

**“TOWN OF SMITHERS**

**OPEN BURNING**

**BYLAW NO. 1155, 1996”**

*A Bylaw to regulate open burning.*

NOW THEREFORE the Council of the Town of Smithers, in open meeting assembled, hereby enacts as follows:

1. INTERPRETATION

In this bylaw:

- a) “Animal Organic Waste” means solid organic waste material of animal origin, and includes flesh, carcasses, offal, hides, feces and feathers.
- b) "Council" means the Municipal Council of the Town of Smithers.
- c) "Cured" means split wood that has been dried for one year or four seasons.
- d) "Demolition Waste" means any material resulting from or produced by the complete or partial destruction or tearing down of any building or structure.
- e) “Domestic Incinerator" means any metal or masonry container equipped with a tight-fitting wire-screen lid, of a mesh not greater than 1 centimeter (or 3/8"), used for burning garden refuse.
- f) “Domestic Waste Materials" means household material and food waste, but does not include newspaper and cardboard.
- g) “Favourable" when used in relation to air quality means that the inhalable particulate air quality meets the conditions of the category 'Good' in the Bulkley Valley Air Quality Management Plan prepared by the B.C. Ministry of Environment, Lands and Parks.
- h) "Fire Chief" means the person appointed by the Council of the Town of Smithers to be in charge of the Fire Department, or his or her designate, duly appointed from time to time to lawfully act in that capacity.

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- i) "Garden Refuse" means garden materials gathered from the lot of any single family or multi-family dwelling unit and includes grass, leaves, foliage, prunings, weeds, crops or stubble.
- j) "Garbage" means all household and commercial waste or refuse, whether or not it contains the remains of edible food.
- k) "Incinerator" means a combustion device specifically designed for controlled high-temperature burning of waste materials and equipped with a stack or chimney for discharge of contaminants to the atmosphere, but does not include a domestic incinerator.
- l) "Land Clearing Waste" means brush, stumps, "slash", and similar materials resulting from or produced by the clearing of land.
- m) "Noxious Material" means any material or substance which produces black smoke, noxious odours, or toxic air contaminants, including, but without limitation, tires, plastics, rubber products, drywall, demolition waste, construction waste, paint, animal organic waste, vegetable waste, food waste, biomedical waste and special waste (as defined in the *B.C. Waste Management Act*), tar, asphaltic products, battery boxes, plastic and waste petroleum products.
- n) "Open Burning" means the combustion of material outdoors without an incinerator and includes the use of a domestic incinerator or similar device but does not include charcoal fires contained within barbecues or hibachis, or campfires which are started and maintained using cured wood and are used solely for the purpose of cooking food.
- o) "Order" means any order, decision, requirement or direction given by the Fire Chief.
- p) "Permit" means a permit issued pursuant to this Bylaw in the form attached to this Bylaw as Schedule "B" allowing a person to undertake outdoor burning subject to the regulations contained in this Bylaw.
- q) "Ventilation Index" means the Environment Canada forecast ventilation index which provides regional information on atmospheric venting conditions.

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2. OPEN BURNING (OR OPEN FIRES)

- 2.1 No person shall start or maintain or otherwise engage in any open burning of domestic waste materials, garden refuse, garbage or noxious material.
- 2.2 No person shall start, maintain or permit any open burning of land clearing waste.
  - a) unless they hold a permit issued pursuant to Section 3 of this Bylaw;
  - b) unless the permit is displayed in a conspicuous location at or near the site of the proposed fire for the duration of the fire;
- 2.3 Any fires started pursuant to Section 2.2 shall be completely extinguished not later than the expiration date of the permit for the fire.

