

THE CORPORATION OF THE CITY OF ELLIOT LAKE

***B*Y-LAW NO. 19-20**

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. 07-23.

WHEREAS Section 7.1 (1)(b) of the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4 as amended, states 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 Section 7.1 (4) of the *Fire Protection and Prevention Act*, 1977, S.O. 1997, c.4 as amended, 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 this section are being complied with. 201, c.25, c.475 (3);

AND WHEREAS Section 7.1 (4) of the *Fire Protection and Prevention Act*, 1977 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, other than clause 431 (a) of that Act;

AND WHEREAS Section 425 (1) of the Municipal Act, S.O. 2001, c.25, as amended, provides a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence;

AND WHEREAS Section 429 (1) of the Municipal Act, S.O. 2001, c.25, as amended, provides a municipality may establish a system of fines for offences under a by-law of the municipality passed under the Act;

AND WHEREAS Section 446 (1) of the Municipal Act, S.O. 2001, c.25, as amended, provides that if a municipality has the authority under any Act or under a by-law under any Act 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 with the City of Elliot Lake and to repeal By-law No. 7-23;

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

**PART 1
GENERAL PROVISIONS**

SECTION

1.1 Short Title

This By-law shall be cited as the “*Burning By-law*”.

1.2 Scope

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 Enforcement

This By-law shall be enforced by a *By-law Enforcement Officer*, or a *Chief Fire Official*, or a *Police Officer*.

1.4 Conflicts with other by-law

Where a provision of this By-law conflicts with a provision of another by-law in force in the City of Elliot Lake, the provisions of this By-law shall prevail in order to protect the health, safety and welfare of the general public.

**PART 2
DEFINITIONS**

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.

The words, phrases and terms defined in this section have the following meaning for the purposes of this By-law.

SECTION

2.1 “Applicant” means the person (18) or older that makes application to the Chief Fire Official for a permit to hold open air burning.

2.2 “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*.

2.3 “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.

- 2.4 “City” means the Corporation of the City of Elliot Lake.
- 2.5 “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*.
- 2.6 “Combustible Material” means materials capable of burning including wood, paper, plastic and vegetation.
- 2.7 “Council” means the Municipal *Council* of the City of Elliot Lake.
- 2.8 “Designate” means the person or persons appointed by the *Chief Fire Official* authorized to issue open air burning permits in accordance with this by-law.
- 2.9 “Fire Ban” means a period of time during which the Fire Chief or his/her designates, prohibits all outdoor burning activities within the *City*.
- 2.10 “Fire Restricted Zone” means the area in which the Ministry of Natural Resources has suspended all open air burning.
- 2.11 “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:
- (a) the operation of welding or similar equipment;
 - (b) a manufactured outdoor wood furnace installed and operated in accordance with the manufacturer’s instructions;
 - (c) an appliance which is fuelled by natural gas or propane, including but not limited to a *barbeque*.
- 2.12 “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 or his/her designate.
- 2.13 “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.
- 2.14 “Owner” means the registered owner of the land.
- 2.15 “Person” means an individual firm or corporation.

- 2.16** “**Police Officer**” means a member of the Ontario Provincial Police Service.
- 2.17** “**Provincial Offences Act**” means the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.
- 2.18** “**Flying Lantern**” means 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.

PART 3 REGULATIONS

SECTION

- 3.1** No *person* shall set out fires in open air at any time without first obtaining an open air burning permit.
- 3.2** The *Applicant* shall acquire a burning permit from the *Chief Fire Official* or his/her designate.
- 3.3** *Outdoor fire pits* and *open air burning devices* may be inspected at any time by the *Chief Fire Official* or by his/her designate 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 City of Elliot Lake declared *fire ban*.
- 3.5** No *person* shall conduct an *open air burn* within the Municipality 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* or his/her designate is issued.
- 3.6** Application to burn during *fire restrictive time(s)*, as outlined in Section 3.5 may be granted by the Chief Fire Official or his/her designate.
- 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, as approved by the Chief Fire Official or his/her designate. 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* or his/her designate can suspend or rescind an open air burning permit at any time.
- 3.14** *Open air burning permits* can be obtained from the City of Elliot Lake Fire Department located at 55 Hillside Drive North.
- 3.15** No persons within the Municipality of the City of Elliot Lake shall ignite or release an ignited *Flying Lantern*.
- 3.16** No person shall use *Flying Lanterns* in the City of Elliot Lake.
Any person who ignites or releases a *Flying Lantern* and causes an open fire in the Municipality of the City of Elliot Lake assumes full responsibility for fire control and shall:
- i. Be responsible for any damage to property or injury to persons or animals occasioned by said fire;
 - ii. Assumes full responsibility for fire control and may be liable for costs incurred by the Elliot Lake Fire Department, including costs of the personnel and equipment as authorized and set out in the City of Elliot Lake Fees By-law in effect at the time of the incident and authorized by the Fire Chief or his/her designate.

**PART 4
EXEMPTIONS**

SECTION

- 4.1** The City of Elliot Lake 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 or his/her designate.

**PART 5
PERMIT FEES**

SECTION

- 5.1** The fees for the issuance of *Open Air Burning Permits* shall be as follows:
- (a) Annual permit: \$5.00

**PART 6
PENALTIES**

SECTION

- 6.1** Every person who contravenes any of the provisions of By-law 19-20 is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990. Chapter P.33, as amended.
- 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* or his/her designate 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.

PASSED this 10th day of June, 2019.

MAYOR

CITY CLERK

THE CORPORATION OF THE CITY OF ELLIOT LAKE

SCHEDULE "A"

OPEN AIR BURNING BY-LAW NO. 19-20

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	Use of Flying Lanterns within Municipality of the City of Elliot Lake boundaries.	Part 3, Section 3.16	\$500.00

Note: the general penalty provision for the offences listed above is section 6.1 of bylaw 19-20, 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	
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