

BY-LAW NO. 16-15
BEING A BY-LAW TO REGULATE AND ESTABLISH
PROCEDURES FOR OPEN-AIR BURNING AND TO PREVENT
THE SPREAD OF FIRE

WHEREAS section 7.1 (1) (a) and (b) of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4, as amended, empowers Council of the Corporation of the Township of the North Shore ("Council") to pass by-laws regulating fire prevention, including the prevention of the spreading of fires; regulating the setting of open-air fires, including establishing the times during which open-air fires may be set and the precautions to be observed by persons setting such fires;

AND WHEREAS section 2.6.3.4 (1) of the *Ontario Fire Code*, O. Reg. 213/07 prohibits open-air burning unless approved by the Chief Fire Official or unless such burning consists of a small, confined fire, supervised at all times, and used to cook food on a grill or a barbecue;

AND WHEREAS section 10 (2) of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that a municipality may pass by-laws respecting the economic, social and environmental well-being of the municipality (5); the health, safety, and well-being of persons (6); and the protection of persons and property (8);

AND WHEREAS sections 425 and 429 of the *Municipal Act, 2001*, S.O. 2001, c.25, authorize a municipality to create offences and to establish fines for offences under by-laws;

AND WHEREAS the *Municipal Act* authorizes Council to recover the expense incurred in doing any such matter or thing as required by by-law, in default of its being done by the person directed or required to do it, by action, or in like manner as municipal taxes;

AND WHEREAS sections 435 and 436 of the *Municipal Act, 2001*, S.O. 2001, c. 25, provide for conditions governing powers of entry on land and the conduct of inspections;

AND WHEREAS the Council of the Corporation of the Township of the North Shore deems it advisable to pass such a by-law to regulate the setting of fires in open air.

NOW THEREFORE THIS COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF THE NORTH SHORE ENACTS AS FOLLOWS:

1. **DEFINITIONS**

for the purpose of this by-law:

- 1.1 "Adverse Effect" means one or more of the following:
- (i) Impairment of the quality of the natural environment;
 - (ii) Injury or damage to property or to plant or animal life;
 - (iii) Harm or material discomfort to any person;
 - (iv) Impairment of the safety of any person;
 - (v) Rendering any property or plant or animal life unfit for human use;
 - (vi) Loss of enjoyment of normal use of property; or
 - (vii) Interference with the normal conduct of business.
- 1.2 "Barbeque" means an appliance or structure designed and intended solely for the cooking of food in the open air, including a Hibachi or any other similar commercially manufactured device.

- 1.3 "Brush Burning" or "Brush Burn" means a type of open-air burning with sole purpose of ridding piled wood, brush or leaves, but **does not include** the burning of items such as household or commercial waste, tires, plastics, roofing materials, building materials, and other like waste.
- 1.4 "By-Law" means this Open Air Burning by-law.
- 1.5 "Camp Fire" means an open fire that burns clean, dry piled material no larger than 1 cubic metre (approx. 3 feet x 3 feet x 3 feet).
- 1.6 "Chief Fire Officer" means the person appointed by the Council to act as Fire Chief for the Township as defined in the *Fire Protection and Prevention Act, 1997* or a member or members of the Fire Department appointed by the Fire Chief under Article 1.1.1.2. of Division C or a person appointed by the Fire Marshal under Article 1.1.1.1. of Division C of the Ontario Fire Code 213/07, as amended, or his or her designate.
- 1.7 "Cooking Fire" means a small, contained open-air fire used for the purpose of cooking food on a grill but does not include a manufactured barbeque.
- 1.8 "Controllable Fire" means a fire that is no greater than two (2) cubic metres (approx. 6 feet x 6 feet x 6 feet) of material at a time and that may be extinguished by the use of on-site resources.
- 1.9 "Council" means the elected Council of the Municipality of the Corporation of the Township of the North Shore.
- 1.10 "Dangerous Condition" means:
- i) a lack of precipitation which in the opinion of the Chief Fire Official increases the risk of the spread of fire.
 - ii) winds which in the opinion of the Chief Fire Official increases the risk of the spread of fire; or
 - iii) any other condition declared by the Chief Fire Official to be a dangerous condition, from time to time which increases the risk of the spread of fire or contributes to other hazardous activities.
- 1.11 "Designate" means an individual acting in place of the "Fire Chief" in the event that he/she is unavailable. The Designate shall be the "Deputy Fire Chief" or other authorized Officer.
- 1.12 "Equipment and Resources" means sufficient personnel and equipment such as rakes, shovels, backhoes, bulldozers, front-end loaders, or water on-site required to control a fire.
- 1.13 "Extinguish" means to put out or quench a fire completely; no smoke, hot or glowing embers are to remain.
- 1.14 "False Fire Alarm" means an alarm signal where a fire department response, in the opinion of the Chief Fire Official, is not required.
- 1.15 "Fire" means any fire set in the open air by any person within the boundaries of the municipality, but does not include an enclosed fire.
- 1.16 "Fire Ban" means a period of prohibition, as established by the Chief Fire Official, of any open-air burning.
- 1.17 "Fire Department" means the Township of the North Shore Fire Department.

