

THE CORPORATION OF THE CITY OF ELLIOT LAKE

BY-LAW NO. 20-29

Being a by-law to regulate the setting of open air fires and to provide for the prevention of the spreading of fires within the Corporation of the City of Elliot Lake and to repeal By-law No. 19-20.

WHEREAS clause 7.1(1)(b) of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4 as amended, provides that 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 subsection 7.1(4) of the *Fire Protection and Prevention Act, 1997*, provides 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 are being compiled with;

AND WHEREAS subsection 7.1(4) of the *Fire Protection and Prevention Act, 1997* provides that the exercise of powers by an officer appointed under this section shall be carried out in accordance with Part XIV of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, other than clause 431(a) of that Act;

AND WHEREAS section 121 of the *Municipal Act, 2001*, provides that a local municipality may prohibit and regulate the sale and the setting off of fireworks;

AND WHEREAS subsection 425(1) of the *Municipal Act, 2001*, provides a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the statute is guilty of an offence;

AND WHEREAS section 429(1) of the *Municipal Act, 2001* provides a municipality may establish a system of fines for offences under a by-law of the municipality passed under the statute;

AND WHEREAS subsection 446 (1) of the *Municipal Act 2001* provides that if a municipality has the authority under any statute or under a by-law under any statute to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

AND WHEREAS Council deems it necessary to adopt a new by-law to regulate and control open air burning and the sale, possession and use of certain fireworks within the City and to repeal By-law No. 19-20;

NOW THEREFORE the council of The Corporation of the City of Elliot Lake enacts as follows:

PART 1 GENERAL PROVISIONS

SECTION

- 1.1 This By-law shall be cited as the "Burning By-law".
- 1.2 The provisions of this By-law, which includes the Schedules and Appendices annexed hereto and the Schedules and Appendices are hereby declared to form part of this By-law shall apply to all property within the geographic limits of the City, except where otherwise provided.
- 1.3 This By-law shall be enforced by a By-law Enforcement Officer, or a Chief Fire Official, or a Police Officer.
- 1.4 Where a provision of this By-law conflicts with a provision of another by-law in force in the City, the provisions of this By-law shall prevail in order to protect the health, safety and welfare of the general public.

PART 2 DEFINITIONS

SECTION

- 2.1 The words, phrases and terms defined in this section have the following meaning for the purposes of this By-law:
 - (a) **"Applicant"** means the person who is 18 years old or older that makes application to the Chief Fire Official for a permit to hold open air burning.
 - (b) **"By-law Enforcement Officer"** means the person or persons duly appointed by the Council as Municipal Law Enforcement Officers for the purpose of enforcing regulatory by-laws of the City.
 - (c) **"Barbeque"** means a portable or fixed device designed and intended solely for the cooking of food in the open air, but does not include outdoor fireplaces and campfires.
 - (d) **"Chief Fire Official"** means the person appointed as fire chief by the Council for the City or his/her designate.

- (e) **“City”** means The Corporation of the City of Elliot Lake.
- (f) **“City Property”** means any land situated within the City which is owned by the City or controlled by the City by lease or otherwise, but does not include a highway.
- (g) **“Combustible Material”** means materials capable of burning including wood, paper, plastic and vegetation
- (h) **“Council”** means the council of the City.
- (i) **“Designate”** means the person or persons appointed by the Chief Fire Official who may take action in accordance with this By-law.
- (j) **“Fire Ban”** means a period of time during which the Chief Fire Official prohibits all outdoor burning activities within the City.
- (k) **“Fire Restricted Zone”** means the area in which the Ministry of Natural Resources has suspended all open air burning.
- (l) **“Flying Lantern”** means a firework consisting of a small hot air balloon or other device designed to carry an open flame as an airborne light, also known as Sky Lantern, Chinese Lantern, Kongming Lantern or Wish Lantern, or other similar device which are devices containing a fuel pack, which fuel pack is usually a petroleum or wax based fuel that when lit causes the lantern to rise.
- (m) **“Open Air Burning”** means any fire that is conducted outside a building, including a fire conducted in a garden, yard, alley, field, park, industrial site, construction site, building lot, parking lot, street, or other open place. For the purpose of this definition *open air burning* does not include the following:
 - (i) the operation of welding or similar equipment;
 - (ii) a manufactured outdoor wood furnace installed and operated in accordance with the manufacturer’s instructions;
 - (iii) an appliance which is fuelled by natural gas or propane, including but not limited to a *barbeque*.
- (n) **“Open Air Burning Device”** means a manufactured or non-manufactured, non-combustible, enclosed container that is not fueled by natural gas or propane is designed to hold a small fire for decorative, recreational, cooking or warmth purposes and the size of which is not larger than 1 metre (3.2 feet) in any direction and may include, but is not limited to a chiminea, unless approved by the Chief Fire Official.

