

THE CORPORATION OF THE CITY OF NORTH BAY

BY-LAW NO. 2011-130

**BEING A BY-LAW TO REGULATE OPEN AIR BURNING
IN THE CITY OF NORTH BAY**

WHEREAS section 7.1(1)(a) and (b) of the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended, empowers Council of the Corporation of the City of North Bay (“Council”) to pass by-laws regulating fire prevention, including the prevention of the spreading of fires; regulating the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS section 2.6.3.4 (1) of the *Ontario Fire Code*, O. Reg. 213/07 prohibits open air burning unless approved by the Chief Fire Official or unless such burning consists of a small, confined fire, supervised at all times, and used to cook food on a grill or a barbecue;

AND WHEREAS section 10(2) of the *Municipal Act*, 2001, S.O. 2001, c. 25 provides that a municipality may pass by-laws respecting the economic, social and environmental well-being of the municipality (5); the health, safety, and well-being of persons (6); and the protection of persons and property (8);

AND WHEREAS section 391 of the *Municipal Act*, 2001, S.O. 2001, c. 25 provides that a municipality may impose fees or charges;

AND WHEREAS Notice of the Public Meeting in the matter of fees and charges for inspections or the issuance of permits for fire purposes was given by advertisement in the North Bay Nugget on the 9th day of April, 2011 and the 16th day of April, 2011;

AND WHEREAS a Public Meeting under the *Municipal Act* in the matter of the fees and charges for inspections or the issuance of permits for fire purposes was held on the 9th day of May, 2011;

AND WHEREAS Council passed General Government Committee Report No. 2011-13 at its Regular Meeting held on the 16th day of May, 2011 to authorize a by-law for user fees charged by the North Bay Fire & Emergency Services effective June 1, 2011;

THEREFORE the Council of the Corporation of the City of North Bay enacts the following:

1. DEFINITIONS

In this by-law:

- (a) “Barbeque” includes appliances including a hibachi; a permanent structure designed and intended solely for the cooking of food in the open air and other similar devices designed and intended solely for the cooking of food in the open air, but does not include devices predominantly designed for personal warmth, fire pits or camp fires.
- (b) “Brush Burning” or “Brush Burn” means a type of Open Air Burning that includes the burning of clean brush, grass, or vegetation, but does not include the burning of items such as household or commercial waste, tires, plastics, roofing materials, building materials, and other like waste.
- (c) “Chief Fire Official” means an individual so appointed by the Council of the Corporation of the City of North Bay as the Chief of the North Bay Fire and Emergency Services, or a member or members of the fire department designated by the Fire Chief to administer or enforce this by-law.
- (d) “Enforcement Officer” includes the Chief Fire Official, any Fire Prevention Officer, police officer, provincial offences officer, or employee of the City whose duties include the enforcement of this by-law.

- (e) "False Fire Alarm" means an alarm signal where a fire department response, in the opinion of the Chief Fire Official, is not required.
- (f) "Fire Ban" means a period of prohibition, as established by the Chief Fire Official, of any Open Air Burning.
- (g) "Fire Prevention Officer" means an individual appointed by the Chief Fire Official responsible for the enforcement of municipal, provincial, and federal fire prevention by-laws, legislation, and regulations.
- (h) "Nuisance" means excessive smoke, smell, airborne sparks or embers that are likely to disturb others.
- (i) "Open Air Burning" or "Open Air Burn" means the burning of any material, including, without limiting the generality of the foregoing, wood, cardboard, brush or garden waste where the flame is not wholly contained and is, thereby, open to the air, but does not include use of a Barbeque.
- (j) "Open Air Fire" means open air burning.
- (k) "Permit" means the permit issued by the Chief Fire Official signifying approval to set a fire and establishing the conditions under which the permit is granted.
- (l) "Person" includes an individual, sole proprietor, a firm, a partnership, a co-partnership, an association, a corporation, and the heirs, executors, administrators, or other legal representatives of a Person.
- (m) "Recreational Burning" or "Recreational Burn" means a type of Open Air Burning that includes the use of chimineas, outdoor fireplaces, fire pits, and other like devices.
- (n) "Rural Zone" means the area marked "Rural Zone" in Schedule "A".
- (o) "Urban Zone" means the area marked "Urban Zone" in Schedule "A".