- 1.18 "Fire Season" means that period from the 1st day of April to the 31st day of October for any given year.
- 1.19 "Ground Cover" shall include but is not limited to, leaves, grasses, weeds, tree needles, or wood chips on the ground.
- 1.20 "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.
- 1.21 "Nuisance" means the excess smoke, smell, airborne sparks, or embers that are likely to disturb others.
- 1.22 "Officer" means Chief Fire Official and Municipal By-Law Enforcement Officer.
- 1.23 "Off Season" means that period from the 1st day of November of one year to the 31st day of March the following year with no time restrictions for open-air burning unless designated by the Fire Chief or his/her designate. The "Fire Season" and "Off Season" are subject to change at the discretion of the Fire Chief or his/her "Designate" in the event of "Dangerous Conditions", in the event of "Adverse Effects" or otherwise stated by the Ministry of Natural Resources in the event of a "Total Burn Ban".
- 1.24 "Ontario Fire Code" means O.Reg 388/97 made under the *Fire Protection and Prevention Act, S.O. 1997, C.4*, as amended.
- 1.25 "Open-Air" includes any open place, yard, field or construction area which is not enclosed by a building or structure.
- 1.26 "Open-Air Burning" or "Open-Air Burn" means the burning of any material, including, without limiting the generality of the foregoing, wood, cardboard, brush or garden waste where the flame is not wholly contained and is, thereby, open to the air, but does not include outdoor fireplace, barbecue grill or barbecue pit.
- 1.27 "Outdoor Fireplace" means a manufactured, non-combustible, enclosed container designed to hold a small fire for decorative purposes and the size of which is no larger than 0.3 metre (1 foot) in any direction, and may include chimineas.
- 1.28 "Outdoor Cooking Devices" means a cooking appliance fueled 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.
- 1.29 "Owner" includes any person, entity, firm or corporation having control over any portion of a building, land or property and includes the persons in the building or property.
- 1.30 "Permit" means a permit issued by the Municipality office or Municipality selected agencies, the Fire Chief or his/her designate, signifying permission to set, maintain or allow to be set an "Open Air Burn" and establishing the conditions under which the permission is granted from the 1st day of January to the 31st day of December in the same year in the form attached as Schedule "A" hereto.
- 1.31 "Person" means an individual, business, partnership or a corporation.
- 1.32 "Pit" means an area of ground that has been completely cleared of combustible material and lined with a minimum thickness of 15 cm (6 inches) of sand or mineral soil that will extend a minimum of 30 cm (12 inches) beyond the limit of the fuel used for a camp fire.

- 1.33 "Recreational Burning" or "Recreational Burn" means a type of open-air burning that includes the use of chimineas, outdoor fireplaces, fire pits and camp fires.
- 1.34 "Restricted Fire Zone (RFZ)" is an Order made by the Ministry of Natural Resources under the Forest Fire Prevention Act that restricts the use of open air fires in a specific area of the province. It is used when the fire hazard is extreme and/or when fire fighting resources are stretched to capacity.
During a municipal fire ban or a restricted fire zone, no burning is allowed. All existing permits are suspended.
- 1.35 "Township" means the Corporation of the Township of the North Shore.

2. GENERAL PROVISIONS

- 2.1 No "Person" being the owner or tenant in possession of lands within the "Municipality" shall conduct "Open-Air Burning" on such lands unless a "Permit" has been issued in respect of such "Open-Air Burning".
- 2.2 Every person who received a permit acknowledges having read and understood the terms and conditions specified in Section 2.4 of this by-law and assumes all responsibility and liability in connection with the open-air burning permit.
- 2.3 In the absence of being issued a permit, an owner shall be deemed to have permitted a fire to burn and the owner assumes all responsibility and liability where a fire has been set or permitted to burn in the open air.
- 2.4 Where an Open Air Fire Burning Permit, pursuant to this by-law has been issued, no person shall set or maintain a fire:
- i) In contravention of the "Ontario Fire Code", the *Environmental Protection Act*, and the *Forest Fire Prevention Act*, or any other statutory requirements of the Province of Ontario or the Government of Canada.
 - ii) Outside the conditions stated on the permit.
 - iii) In any park owned or operated by the "Municipality" without the written permission of the "Municipality".
 - iv) In the Township earlier than 2 hours before sunset or later than 2 hours after sunrise (daytime) during the months of April, May, June, July, August, September and October of each year.
 - v) To burn when the wind is in such a direction or of such intensity so as to create a decrease in the visibility on any highway or cause danger to any person or structure.
 - vi) That creates, by the setting or burning of the fire, any odour which causes discomfort or health concerns or any other adverse effect to any person residing in the area or interferes with the ability of neighbours to enjoy their properties or conduct their business without disruption.
 - vii) Being a "Recreational Burn" fire less than 5 meters (16 feet) to any building or structure, tree, hedge, fence, roadway, overhead wires or property line.
 - viii) Being a "Brush Burn" fire less than 10 meters (32.5 feet) to any building or structure, tree, hedge, fence, roadway, overhead wires or property line.
 - ix) Unless equipped with adequate tools and water to promptly extinguish the fire in the event of spread throughout the duration of the fire.

