



## **By-Law 2004-185**

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**To regulate the setting of open air fires, including establishing the times during which open air fires may be set.**

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**BY-LAW NUMBER 2004-185**

**A By-law of The Corporation of the City of Barrie to regulate the setting of open air fires, including establishing the times during which open air fires may be set and to repeal by-law 96-135 and all amendments thereto.**

**WHEREAS** the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, Section 7.1(1) provides 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** the Council of The Corporation of the City of Barrie passed By-Law 96-135 on the 17<sup>th</sup> day of June, 1996.

**AND WHEREAS** by Resolution 04-G-291 the Council of The Corporation of the City of Barrie deems it expedient to repeal By-Law 96-135.

**AND WHEREAS** by Resolution 04-G-291 the Council of The Corporation of the City of Barrie deems it expedient to regulate the setting of open air fires, including establishing the times during which open air fires may be set;

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

**1.0.0 TITLE**

1.1.0 This By-law shall be cited as the "Open Air Burning By-law".

**2.0.0 DEFINITIONS:**

2.1.0 For the purpose of this by-law:

2.1.1 **Combustible Waste** – shall mean but is not limited to used vehicle bodies, tires, oil, grease, paint, cloth, rags, plastics, kitchen waste, food, scraps or other material which contents include the aforementioned;

2.1.2 **Agricultural Waste** – shall mean but is not limited to any animal fecal deposits, manure or animal carcasses;

2.1.3 **Barbecue** – shall mean but is not limited to a portable appliance or grill intended for cooking food above an open air fire;

2.1.4 **Campfire** – shall mean a small contained fire in a trailer park, campground or tourist camp which is licensed by the municipality as may be required, which is supervised at all times and which is used to cook food, or to provide warmth;

2.1.5 **Outdoor Solid Fuel Burning Appliance** – shall mean an appliance, portable or fixed in place, constructed of non-combustible material, that contains a chamber located within the firebox of the appliance used to contain a combustion flame, a stack to control the flow of air or combustion gases from the appliance, a spark arrestor located at the end of the stack to control disbursement of sparks, and is enclosed on all sides;

2.1.5 **City** – means The Corporation of the City of Barrie;

2.1.6 **Fire Chief** – means the Fire Chief of the Barrie Fire and Emergency Services, as appointed by Council, from time to time, or his designate;

2.1.7 **Burn Permit** - means a permit issued by the Barrie Fire and Emergency Service authorizing an open air fire;

- 2.1.8 **Highway** – means and includes a common and public highway, street, roadway, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for, or used by the general public;
- 2.1.9 **Shall** – is mandatory and not directory; words in the singular include the plural; words in the plural include the singular; words in the present tense include future or past tense; and,
- 2.1.10 **Yard Waste** – includes but is not limited to leaves, brush, grass and vegetation clippings, wood chips, peat moss and other material which contents include the aforementioned.
- 3.0.0 **SETTING OF FIRES:**
- 3.1.0 No person shall:
- 3.1.1 set a fire, or permit a fire to burn without a permit;
- 3.1.2 set a fire, or permit a fire to burn in excess of 1 cubic meter in size;
- 3.1.3 set a fire, or permit a fire to burn so as to decrease the visibility on any highway so as to cause, or potentially cause an accident;
- 3.1.4 set a fire, or permit a fire to burn so as to cause danger to any person or structure;
- 3.1.5 set a fire, or permit a fire to burn in a highway, park, walkway, public land, or upon any vacant or other land owned by the City, without first having obtained permission to do so from the property owner;
- 3.1.6 create an odour by the setting of a fire, or the burning of a fire, which causes discomfort to any person residing in the area;
- 3.1.7 set a fire, or permit a fire to burn when rain or fog is present;
- 3.1.8 set a fire or permit a fire to burn between sunset of one day and sunrise of the next day, unless expressly authorized by a Burn Permit issued under the provisions of this by-law;
- 3.1.9 set a fire, or permit a fire to burn without first having confirmed that the materials to be burned meet the requirements of the Environmental Protection Act;
- 3.1.10 burn combustible materials, petroleum products, demolition debris or any other item or material which will cause excessive smoke or fumes;
- 3.1.11 burn any yard waste;
- 3.1.12 burn any agricultural waste;
- 3.1.13 set a fire, or permit a fire to burn on land of which the person setting such fire, or permitting such fire, is not the registered owner, without the written permission of the registered owner, such permission which shall be evidenced by the signature of the registered owner of the land on the application for the Burn Permit required pursuant to this by-law; or,
- 3.1.14 having set a fire, or permitted a fire to burn without a Burn Permit, fail to immediately extinguish such fire upon the request of a member of the Barrie Fire and Emergency Service;
- 3.2.0 Where a Burn Permit has been issued pursuant to this by-law, the person to whom the Burn Permit has been issued, and the person responsible for the supervision of the fire, shall:
- 3.2.1 ensure that no damage is done to any property or injury caused to any person while setting a fire or permitting a fire to burn, and shall otherwise jointly and severally be responsible for any damage or injury to persons or property as a result of setting the fire, or permitting the fire to burn;
- 3.2.2 ensure that the fire is kept at least 15 metres from any dwelling, structure or other combustible material;

