

THE CORPORATION OF THE MUNICIPALITY OF CALLANDER

BY-LAW NO. 2015-1446

Being a by-law to establish Open Air Burning Procedures.

WHEREAS Section 8 of the Municipal Act, S.O. 2001, c. 25, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

AND WHEREAS Section 9 of the Municipal Act, 2001, provides that Sections 8 and 11 shall be interpreted broadly so as to confer broad authority on municipalities to (a) enable municipalities to govern their affairs as they consider appropriate and, (b) enhance their ability to respond to municipal issues;

AND WHEREAS Section 7.1 (1) (b) of the Fire Protection and Prevention Act as amended, provides that councils of municipalities may pass by-laws for prescribing the times that fires may be set and the precautions to be observed by persons setting out fires.

NOW THEREFORE the Council of the Municipality of Callander enacts as follows:

PART 1 - DEFINITIONS

1.1 For the purposes of this by-law, the following definitions shall apply:

- a) "Acceptable Burn Material" means commercially produced charcoal or briquettes, small amounts of white or brown paper or cardboard used to start a fire, dry seasoned wood, dry wood by-products that have not been chemically treated, painted or stained, purchased fire logs or purchased firewood sold for the purpose of recreational fires;
- b) "Agricultural Waste" shall include any animal fecal deposits or manure, and animal carcasses;
- c) "Approved" means as approved by the Chief Fire Official or his/her designate;
- d) "Chief Fire Official" means the assistant to the Fire Marshal who is the Municipal Fire Chief or a member or members of the fire department appointed by the Fire Chief.
- e) "Domestic Waste" shall include kitchen waste, food, scraps, cloth, rags, clothing, plastics and any other materials which contents include any of the aforementioned;
- f) "Fire Chief" means the Fire Chief employed by the Corporation of the Municipality of Callander;
- g) "Fire Season" means the period from the first day of April to the last day of October in each year;
- h) "Industrial Waste" shall include used automobile and truck bodies, tires, oil, grease, paint, cloth, rags, plastics or other material which contents include any of the aforementioned;
- i) "Municipality" means The Corporation of the Municipality of Callander;
- j) "Recreational Fires" means a fire in a fire pit or manufactured burning appliance that is not larger than sixty (60) centimeters by sixty (60) centimeters;

- k) “Safe Location” means outdoors and not on a porch or balcony area that is roofed or otherwise covered, or near dry vegetation, or in any other place conducive to unwanted development or spread of fire or explosion, or supported by combustible material.
- l) “Urban Settlement Area” Shall be an area as defined in the Corporation of the Municipality of Callander’s Official Plan;

PART 2 – APPLICATION

- 2.1 This by-law shall apply to all land within the geographical limits of the Municipality of Callander and to the setting of fires in the open air (fires) on any such land.
- 2.2 A fire wholly contained within a permanent or portable barbeque that is used for the preparation of food for human consumption shall not be deemed to be a fire for the purposes of this by-law.

PART 3 – GENERAL PROHIBITIONS

- 3.1 No person(s) or owner(s) of land shall:-
 - a) Set a fire or permit the setting of a fire, or having set or permitted the setting of a fire, permit a fire to continue to burn without first having obtained a burning permit, in the form attached hereto as Schedule “A” from the Chief Fire Official or his/her designate, and in accordance with the provisions of the permit and this by-law.
 - b) Set a fire or permit the setting of a fire or allow a fire to burn no earlier than two (2) hours before sunset, and no later than two (2) hours after sunrise, during the fire season.
 - c) Set a fire or permit the setting of a fire or allow a fire to burn in any highway, park, walkway, public land, or upon any land owned by the Corporation of the Municipality of Callander without having first obtained permission to do so from the Chief Fire Official or his/her designate.
 - d) Burn industrial waste, agricultural waste, domestic waste, petroleum products, rubber, painted lumber, mixed demolition debris or anything else that will cause excessive smoke or fumes in addition to any other material identified in the regulations contained in the Environmental Protection Act;
 - e) Set a fire or allow a fire to burn on any land of which he/she is not the registered owner, without the written permission of the registered owner;
 - f) No person shall start a fire or permit the setting of a fire or allow a fire to burn in a restricted fire zone.

PART 4 – OPEN AIR BURINING PERMIT

- 4.1 Open Air Burning Permits for a single recreation fire are available for a fee for seven (7) day duration of permissible time and for a twelve (12) month period commencing from the date of first permit issuance.
- 4.2 Notwithstanding paragraph 4.1 above, the Chief Fire Official or designate may issue an Open Air Burning Permit for multiple recreational fires on an annual basis in the form of Schedule “A” for burning as defined in this by-law for each campground, trailer park or tourist park. Such permit shall allow multiple recreational fires at such times and in such places within the campground, trailer park or Tourist Park as the owner may permit and in accordance with paragraphs 4.3 and 4.4 of this by-law and in accordance with the conditions set out in Schedule “A” Open Air Burning Permit.

