




OPEN AIR BURNING REGULATIONS, 2012

Adopted by the Town Council of the Town of Labrador City on the 17th day of July, 2012 and to come into effect as of the 17th day of July, 2012.

A copy of these Regulations was forwarded to the Minister of Municipal Affairs on the 18th day of July, 2012.

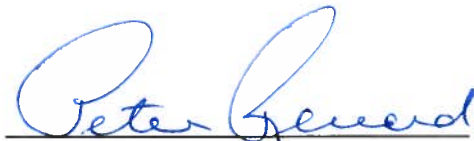

DEPUTY MAYOR


TOWN CLERK

PUBLISHED BY AUTHORITY

Pursuant to the authority conferred by Section 414 and any other sections found enabling under the Municipalities Act, 1999 SNL 1999 Chapter M-24 as amended, the Town of Labrador City enacts the following Regulations in relation to the prohibition of nuisances including the open air burning as adopted by Council on the 17th day of July, 2012 and to come into effect as of the 17th day of July, 2012.

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OPEN AIR BURNING REGULATIONS, 2012

Title

1. Title

These Regulations may be cited as the "Town of Labrador City Open Air Burning Regulations, 2012":

Definitions and Application

2. Definitions

For the purpose of these Regulations unless the context otherwise requires:

- (a) "Act" means the Municipalities Act, 1999 SNL 1999 Chapter M-24 as amended;
- (b) "Council" means the Town Council of Labrador City;
- (c) "Enforcement Authority" means Council or its authorized administrator;

- (d) "Fire Weather Index" means the rating as established by the Department of Natural Resources, Forestry and Agrifoods Agency indicating the probability of a fire starting and spreading rapidly;
- (e) "Grate" means a metal rack supported on a non-combustible enclosure;
- (f) "Municipal Boundaries" means the municipal planning area as defined by the Urban and Rural Planning Act;
- (g) "No Burn Zone" means any area designate where the Labrador City Fire Department does not allow fires as a result of an order;
- (h) "Nuisance" means any obnoxious substance, smoke or other unsanitary matter that has an unpleasant effect on the senses or affects an individual's health, well-being or property;
- (i) "Officer" means a member of the Royal Newfoundland Constabulary, a member of the Royal Canadian Mounted Police Force stationed in the Province, Municipal Enforcement Officer, Fire Chief or anyone authorized by the Town of Labrador City to enforce these Regulations;
- (j) "Open Air" means not within a structure;
- (k) "Outdoor Wood Burning Appliance" means an appliance used in the open air to burn wood. This does not include external wood furnaces;
- (l) "Permit" means a permit for burning in the open air issued by the Town of Labrador City under the authority of these Regulations;
- (m) "Person" shall mean any person, firm, partnership, association, corporation, company, or organization of any kind;
- (n) "Person in Charge" means the Owner of a property upon which the burning is taking place, or a Person(s) having reached the age of majority within the Province of Newfoundland and Labrador and who has the Owner's written consent to conduct the burning;
- (o) "Rear Yard Depth" means the mean distance between the rear lot line and the rear of the main building on the lot.
- (p) "Town" means the Town of Labrador City as defined by Order-in-Council dated the 27th day of June, 1961, and any amendments thereto, according to the Municipalities Act.

3. *Application*

These Regulations shall apply to all residential and commercial property and lands contained within the municipal boundaries of the Town of Labrador City throughout the entire year.

- (a) No person shall light a fire outdoors in any part of the Town for any purpose unless that person lights the fire under authority of a permit issued by the Town;
- (b) The permit referred to in these Regulations shall specify:
 - i. The area in which the fire is being lit;
 - ii. The purpose for which the fire is being lit;
 - iii. The Person in Charge of the fire and responsible for lighting, supervision and control of the fire.
- (c) A person to whom a permit is issued shall keep a copy of the permit on the site where the burning is taking place.
- (d) The possession of a permit does not discharge the person to whom it is issued from responsibility for damage resulting from an open air fire caused, set, lit or otherwise ignited by that person.
- (e) Notwithstanding any other provision of these Regulations, any person whom is in tax arrears, owes outstanding fines to the Town for a by-law or regulatory violation for which he/she has been convicted, or is otherwise indebted to the Town, shall not be entitled to a permit issued pursuant to these Regulations until such time as all tax arrears, outstanding fines or other amounts due to the Town have been paid in full.
- (f) If there is a conflict between a provision of these Regulations and a provision of any other act or regulation in force within the municipal boundaries, the provisions as established under these Regulations shall prevail.