2. ADMINISTRATION

- 2.1 This by-law shall be administered by the Chief Fire Official.
- 2.2 This by-law shall apply to all lands within the geographical limits of the City of North Bay and to the setting of Open Air Fires on any such land.

3. RURAL BURNING ONLY

- 3.1 No person shall set, maintain, or cause to be set or maintained an Open Air Fire in an Urban Zone, as indicated in the attached "Schedule A" hereto.
- 3.2 No person shall set, maintain, or cause to be set or maintained, an Open Air Fire in a Rural Zone, as indicated in the attached "Schedule A" hereto, unless a Permit has been issued by the Chief Fire Official.
- 3.2 Notwithstanding section 3.1, a special community event that occurs in an Urban Zone may be eligible for a Permit. The issuance of a Permit for a special community event is at the sole discretion of the Chief Fire Official.

4 GENERAL PROVISIONS

- 4.1 No person shall:
 - (a) set, maintain, or cause to be set or maintained, an Open Air Fire in contravention of the *Fire Code*, the *Environmental Protection Act*, R.S.O.

1990 c. E.19 or any other statutory requirements of the Province of Ontario or the Government of Canada;

- (b) set, maintain, or cause to be set or maintained, an Open Air Fire without a Permit.
- (c) set, maintain, or cause to be set or maintained, an Open Air Fire during a Fire Ban;
- (d) set, maintain, or cause to be set or maintained, an Open Air Fire on days where rain, fog, smog, or any other weather condition prevents proper dispersion of smoke;
- (e) set, maintain, or cause to be set or maintained, an Open Air Fire during high winds or high hazard weather ratings;
- (f) set, maintain, or cause to be set or maintained an Open Air Fire if it creates smoke or fire damage to property or injury to persons;
- (g) set, maintain, or cause to be set or maintained an Open Air Fire if it decreases visibility or creates a hazard on any roadway; or
- (h) set, maintain, or cause to be set or maintained an Open Air Fire if it creates a Nuisance.

4.2 Every person shall:

- (a) notify the North Bay Fire and Emergency Services Dispatch before the commencement and after the completion of an Open Air Fire;
- (b) have suitable means of extinguishment available while the Open Air Fire is burning;
- (c) maintain constant supervision and control over the Open Air Fire from the time of the setting of the fire until the fire is totally extinguished; and
- (d) produce the permit on demand to any person authorized by Section 7.1 to enforce this by-law.

4.3 A Recreational Burn:

- (a) shall be confined to an area of no less than fifteen (15) meters from any building, structure, property line, tree, hedge, fence, roadway, overhead wire or other combustible article, or a distance as determined by a Fire Prevention Officer;
- (b) shall only burn commercially produced charcoal, briquettes or clean, dry seasoned wood;
- (c) shall be permitted only between the hours of 1900 (7:00 p.m.) and 2400 (12:00 a.m.);
- (d) that occurs in a fire pit shall be isolated and surrounded by a non-combustible material such as brick or stone and shall be on top of pea gravel or coarse sand;
- (e) that occurs in a chiminea or outdoor fireplace shall have a minimum of 18 inches clearance on the loading side and 8 inches clearance on all other sides; and
- (f) that occurs in a chiminea or outdoor fireplace on a wooden deck shall be situated on shielding that consists of brick or stone on top of sheet metal that extends at least 2 inches outside the brick or stone.

4.4 A Brush Burn shall:

- (a) be confined to an area of no less than twenty (20) meters from any building, structure, property line, tree, hedge, fence, roadway, overhead wire or other combustible article, or a distance as determined by a Fire Prevention Officer;
- (b) be in piles no greater than 2 meters high and 2 meters in diameter;
- (c) be limited to the burning of clean brush, grass, or vegetation;
- (d) not include household or commercial waste, tires, plastics, roofing materials, building materials, and other like waste;
- (e) be supervised by no less than two persons who shall be present at all times during the Brush Burn; and
- (f) be permitted only between 1/2 an hour before sunrise and 1/2 an hour after sunset.