- 4.3 Where an Open Air Burning Permit, pursuant to this by-law has been issued for a property within the “Urban Settlement Area” in the form attached hereto as Schedule “B” the applicant and the owner shall jointly and severally be responsible for any damage or injury to persons or property with respect to the setting of a fire or permitting the fire to burn and to insure that:
- a) only “Recreational Fire” are permitted as defined in this by-law;
 - b) The fire must be set in a “Safe Location”;
 - c) The maximum size of burning materials shall not be greater than sixty (60) centimeters by sixty (60) centimeters;
 - d) the fire is kept at least four (4) metres from any dwelling and/or from any structure;
 - e) “Recreational fires” shall not be permitted when wind exceeds fifteen (15) kilometers) per hour;
 - f) The fire must be fueled only with “Acceptable Burn Material”;
 - g) The fire must be supervised at all times;
 - h) Effective means of extinguishment must be readily available.
- 4.4 Where an Open Air Fire Burning Permit, pursuant to this by-law, has been issued for a property not within the “Urban Settlement Area” the applicant and the owner shall jointly and severally be responsible for any damage or injury to persons or property with respect to the setting of a fire or permitting the fire to burn and to insure that:
- a) Only dry material is burned (including leaves);
 - b) The fire is kept at least six (6) metres from any dwelling and/or from any structure;
 - c) The fire is attended at all times until it is completely extinguished before leaving the burn site;
 - d) Sufficient equipment and resources are available at the burn site to extinguish the fire if the fire gets out of control;
 - e) No damage results to property or injury to persons with respect to the setting of a fire or permitting the fire to burn;
 - f) No person shall set a fire or permit a fire 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;
 - g) No person shall set a fire or permit a fire to burn when wind exceeds twenty (20) kilometers per hour;
 - h) No person shall create, by the setting or burning of the fire, any odour which causes discomfort to any person residing in the area;
 - i) Set a fire or permit a fire to burn without first having confirmed that the materials to be burned meet the requirements of the Environmental Protection Act, R.S.O. 1990, Chapter E. 19.

- 4.5 Any Open Air Fire Burning Permit may be cancelled or suspended at any time by the Chief Fire Official or his/her designate and immediately upon receiving notice of such cancellation or suspension, the permittee shall extinguish any fire started under the permit.
- 4.6 Notwithstanding the provisions of Section 4.3 and 4.4 hereof the Chief Fire Official may, upon application, approve the setting of fire subject to the fire being supervised by the Fire Chief of the Corporation of the Municipality of Callander or his/her designate.

PART 5 – RECOVERY OF COSTS

- 5.1 If the Callander Fire and Emergency Services is called to respond to a fire set or permitted to burn, in violation of this by-law, the person who set the fire, or allowed it to burn, and the owner of the land if the owner permitted the fire to be set or permitted the fire to burn, shall forthwith pay, upon demand the costs incurred by the Callander Fire and Emergency Services including the personnel, equipment and apparatus necessary to extinguish any fire set or burning contrary to this by-law or contrary to any permit issued under this by-law.
- 5.2 The time will be charged from the receipt of the alarm through to the time responding personnel leave the location of the fire, to return to their respective stations.
- 5.3 If any person fails to pay the fees set out above, forthwith upon demand, the amount of the fee in default may, in addition to any other remedies Callander may have, be recovered by the Corporation of the Municipality of Callander in like manner as municipal taxes in accordance with Section 398(2)2 of the Municipal Act S.O. 2001, c.25, against the owner of the land, if the owner set the fire, allowed the fire to burn, or permitted the fire to be set or to burn, in violation of this by-law or any permit issued under this by-law.

PART 6 – CONFLICT

- 6.1 If a provision of this By-law conflicts with an Act or Regulation or another By-law, the provision that is the most restrictive shall prevail.

PART 7- SEVERABILITY

- 7.1 If any section or sections of the By-law or parts thereof, are found in any court of law to be illegal or beyond the power of the Municipality to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of the By-law shall be deemed to be separate and independent thereof and have been enacted as such.

PART 8 – OFFENCES AND ENFORCEMENT

- 8.1 It is an offence for a person to contravene any provision of this By-law, and every person who contravenes this By-law is guilty of an offence and, on conviction, is liable to a fine in accordance with the provisions of the Provincial Offences Act and to any other applicable penalty.

PART 9 - REPEAL

- 9.1 By-law No. 2005-983 hereby repealed.

PART 10 – EFFECTIVE DATE

10.1 This by-law will come into force on the date of passing.

READ A FIRST TIME THIS 24TH DAY OF MARCH, 2015.

READ A SECOND TIME THIS 24TH DAY OF MARCH, 2015.

READ A THIRD TIME AND FINALLY PASSED THIS 24TH DAY OF MARCH, 2015.

MAYOR, HECTOR D. LAVIGNE

CLERK, MAIRGHREAD KNOUGHT