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2017-140 (Original)	August 21, 2017

Consolidated for Convenience Only

This is a consolidation copy of a City of Owen Sound By-law for convenience and information. While every effort is made to ensure the accuracy of this by-law, it is not an official version or a legal document. The original by-law should be consulted for all interpretations and applications on this subject. For more information or to view by-laws please contact the Clerks Department.

The Corporation of the City of Owen Sound

By-law No. 2017-140

A By-law to regulate open air fires in the City of Owen Sound

WHEREAS section 7.1 (1) of the *Fire Prevention and Protection Act, 1997, SO 1997, c. 4* provides that a council of a municipality may pass by-laws, regulating fire prevention, including the prevention of the spreading of fires and the setting of open air fires, including establishing the times during which open air fires may be set; and

WHEREAS on December 3, 2007, the Council of the Corporation of the City of Owen Sound (the "City") passed By-law No. 2007-235 to prescribe times during which fires may be set in the open air and the precautions to be observed by persons setting fires, and for setting fees for fire permits; and

WHEREAS on July 31, 2017, City Council passed Resolution No R-170731-006 to enact the subject by-law in place of By-law No. 2007-235;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

Part I. Short Title, Purpose and Scope

Short Title

1. This by-law shall be known as the "Fire By-law".

Purpose

2. This by-law has been enacted to allow and regulate certain types of fires in a manner which:
 - a. protects the public from fire risks;
 - b. protects properties from fire damage; and
 - c. mitigates nuisance caused by smoke and odours from fires.

Scope

3. This by-law shall apply to all open air fires within the City except:
 - a. propane and natural gas fired barbecues or home smokers;
 - b. approved camp fires located within City owned campgrounds; or
 - c. fires for training purposes set by the Fire Department or Georgian College.

Part II. Interpretation

Headings

4. The division of this by-law into parts and the insertion of headings are for convenient reference only and shall not affect interpretation of the by-law.

References to Applicable Law

5. All references to applicable law are ambulatory and apply as amended from time to time.

Definitions

6. For the purposes of this by-law:

“City” means the City of Owen Sound and a reference to the City is a reference to the geographical area of the City of Owen Sound or to the Corporation of the City of Owen Sound as the context requires;

“Clean Dry Wood” means wood that has is free of other materials that has been allowed to dry for at least one year;

“Ceremonial or Special Purpose Fire” means a Fire for first nations ceremonial or special purposes recognized by the Fire Department and subject to the limits set out in this by-law;

“Chief” shall mean the Fire Chief or Deputy Fire Chief of the Fire Department;

“Cooking Fire” means a Fire fueled by commercially produced briquettes or charcoal subject to the limits set out in this by-law;

“Enforcing Officer” means a Police Officer, By-law Enforcement Officer, and any member of the Owen Sound Fire and Emergency Services Department;

“Fire” means any outdoor fire larger than a single match, candle or lighter with or without control of the combustion air and without a stack or chimney to vent the emitted products of combustion to the atmosphere;

“Fire Department” means the Owen Sound Fire and Emergency Services Department;

“Fire Prevention and Protection Act” means the *Fire Prevention and Protection Act, 1997, SO 1997, c. 4*;

“Nuisance” means the excess smoke, smell, airborne sparks or embers that are likely to disturb others;

“Provincial Offences Act” means the *Provincial Offences Act, RSO 1990, c. P.33*; and

“Recreational Fire” means a Fire primarily for recreational purposes subject to the limits set out in this by-law.

Part III. General

Fires – General

7. No person shall set a Fire or allow a Fire to continue burning in the City other than a Ceremonial Fire, a Cooking Fire or a Recreational Fire.

Prohibited Locations

8. No person shall set a Fire or allow a Fire to continue burning in the following locations:
 - a. the downtown area in the City as set out in Schedule “B” of this By-law; or
 - b. any highway, park, walkway, public land, or any other land owned by or operated under agreement with the City without written permission from the City.

Prohibited Materials

9. No person shall burn prohibited materials as set out in Schedule A of this by-law in the City.

Fire Safety

10. No person shall set a Fire or allow a Fire to continue burning during a smog alert or a fire ban declared by the Fire Department.
11. No person shall set a Fire or allow a Fire to continue burning without having a portable fire extinguisher, operable garden hose, water supply or other means of safely extinguishing the Fire is readily available while the Fire is burning and the Fire is monitored by a person capable of extinguishing the Fire with the extinguishing device provided.

Orders

12. Any Enforcing Officer may order the extinguishing of any Fire or order that no additional burning material be added to a Fire that:
 - a. contravenes this by-law; or,
 - b. in the opinion of the Enforcing Officer, presents or could present a safety hazard or Nuisance.
13. No person shall allow a Fire to continue burning or add additional burning material to a Fire contrary to an order issued by an Enforcing Officer.
14. In addition to any penalty set out in this by-law, any person who fails to abide by an order issued by an Enforcing Officer shall be responsible for all costs and expenses resulting from any activity by the Fire Department to control or extinguish the Fire.

Part IV. Cooking Fires**Combustible Materials**

15. No person shall burn or allow the burning of any material other than commercially produced briquettes or charcoal in a Cooking Fire.