- (o) **“Outdoor Fire Pit”** means a non-combustible, contained pit that is not fueled by natural gas or propane and is designed to hold a small fire for decorative, recreational, cooking or warmth purposes and the size of which is not larger than 0.6 metres (24 inches) in any direction.
- (p) **“Permit”** means a permit issued under this By-law to allow open air burning.
- (q) **“Person”** means an individual, firm, corporation or partnership.
- (r) **“Police Officer”** means a member of the Ontario Provincial Police Service.

2.2 The definitions of words, phrases and terms used in this By-law that are not included in the list of definitions in this Section shall have the meanings which are commonly assigned to them in the context in which they are used in this By-law.

PART 3 REGULATIONS

SECTION

- 3.1** No person shall set out fires in open air at any time without first obtaining a permit.
- 3.2** The applicant shall acquire a permit from the Chief Fire Official.
- 3.3** Outdoor fire pits and open air burning devices may be inspected at any time by the Chief Fire Official to determine compliance with set out guidelines and regulations.
- 3.4** No person shall conduct an open air burn at any time in a Ministry of Natural Resources declared fire restricted zone(s) or during a fire ban declared in the City.
- 3.5** No person shall conduct an open air burn within the City between the hours of ten o'clock in the morning and six o'clock in the evening during the period from the 1st day of April to the 31st day of October in each year unless written approval by the Chief Fire Official is issued.
- 3.6** An application to burn during fire restrictive time(s), as outlined in Section 3.5 may be granted by the Chief Fire Official.
- 3.7** No person shall set any fire outdoors to burn, or shall burn outdoors, any grass or leaves except in rural or agriculture areas as designed by the City unless approved by the Chief Fire Official. No household garbage, construction materials or materials mad of/or containing rubber, plastic, tar, pressure treated or creosote treated wood, or any material which may emit noxious or poisonous substances or pollutants, including PCB's and other chemicals shall be burned at anytime.
- 3.8** All persons conducting an open air burn shall ensure that it is controlled and supervised

at all times and completely extinguished before the burn site is vacated.

- 3.9** Without limiting in any way the prohibition set forth in Section 3.7, all persons shall ensure that only dry, woody type of materials that do not emit noxious or poisonous substances or pollutants other than those produced by the burning of wood, tree limbs or branches shall be permitted to be burned in an open air burning device or outdoor fire pit.
- 3.10** No person shall conduct an open air burn that causes an inconvenience or irritation to others.
- 3.11** Every person who is open air burning shall ensure that he/she has adequate safety equipment such as water, portable water pumps, portable multi-purpose fire extinguisher, rakes or any other tools necessary to contain the fire.
- 3.12** No person shall set open air burning in an area near grass or other vegetation where it may spread due to strong winds.
- 3.13** The Chief Fire Official can suspend or rescind a permit at any time.
- 3.14** Permits can be obtained from the City's Fire Department located at 55 Hillside Drive North.
- 3.15** No person shall possess or sell a Flying Lantern in the City.
- 3.16** No person within the City shall ignite or release an ignited Flying Lantern or otherwise use a Flying Lantern in the City. Any person who ignites or releases a Flying Lantern and causes an open fire in the City assumes full responsibility for fire control and shall:
- (a) be responsible for any damage to property or injury to persons or animals occasioned by said fire;
 - (b) assumes full responsibility for fire control and may be liable for costs incurred by the City's Fire Department, including costs of the personnel and equipment as authorized and set out in the City's Fees By-law in effect at the time of the incident and authorized by the Fire Chief.

