

THE CORPORATION OF THE CITY OF WATERLOO

BY-LAW NUMBER 2011- 124

Being a by-law to regulate open air fires within the City of Waterloo

**WHEREAS** section 7.1(1)(b) of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended (the "Act"), states that a council of a municipality may pass by-laws regulating the setting of open air fires, including establishing the times during which open air fires may be set;

**AND WHEREAS** section 7.1(3) of the Act states that a by-law under that section may deal with different areas of the municipality differently;

**AND WHEREAS** section 7.1(4) of the Act states 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 that section are being complied with;

**NOW THEREFORE** the Council of The Corporation of the City of Waterloo enacts as follows:

**Definitions**

1. In this By-law:

"Act" means the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended;

"building" means:

- (a) a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto;
- (b) a structure occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto; and,
- (c) structures designated in the *Building Code*, Ontario Regulation 350/06, as amended.

"Laurel Creek camp site" means a site at the Laurel Creek Conservation Area that is designated for camping and for lighting open air fires using solid fuel;

"Chief Fire Prevention Officer" or "CFPO" means the Chief Fire Prevention Officer of the City or his or her designate;

"City" means The Corporation of the City of Waterloo;

“**contained fire**” means a fire that is contained in a chiminea, fire pit, barbeque pit or similar vessel;

“**Council**” means the Council of the City;

“**Municipal Law Enforcement Officer**” means a person appointed by the City under s. 15 of the *Police Services Act*, R.S.O. 1990, c. P.15;

“**open air fire**” means a fire that takes place outside of a building, including a contained fire;

“**person**” means an individual, corporation, unincorporated association or partnership;

“**Region**” means the Regional Municipality of Waterloo;

“**solid fuel**” means any combustible material that is in the form of a solid, such as paper, wood or coal; and,

“**strike**” means a strike as defined in the *Labour Relations Act, 1995*, S.O. 1995, c. 1, Sched. A, as amended.

### **General Prohibition**

2. No person shall set or maintain an open air fire using solid fuel, or permit an open air fire using solid fuel to be set or maintained, at any time.

### **Exemptions**

3. This by-law shall not apply to:
  - (a) the City;
  - (b) the Region;
  - (c) a Laurel Creek camp site; or,
  - (d) a site where a strike is occurring.
4. In addition to section 3 of this by-law, any person may apply to the Chief Fire Prevention Officer to be granted an exemption from section 2 of this by-law. The Chief Fire Prevention Officer may grant or refuse an application or grant an application with conditions.
5. Any exemption granted by the Chief Fire Prevention Officer shall specify the time period during which it is effective and may contain such terms and conditions as the Chief Fire Prevention Officer sees fit.

6. An application to the Chief Fire Prevention Officer for an exemption from section 2 of this by-law shall be made in writing to the Chief Fire Prevention Officer, at least thirty (30) days prior to the commencement of the proposed open air fire using solid fuel, and shall include the following:

- (a) the name and address of the applicant(s);
- (b) the name and address of the organization(s) represented by the applicant(s), if applicable;
- (c) the purpose or rationale, if any, behind having an open air fire using solid fuel;
- (d) the date(s), time(s) and location(s) of the proposed open air fire using solid fuel;
- (e) the name of the contact person or persons who will be supervising the open air fire using solid fuel;
- (f) the applicable fee, as set out in the City's Fees and Charges By-Law, as amended; and,
- (g) such further and other information as the Chief Fire Prevention Officer may request.

7. In determining whether or not to grant (with or without conditions) or refuse an exemption to this by-law, the Chief Fire Prevention Officer shall consider the following:

- (a) the health and safety of the citizens of the City;
- (b) the general intent and purpose of this by-law; and,
- (c) whether the applicant(s) have complied with previous exemptions that may have been granted under this by-law.

8. The Chief Fire Prevention Officer may immediately revoke an applicant's exemption from section 2 of this by-law if the applicant violates the terms or conditions of the applicant's exemption.

### **Inspections**

9. A Municipal Law Enforcement Officer may enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether this by-law is being complied with.