- 3.2.3 ensure that the fire is attended at all times by a responsible person at least 18 years of age and shall ensure that such person attends to such fire until the fire is completely extinguished;
- 3.2.4 ensure that sufficient equipment and resources are available at the burn site to properly control the fire and for ensuring that the fire is completely extinguished as may be required by the Barrie Fire and Emergency Service or otherwise at the end of the burn;
- 3.2.5 ensure that the fire is completely extinguished before leaving the burn site; and,
- 3.2.6 ensure that the Barrie Fire and Emergency Service is informed, prior to setting a fire, of the approximate time the fire will be set and extinguished and the name of the person who will be supervising such fire.
- 4.0.0 BURN PERMITS:**
- 4.1.0 Any person may make application in writing to the Fire Chief for a Burn Permit to authorize the setting and burning of a fire within the City, in accordance with the provisions of this by-law.
- 4.2.0 The applicant shall together with his application and at the time of application, forward payment in the amount as established from time to time in the City's User Fee By-law.
- 4.3.0 Where the applicant is not the owner of the land on which the fire will occur, the applicant shall together with his application and at the time of application, provide written approval of the property owner for a Burn Permit to be issued.
- 4.4.0 No permit shall be processed until such payment is made. Any default in such payment shall result in the immediate revocation of the Burning Permit.
- 5.0.0 BURN BAN:**
- 5.1.0 Notwithstanding the provisions of this by-law, the Fire Chief may institute a burn ban at any time, as may be deemed necessary to protect the natural environment, and no person shall be entitled to a burn permit during a burn ban.
- 5.2.0 No person shall set an open air fire at any time during a burn ban.
- 5.0.0 EXEMPTIONS:**
- 5.1.0 No permit shall be required for, and the provisions of this by-law shall not apply, to:
- 5.1.1 a fire wholly contained within a barbecue used for the preparation of food for human consumption; or
- 5.1.2 outdoor Solid Fuel Burning Appliance.
- 6.0.0 SCOPE:**
- 6.1.0 This by-law shall apply to all land within the geographic limits of the City of Barrie and to the setting of fires in the open air on any such land.
- 7.0.0 ENFORCEMENT:**
- 7.1.0 A Municipal Law Enforcement Officer, Police Officer, Peace Officer or other duly appointed individual shall enforce the provisions of this by-law.
- 8.0.0 SEVERABILITY:**
- 8.1.0 Should any section of this by-law be declared by a Court of competent jurisdiction to be ultra vires or illegal for any reason, the remaining parts shall nevertheless remain valid and binding, and shall be read as if the offending section or part had been struck out.
- 9.0.0 PENALTY:**
- 9.1.0 Every person who contravenes any provision of this by-law is guilty of an offence, and liable on conviction to a penalty not exceeding \$5,000, exclusive of costs and the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, shall apply to the said fine.

**10.0.0 REPEAL:**

10.1.0 Upon The passage of this by-law, By-law 96-135 and all amendments thereto shall be repealed.

**11.0.0 ENACTMENT:**

11.1.0 That this By-law shall come into force and effect immediately upon the final passing thereof.

**READ** a first and second time this 21st day of June, 2004.

**READ** a third time and finally passed this 21st day of June, 2004.

**THE CORPORATION OF THE CITY OF BARRIE**

**“ORIGINAL SIGNED”**

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**MAYOR - R. J. HAMILTON**

**“ORIGINAL SIGNED”**

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**CLERK - JOHN R. SISSON**