to pay the invoice issued for cost incurred by the said Fire Company for attending to the fire, it shall be collected from the landowner through Municipal taxes. It is the responsibility of the landowner to ensure all occupants use the land owned by them in accordance with this by-law.
- 5.6 The Fire Chief or designate, if upon inspection deems necessary, shall call to investigate open air burning infractions by other enforcement agencies or officials that have the jurisdiction to do so. (This shall include but not limited to agencies and officials like the Ministry of the Environment, the local Police and the Fire Marshall.)

6 ENFORCEMENT

- 6.1 The Fire Chief or designate, for the purposes of this by-law, may enter onto premises for the intent of inspection of the said premises to determine conformity with this by-law.
- 6.2 In the absence of the Fire Chief or the Fire Chief's designate, a By-law Enforcement Officer and/or an Officer of the Carleton Place Police Services shall also enforce this by-law.

7 PENALTY

- 7.1 Any person who contravenes any of the provisions of this By-law and the procedures with respect thereto, is guilty of an offence and the penalty upon conviction therefore shall be as provided for in the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33 and amendments thereto.
- 7.2 Upon conviction, a court of competent jurisdiction may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

8 VALIDITY

- 8.1 If any section of this by-law shall be deemed illegal by a competent court of law, the offending section shall be severable and shall not affect the validity of the remainder of the by-law in part or in whole. The remaining sections shall remain in effect until repealed.
- 8.2 Where a provision of this by-law conflicts with a provision of another by-law in force in the Municipality, provisions that establish the higher standards shall prevail in order to protect the health, safety and well-being of the inhabitants of the Town of Carleton Place, pursuant to Section 130 of the *Municipal Act*, 2001, S.O., 2001, c. 25.
- 8.3 This by-law shall come into force and take effect upon its passing.
- 8.4 That by-law No.38-2001 being a by-law of the said Municipality and amendments thereto be and is hereby repealed in its entirety.

9 SHORT TITLE

- 9.1 This By-law may be cited as the “Open Air Burning By-law”.

READ A FIRST TIME THIS 20TH DAY OF JULY, 2004

Mayor, Paul Dulmage

Clerk, D.H. Rogers

READ A SECOND TIME THIS 20TH DAY OF JULY, 2004

Mayor, Paul Dulmage

Clerk, D.H. Rogers

READ A THIRD TIME AND FINALLY PASSED THIS 20TH DAY OF JULY, 2004

Mayor, Paul Dulmage

Clerk, D.H. Rogers

SCHEDULE "A"

Recovery of Cost Fee.....\$300.00

*** Pursuant to Section 5.3**

SCHEDULE "B"

| Approved Open Fire Burning Devices | Approved Fuels |
|---|---|
| Propane Barbecue | Liquid Propane Fuel |
| Natural Gas Barbeque | Natural Gas |
| Hibachi | Charcoal Briquettes |
| Masonry Barbeque | Dry, Seasoned Firewood or Charcoal Briquettes or specially designed burning logs |
| Chimineas | Dry, Seasoned Firewood or specially designed fire logs |
| Wood-Burning Fire Pots | Dry, Seasoned Firewood or specially designed fire logs |

* Pursuant to Section 4.10