5 ISSUANCE OF PERMIT

- 5.1 In issuing a Permit under this Part for Open Air Burning, the Chief Fire Official or Fire Prevention Officer may impose any additional requirements or exempt any conditions under sections 4.2 to 4.4 of this by-law as the Chief Fire Official or Fire Prevention Officer considers necessary in the interest of public safety, or to minimize inconvenience to the general public, or advisable in the circumstances, or to give effect to the objects of this by-law.
- 5.2 An application for a Permit must be completed on the forms provided by the North Bay Fire and Emergency Services.
- 5.3 Where the applicant is not the property owner of the Open Air Burn site, the applicant must obtain the consent of the property owner on the form provided by the North Bay Fire and Emergency Services.
- 5.4 Each completed application for a Permit must be submitted to the North Bay Fire and Emergency Services accompanied by the appropriate fees as set out in the by-Law which authorizes User Fees for the North Bay Fire and Emergency Services.
- 5.5 The permit shall be kept at the site of the Open Air Fire with the permit holder.
- 5.6 A Permit may be refused, revoked or suspended at any time by the Chief Fire Official or his designate.

6 FEES AND CHARGES

- 6.1 The fees set out in Schedule A to the User fee by-law for North Bay Fire and Emergency Service shall apply for permits issued under this by-Law
- 6.2 Where North Bay Fire and Emergency Services responds to or inspects an Open Air Fire that is not in compliance with this bylaw, the fee or charge set out in the North Bay Fire and Emergency Services User Fee by-Law for responding to or inspecting an Open Air Fire may be imposed on the assessed owner of the land on which the Open Air Fire took place.
- 6.3 The fees or charges imposed pursuant to section 6.1 and 6.2 of this by-law constitute a debt of the person to the City. The fees may be added to the tax roll and collected in the same manner as municipal taxes on any property for which the person responsible for the Open Air Fire pays fees.
- 6.4 In order to charge the fees as set out in Section 6.2 of the by-Law, the Chief Fire Official shall certify the following:

- (a) whether improper open air burning occurred;
- (b) the time it occurred;
- (c) the charges imposed therefore;
- (d) the property on which the improper open air burning occurred; and
- (e) the Chief Fire Official shall then provide this certificate to the Treasurer who shall issue an invoice to the assessed owner of the property on which the improper open air burning occurred and in the amount as certified by the Chief Fire Official.

7 ENFORCEMENT

- 7.1 Any Enforcement Officer is authorized to enforce this by-law pursuant to the provisions hereof, the *Municipal Act*, 2001, S.O. 2001, c.25, as amended or any successor thereof, and the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, or any successor thereof, and the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4, as amended, or any successor thereof.
- 7.2 Where any Person who holds a Permit fails or refuses to comply with this by-law; a term or condition to which the Permit is subject; or where an Enforcement Officer has a safety concern; the enforcement officer may immediately suspend or revoke the Permit, and if suspended or revoked, the Permit holder shall immediately take all necessary steps to extinguish the Open Air Fire.
- 7.3 Subject to section 437 of the *Municipal Act*, 2001, which relates to entry into dwelling units, any Enforcement Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not:
- (a) this by-law is being complied with;
 - (b) a direction or order of the City made pursuant to the *Municipal Act*, 2001 or any successor thereof or made pursuant to a by-law of the City is being complied with;
 - (c) a condition of a licence issued under a by-law of the City is being complied with; or
 - (d) an order made pursuant to Section 431 of the *Municipal Act*, 2001 which prohibits the continuation of repetition of an offence is being complied with.
- 7.4 Any Enforcement Officer may for the purposes of an inspection:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect or remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) acquire information from any person concerning a matter related to the inspection; and
 - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 7.5 Any Enforcement Officer may undertake inspections pursuant to orders which are made pursuant to Section 438(2) of the *Municipal Act*, 2001.

8 OFFENCES

- 8.1 Any person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine, penalty or order as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, or any successor thereof, or in the *Municipal Act*, 2001, S.O. 2001, c.25, as amended or any successor thereof, or in the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4, as amended or any successor thereof.

9. FIRE SERVICES - EXEMPT

9.1 The North Bay Fire and Emergency Services shall be exempt from the provisions of this by-law with respect to Open Air Burnings set for the purposes of education and training.

READ A FIRST TIME IN OPEN COUNCIL THIS 24TH DAY OF MAY, 2011.

READ A SECOND TIME IN OPEN COUNCIL THIS 24TH DAY OF MAY, 2011.

READ A THIRD TIME IN OPEN COUNCIL AND ENACTED THIS 24TH DAY OF MAY, 2011.