PART 4 EXEMPTIONS

SECTION

- 4.1** The City's Fire Department 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.
- 4.2** The City shall be exempt from the provisions of this By-law with respect to open air fires

related to municipal works and Council approved or sanctioned events upon approval of the Chief Fire Official.

PART 5 PERMIT FEE

SECTION

- 5.1** The annual fee for the issuance of an Open Air Burning Permit is \$5.00.

PART 6 PENALTIES

SECTION

- 6.1** Every person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*.
- 6.2** Any person who contravenes any provision of the Ontario Fire Code and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 for an individual or \$100,000 for a corporation or to imprisonment for a term of not more than one year or both.
- 6.3** Where an offence is a continuing offence, each day that the offence is continued shall constitute a separate and distinct offence.
- 6.4** Every person who sets a fire in contravention of this By-law or fails to extinguish a fire once ordered to do so by the Chief Fire Official shall, in addition to any penalty provided for herein, be liable to the City for all expenses incurred for the purposes of investigating, controlling and extinguishing any fire or left to burn, and such expenses may be recoverable by court action or in a like manner such as municipal taxes.

PART 7 VALIDITY

SECTION

7.1 **Validity of By-law**

If any section, clause, or provision of this By-law, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention that all remaining sections, clauses or provisions of this By-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof shall have been declared to be invalid.


**PART 8
GENERAL**

SECTION

8.1 By-law and Repeal of By-law 19-20

This By-law comes into force on the day it is enacted and repeals By-law 19-20 in its entirety.

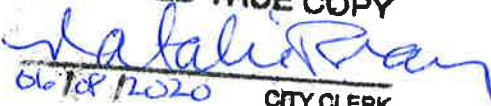
PASSED this 11 day of May, 2020.



MAYOR



CITY CLERK

CERTIFIED TRUE COPY

6/18/2020 CITY CLERK

THE CORPORATION OF THE CITY OF ELLIOT LAKE

SCHEDULE "A"

OPEN AIR BURNING BY-LAW NO. 20-29

PART 1 PROVINCIAL OFFENCES ACT

SET FINES

ITEM	SHORT FORM WORDING	PROVISION CREATING OR DEFINING OFFENCE	SET FINE
1	Conduct open air burning without a permit.	Part 3, Section 3.1	\$100.00
2	Conducting open air burning in a restricted fire zone or during a fire ban.	Part 3, Section 3.4	\$500.00
3	Conducting open air burning during restricted times.	Part 3, Section 3.5	\$100.00
4	Fail to supervise open air burning.	Part 3, Section 3.8	\$100.00
5	Open air burning other than dry woody type materials.	Part 3, Section 3.9	\$100.00
6	Open air burning impacting others.	Part 3, Section 3.10	\$100.00
7	Fail to provide extinguishing agent.	Part 3, Section 3.11	\$100.00
8	Conducting open air burning too close to grass and vegetation.	Part 3, Section 3.12	\$100.00
9	Possess or sell Flying Lantern.	Part 3, Section 3.15	\$500.00
10	Use Flying Lantern within the City.	Part 3, Section 3.16	\$500.00

Note: the general penalty provision for the offences listed above is Section 6.1 of By-law 20-29, a certified copy of which has been filed.

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3	Conducting open air burning during restricted times.	Part 3, Section 3.5	
4	Fail to supervise open air burning.	Part 3, Section 3.8	
5	Open air burning other than dry woody type materials.	Part 3, Section 3.9	
6	Open air burning impacting others.	Part 3, Section 3.10	
7	Fail to provide extinguishing agent.	Part 3, Section 3.11	
8	Conducting open air burning too close to grass and vegetation.	Part 3, Section 3.12	
9	Possess or sell Flying Lantern.	Part 3, Section 3.15	
10	Use a Flying Lantern within the City.	Part 3, Section 3.16	

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