3. ISSUANCE OF LAND CLEARING BURNING PERMITS

- 3.1 Every person who wishes to start, maintain or permit the open burning of land clearing waste shall complete and sign an application in the form attached to this Bylaw as Schedule 'A' and shall pay a permit fee as per Schedule 'A'.
- 3.2 The Fire Chief may issue a permit and may, prior to issuing a permit, inspect the proposed site of the fire and make orders pertaining to the proposed fire and may specify in the permit what fire fighting equipment is to be provided on the site of the fire.
- 3.3 The Fire Chief may refuse to issue a permit if he or she considers that it is not safe for the proposed fire to be started or maintained, or that the fire will cause a nuisance, and may, without limiting the generality of what the Fire Chief may take into account, consider weather conditions, site conditions, and the availability of Fire Department personnel to extinguish the proposed fire.

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- 3.4 The Fire Chief may suspend or cancel a permit issued pursuant to Section 6.2 or may attach to a permit such orders he or she deems necessary if, in his or her opinion, the fire or conditions relevant to the fire become unsafe, or if the permit holder contravenes any part of this Bylaw, including any conditions of the permit.
- 3.5 No person shall obstruct or prevent the Fire Chief, or person acting under the Fire Chief's authority, from conducting an inspection under this Bylaw.

#### 4. INSPECTION AND ORDERS

The Fire Chief may:

- 4.1 enter, at all reasonable times, on any property that is subject to this Bylaw, to ascertain whether the regulations in this Bylaw or orders made under this Bylaw are being observed;
- 4.2 make orders directing the owners or occupiers of property to bring a fire into compliance with this Bylaw;
- 4.3 call on Ministry of Environment, Lands and Parks Conservation Officers if a person is burning waste in contravention of the *Waste Management Act*;
- 4.4 order that an outdoor fire be immediately extinguished.

#### 5. COST RECOVERY

Every owner or occupier of property who starts or permits to be started any outdoor fire is responsible for such fire. If the fire is prohibited or the fire is not extinguished in accordance with the terms of any permit issued for the fire, or if in the opinion of the Fire Chief the fire presents a hazard or becomes out of control, the Fire Chief may summon the Fire Department to extinguish or control the fire and the owner or occupier shall pay the costs of the services provided by the Fire Department within thirty (30) days of receipt of an invoice from the Fire Department or from the Town of Smithers. Any charges remaining unpaid on December 31<sup>st</sup> in any year shall be collected in the same manner as municipal taxes.

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6. LIABILITIES FOR DAMAGES

This Bylaw shall not be construed to hold the Corporation, nor its authorized agent or agents, responsible for any damage to persons or property, by reason of:

- a) inspections authorized by this Bylaw; or
- b) failure to carry out an inspection; or
- c) a permit issued as herein provided.

If any section, subsection, sentence, clause or phrase of this Bylaw is held to be invalid by the decision of a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Bylaw.

7. SCOPE AND PENALTIES

7.1 In the event of there being any conflict between the terms and provisions of this Bylaw and the terms and provisions of the *Fire Services Act* or the *Waste Management Act* and regulations thereunder, or other provincial acts or regulations, the terms and provisions of the provincial acts and regulations shall prevail.

7.2 Any person who violates any of the provisions of this Bylaw or who suffers or permits any act or thing to be done in contravention of this Bylaw, or who refuses or omits or neglects to fulfil, observe, carry out or perform any duty imposed by this Bylaw, shall be liable on summary conviction to a fine not exceeding two thousand dollars (\$2,000) or to imprisonment not exceeding six (6) months, or both.

7.3 Each day a violation is caused, or allowed to continue, constitutes a separate offence.

8. This Bylaw may be cited for all purposes as "Town of Smithers Open Burning Bylaw No. 1155, 1996", and comes into effect on the date of adoption.

READ A FIRST TIME THIS 11<sup>TH</sup> DAY OF OCTOBER, 1996.

READ A SECOND TIME THIS 11<sup>TH</sup> DAY OF OCTOBER, 1996.

READ A THIRD TIME THIS 11<sup>TH</sup> DAY OF OCTOBER, 1996.

ADOPTED THIS 22<sup>ND</sup> DAY OF OCTOBER, 1996.

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ACTING-MAYOR

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CLERK