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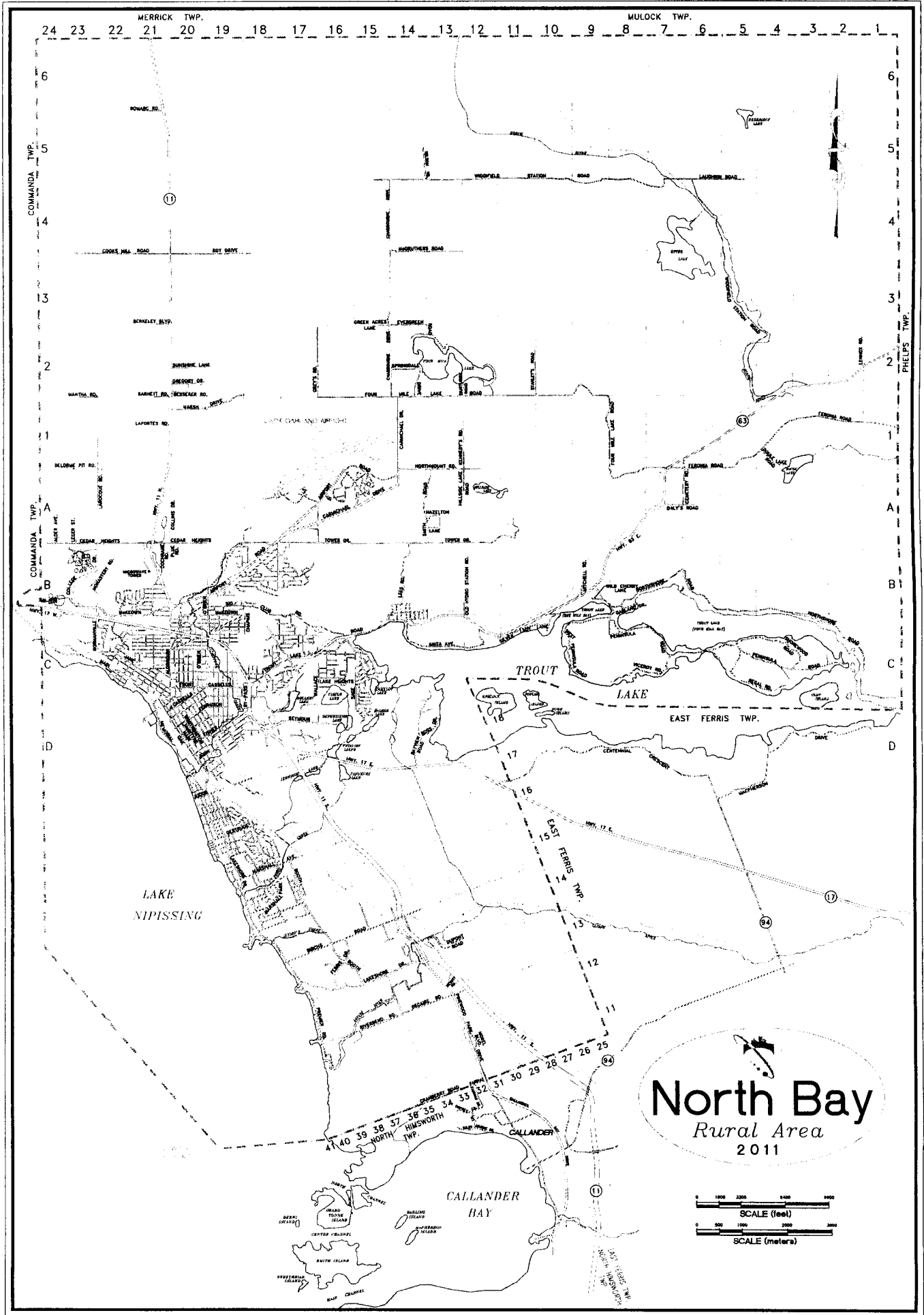
MAYOR ALLAN MCDONALD

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CITY CLERK CATHERINE CONRAD

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THIS IS SCHEDULE "A1" TO BY-LAW NO. 2011-130 OF THE CORPORATION OF THE CITY OF NORTH BAY



THIS IS SCHEDULE "A2" TO BY-LAW NO. 2011-130 OF THE CORPORATION OF THE CITY OF NORTH BAY