### **Order to Discontinue Activity**

10. Where a Municipal Law Enforcement Officer has reasonable grounds to believe that a contravention of this by-law has occurred, a Municipal Law Enforcement Officer may make an order requiring the person who contravened this by-law, or who caused or permitted the contravention, or the owner of the land on which the contravention occurred, to discontinue the contravening activity.
11. An order under s. 10 of this by-law shall set out:
  - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
  - (b) the date by which there must be compliance with the order.
12. Any person who contravenes an order under s. 10 of this by-law is guilty of an offence.

### **Work Order**

13. Where a Municipal Law Enforcement Officer has reasonable grounds to believe that a contravention of this by-law has occurred, a Municipal Law Enforcement Officer may make an order requiring the person who contravened this by-law, or who caused or permitted the contravention, or the owner of the land on which the contravention occurred, to do work to correct the contravention.
14. An order under s. 13 of this by-law shall set out:
  - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
  - (b) the work to be done and the date by which the work must be done.
15. An order under s. 13 of this by-law may require work to be done even though the facts which constitute the contravention of this by-law were present before this by-law came into force.
16. Any person who contravenes an order under s. 13 of this by-law is guilty of an offence.

### **Remedial Action**

17. If a person fails to do a matter or thing, including comply with an order under this by-law, as directed or required by this by-law, the City may, in default of it being done by the person directed or required to do it, do the matter or thing at the person's expense. The City may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as municipal taxes.

18. The costs outlined in s. 17 of this by-law shall include interest calculated at a rate of 15 per cent per annum, calculated for the period commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full.
19. The amount of the costs, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date the payment is made. Upon receiving payment of all costs payable plus interest accrued to the date of payment, the City shall register a discharge of the lien in the proper land registry office.

#### **Enforcement**

20. This by-law may be enforced by Municipal Law Enforcement Officers and Police Officers.
21. University of Waterloo Special Constables and Wilfrid Laurier University Special Constables are hereby authorized to enforce this by-law on property belonging to their respective University.

#### **Penalties**

22. Every person who contravenes any of the provisions of this by-law is guilty of an offence and pursuant to section 429 of the *Municipal Act, 2001* all contraventions of this by-law are designated as continuing offences.
23. Every person, excluding a corporation, who is convicted of an offence, is liable to a minimum fine of Four Hundred Dollars (\$400.00) and a maximum fine of Twenty-Five Thousand Dollars (\$25,000.00) for the first offence and a maximum fine of Fifty Thousand Dollars (\$50,000.00) for a subsequent offence.
24. Every corporation which is convicted of an offence is liable to a maximum fine of Fifty Thousand Dollars (\$50,000.00) for the first offence and One Hundred Thousand Dollars (\$100,000.00) for a subsequent offence.
25. In addition to the fine amounts set out in sections 23 and 24 of this by-law, for each day or part of a day that an offence continues, the minimum fine shall be Four Hundred Fifty Dollars (\$450.00) and the maximum fine shall be Ten Thousand Dollars (\$10,000.00). The total of all daily fines for the offence is not limited to One Hundred Thousand Dollars (\$100,000.00).

#### **Fees & Charges**

26. Council may impose fees and charges to recover its costs in relation to the administration and enforcement of this by-law.

**Short Title**

27. This by-law shall be known as the "Open Air Fire By-Law."

**Severability**

28. 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 full force and effect.

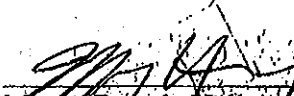
**Repeal**

29. By-Law 96-87 of the City is hereby repealed as well as all by-laws amending the same and any portions of the Municipal Code relating to open air fires.



**Coming Into Force**

30. This by-law shall come into force and effect on January 1, 2012.

PASSED by Council this 07 day of November 2011.

  
Mayor Brenda Halloran  
Acting Mayor *Jess Henry*

  
Susan Greatrix, City Clerk

Approval	Date	Authorized By	Initials
PS/PL	Oct 31/11	Jim By	
Legal	Nov 1/11	E. Davis	
Financial	Oct 31/11	N/A	