- x) Unless the "Person" to whom the "Permit" has been issued or such other "Person" as may be designated in the "Permit", is in attendance at the fire in a responsible and supervisory capacity at all times until such fire has been completely extinguished.
- xi) That contains rubber tires, plastic products, and shingles, painted wood or other building materials that are known to create extensive smoke or environmental hazards in violation of the *Environmental Protection Act, R.S.O. 1990*.
- xii) When a fire ban has been issued by the Chief Fire Official or his/her designate or when the Township is under a "Restricted Fire Zone", under the *Forest Fire Prevention Act*, only exception is in organized campgrounds and parks, where, if stringent criteria are met, the campground operator may allow campfires and charcoal BBQs but only during certain hours and under very strict controls.
- xiii) No "Person" shall indemnify and save harmless the Municipality of the Corporation of the Township of the North Shore and its employees from any and all claims, demands, causes of action, costs or damages that the Municipality 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.

2.5 Notwithstanding any other provisions of this by-law, the Chief Fire Official or designate may permit an open air fire:

- i) for the purpose of training or testing fire equipment
- ii) by the Township or any of its officials, employees, contractors or agents or any other persons for whom the Township is liable at law who are carrying out any operations of the Township, operating, maintaining or installing municipally-owned infrastructure and/or facilities, including the municipal landfill site.
- iii) for any extraordinary reason as deemed expedient by the Chief Fire Official or designate.

2.6 The following are exempt from the provisions of this by-law:

- i) an approved outdoor cooking device; and
- ii) a gas-fired outdoor campfire device.

3. ISSUANCE OF PERMIT

3.1 "Permit(s)" may be obtained from the "Municipality" at the Township of the North Shore office.

3.2 No "Permit" shall be considered valid until the "Person" granted the "Permit" (Permit Holder) has validated the "Permit" by reading the terms and conditions of the permit, has signed and dated permit as indicated, and has received the "Municipal" date stamp approval.

3.3 It is the responsibility of the "Person" granted a "Permit" to check and monitor burning conditions; this can be done in part by contacting the Fire Department, or the Municipal Office.

3.4 It is the responsibility of the "Person" who is burning to have easily accessible to them the "Permit" which they were issued for inspection by the "Fire Chief" or his/her "Designate", "By-Law Enforcement" or the Police.

EXEMPTIONS

Ontario Fire Code

Open-Air Burning

2.6.3.4 (1) 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 barbecue.

4. POWER OF ENTRY AND INSPECTION

4.1 An Officer may, at any reasonable time, enter and inspect any land or premises to determine whether the provisions of this by-law or any direction or order made there-under is being complied with.

4.2 An owner shall permit an officer to inspect any land, property or premises for the purposes of determining compliance with this by-law.

4.3 An officer may be accompanied by a person under his or her direction.

5. OBSTRUCTION

5.1 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.

5.2 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.

6. FEES

6.1 There shall be no fee for open-air burning permits issued under this by-law.

6.2 Should the Fire Department attend to extinguish an open air fire that is not being carried out in accordance with the provisions of this by-law, the owner shall be responsible for any damages to property or injury to persons occasioned by said open air fire and shall be liable to pay any fees together with any costs, including, but not limited to, personnel, equipment and apparatus necessary and called in to extinguish said open air fire.

7. ADMINISTRATION AND ENFORCEMENT

This by-law shall apply to all lands within the geographical limits of the Township of the North Shore and to the setting of Open Air Fires on any such land:

7.1 Any Officer of the Fire Department or Municipalities hereby vested with the authority of by-law.

7.2 Any permit issued under this by-law may be revoked if a person is, in the opinion of the Chief Fire Official or designate, in contravention of any provision of this by-law and immediately upon receiving notice of such cancellation or suspension, the holder of said permit shall extinguish any fire started under permit.

8. OFFENCES

8.1 Every person who contravenes any provision of this by-law is guilty of an offense and may be charged in accordance with the terms of the Fire Protection and Prevention Act as amended. Part 1 subsection 2.6.3.4. of the Ontario Fire Code,

in addition to the requirement to pay the fees set out above; or may be charged with an offence under the Provincial Offences Act under this by-law.

9. PERMITS

9.1 Permits will be issued at the Township of the North Shore municipal office.

9.2 A **seasonal permit** is issued annually for camp/recreational burn fires.

9.3 A **special permit** is issued for all brush burning and is valid for a period as determined by the Chief Fire Official.

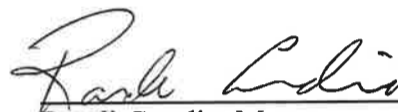
10. TITLE

10.1 The short title of this by-law is "Open Air Burning By-Law"

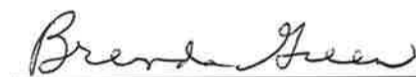
11. ENACTMENT

11.1 This amended by-law shall come into force and effect upon the final passed thereof, and by-law 14-28 is hereby rescinded.

ENACTED AND PASSED this 4th day of May, 2016



Randi Condie, Mayor



Brenda Green, Clerk Treasurer