Fire Safety

16. No person shall set a Cooking Fire or allow a Cooking Fire to continue burning with a flame higher than 15 cm tall.
17. No person shall set a Cooking Fire or allow a Cooking Fire to continue burning unless:
 - a. the Cooking Fire is enclosed in a device manufactured for cooking and the device is setback from all combustible materials in accordance with the manufactures instructions; or
 - b. the Cooking Fire is enclosed on the bottom and all sides by non-combustible materials and the enclosure is:
 - i. less than 0.46 square meters in size; and
 - ii. setback 1 m from all property lines and combustible materials.
18. No person shall set a Cooking Fire or allow a Cooking Fire to continue burning unless the Cooking Fire is monitored by a person on the property capable of extinguishing the Fire until it is completely extinguished.

Part V. Recreational Fires**Combustible Materials**

19. No person shall burn or allow the burning of any material other than Clean Dry Wood in a Recreational Fire.

Fire Safety

20. No person shall set a Recreational Fire or allow a Recreational Fire to continue burning unless:
 - a. the Recreational Fire is enclosed in a device manufactured for Recreational Fires and:
 - i. the device is setback from all combustible materials in accordance with the manufactures instructions;
 - ii. the device is setback 3 meters from all lot lines; and
 - iii. the fire is contained completely within the device; or
 - b. the Recreational Fire is enclosed on the bottom and all sides by non-combustible materials and:
 - i. the enclosure is less than 0.46 square meters in size;

- ii. the height of the flame is less than 45 cm; or
 - iii. the Recreational Fire is set back 6 m from all property lines and all combustible materials.
21. No person shall set a Recreational Fire or allow a Recreational Fire to continue burning between 2:00 am and 2:00 pm.
22. No person shall set a Recreational Fire or allow a Recreational Fire to continue burning where:
- a. rain or fog is present; or
 - b. the wind may endanger a person or structure or cause the fire, ash or cinders to spread beyond the perimeter of the Recreational Fire.
23. No person shall set a Recreational Fire or allow a Recreational Fire to continue burning without a person capable of extinguishing the Fire constantly monitoring the Fire from a position with a direct line of sight until the Fire is completely extinguished.

Part VI. Ceremonial or Special Purpose Fires

Exemptions by Fire Chief or City Council

24. Upon request, the Chief or City Council, at their discretion, may authorize an exemption to this by-law for a Ceremonial or Special Purpose Fire deemed a public benefit in writing subject to the following conditions:
- a. a request for a Ceremonial or Special Purpose Fire shall not be authorized which burns material that is prohibited by section 9 of this by-law;
 - b. in authorizing a fire, the Chief or City Council may, in writing, set out any terms or conditions for the Fire deemed necessary to:
 - i. protect the public from fire risks;
 - ii. protect properties from fire damage; and
 - iii. mitigate nuisance caused by smoke and odours from fires.

Exemption – General

25. Breach of any of the terms or conditions of an exemption shall render the exemption null and void.

Part VII. Enforcement and Penalty

Enforcement

26. Any Enforcing Officer may enforce the provisions of this by-law.
27. Any Enforcing Officer may enter on any property at all reasonable times to enforce the provisions of this by-law.
28. No person shall interfere with or obstruct an Enforcing Officer while performing their duties under this by-law.

Penalty

29. Any person, organization or business who contravenes the provisions of this by-law is guilty of an offense and, upon conviction, is subject to the penalty set out in the Provincial Offences Act.

Part VIII. Conflict and Transition

Conflict and Severability

- 30. In the event the provisions of this by-law are inconsistent with the provisions of the Fire Protection and Protection Act, its regulations or any other Act, the provisions of the act or regulation shall prevail.
- 31. The terms and provisions of this by-law shall be severable and should any term or provision be found by a court of competent jurisdiction to be legally unenforceable, in operative or invalid, the remainder of the by-law shall continue to be in full force and effect.

Repeal and Enactment

- 32. By-law No. 2007-235 is repealed.
- 33. This by-law shall come into full force and effect on the date it is passed.

FINALLY PASSED AND ENACTED this 21st day of August, 2017.

Signature on file
Mayor Ian C. Boddy

Signature on file
Briana M. Bloomfield, City Clerk

Schedule A - Prohibited Materials

1. Prohibited materials for the purposes of section 9 of this by-law include:
 - a. Agricultural waste including any animal faecal deposits or manure, and animal carcasses;
 - b. Automotive waste including used automobile and truck bodies, tires, oil, grease, paint, cloth, rags, plastics or other material which contents include any of the aforementioned;
 - c. Compostable materials including waste products from plants, trees, or other vegetation that are naturally bio-degradable including grass clippings, leaves, tree needles, garden waste, and weeds;
 - d. Construction waste including any material resulting from, or produced by, the complete or partial construction of a structure, including, but not limited to, pipe, concrete, asphalt, roofing material, masonry, wire, treated wood, particle board, paint, painted wood, drywall, tar, and asphalt products;
 - e. Demolition waste including any material resulting from or produced by the complete or partial destruction or tearing down of a building;
 - f. Domestic waste including kitchen waste, food, scraps, cloth, rags, clothing, plastics and any other materials which contents include any of the aforementioned, including cardboard or newspaper; and
 - g. Industrial or commercial waste including any material resulting from, or produced by, any business, manufacturing process, trade, market or other undertaking.

Schedule B - No Open Air Burn District