General Duties and Obligations

4. Outdoor Wood Burning Appliances

Outdoor wood burning appliances may be used throughout the Town of Labrador City subject to the following provisions:

- (a) Only one (1) outdoor wood burning appliance may be situated on a property;
- (b) The location of a wood burning appliance shall be limited to the rear yard except if, in the opinion of the Office of the Fire Chief, the limitations of the rear property boundaries prejudice said use and compliance with these Regulations in all other respects, can be accommodated if the appliance is located elsewhere on the property;
- (c) Rear yard depth shall be the only factor considered in determining limitations of the rear property boundaries. Other factors including, but not limited to, accessory buildings, property improvements and storage shall not be considered in determining the limitations of the rear property boundaries;
- (d) The installation, location or re-location of all wood burning appliances is subject to approval of the Office of the Fire Chief;
- (e) Wood burning appliances shall be limited to CSA, ANSI or ULC approved retail units that:
 - i. completely contain the fire;
 - ii. are of sufficient construction to withstand the effects of heating and cooling;
 - iii. are equipped with a grate to allow for proper air flow and cleaner burning;
 - iv. are screened and the chimney equipped with a spark arrestor to prevent the escape of sparks or other material.
- (f) Wood burning appliances shall be properly maintained in good condition, working order and repair at all times;
- (g) No wood burning appliance shall be permitted on any patio or deck that is attached to a residence;

- (h) All appliances shall be placed on a level, fire retardant surface such as concrete or patio blocks;
- (i) To minimize smoke by-product, only dry seasoned firewood or fire logs shall be used;
- (j) Smoke, smell, airborne sparks or embers shall not infringe on the use and enjoyment of other properties or become a nuisance to neighbouring residents;
- (k) Clearances of 4.6m (15') shall be observed in all directions from other combustible materials;
- (l) The flame area shall not exceed the screening and spark arrestor;
- (m) A fire extinguisher or garden hose connected to a water supply must be readily available for use while the fire is burning;
- (n) Fires are prohibited in high wind conditions or when the Fire Weather Index is high or extreme;
- (o) The fire must be supervised at all times by the Person in Charge;
- (p) The fire must be extinguished completely, leaving only cold ashes, prior to leaving the fire;
- (q) All ashes from a wood burning appliance must be totally extinguished prior to being discarded and no ashes from a wood burning appliance are to be discarded in a manner that may start a fire.

5. Permit Exceptions:

- (a) A Person may light a fire outdoors in a supervised municipal park that has facilities to contain open pit fires when permission to light such fires is granted by a person who is responsible for park supervision during the period the park is open to the public;
- (b) Nothing contained in these Regulations is deemed to prohibit the use of a propane operated stove provided they are not used within fifteen (15) feet of any woods, tree, brush or other combustible material;
- (c) Nothing contained in these Regulations is deemed to prohibit the use of a CSA approved propane BBQ or patio heater;

- (d) Nothing contained in these Regulations is deemed to prohibit the use of charcoal burning appliance utilized in the preparation of food if such charcoal burning appliance is designed to prevent the escape of burning material and is not used within fifteen (15) feet of any combustible material;
- (e) All coals from a charcoal burning installation must be totally extinguished prior to being discarded and no coals from a charcoal burning installation are to be discarded in a manner which may start a fire;
- (f) Nothing contained in these Regulations is deemed to prohibit the outdoor use of any match or cigarette lighter used for the purpose of lighting a cigarette, cigar or pipe in any non-restricted smoking area.

6. General Prohibitions

Notwithstanding any other provision of these Regulations, a Person shall not:

- (a) Leave a fire unattended whether or not it is contained in a propane or charcoal burning installation or is lit under authority of a permit;
- (b) Leave the location of a fire until the fire has been completely extinguished;
- (c) No Person shall burn, at any time, on any premises, the following materials:
 - i. Treated or painted lumber;
 - ii. Lumber products containing glue or resin;
 - iii. Wet or unseasoned wood;
 - iv. Leaves, brush or yard waste;
 - v. Garbage;
 - vi. Rubber, tires or plastic, or
 - vii. Any animal carcass or part thereof

7. Fire Weather Index

All permits issued under these Regulations are invalid when a "high" or "extreme" hazard rating exists in the locality for which the permit has been issued.

8. *Fire Bans*

Notwithstanding any provision contained in these Regulations or any other By-law, the Fire Chief may declare a complete ban of any burning of any kind within the Town.

- (a) When determining whether to declare a complete ban on burning, the Fire Chief may take into consideration any or all of the following factors:
 - i. the air quality index;
 - ii. wind conditions;
 - iii. levels of recent precipitation;
 - iv. water shortages or restrictions;
 - v. availability of fire fighters and firefighting equipment; and
 - vi. the overall fire danger
- (b) No Person shall build, ignite or allow any kind of fire when a complete ban on burning has been declared by the Fire Chief and is in effect;
- (c) A member of the Fire Department or an Officer may direct a person to extinguish any fire when a fire ban is in place;
- (d) A Person who fails to comply with the direction of a member of the Fire Department or an Officer to extinguish a fire during a fire ban commits an offence and the member of the Fire Department or the Officer, as the case may be, may extinguish the fire.

Powers of Enforcement Authority and Compliance

9. *Enforcement*

- (a) If in the opinion of an Officer, or in the sole opinion of a member of the Fire Department, a fire poses a danger or does not comply with the requirements of these Regulations, a member of the Fire Department may extinguish the fire and take any other steps that member of the Fire Department deems necessary to ensure that the fire and site of the fire no longer pose a danger.
- (b) A permit may, by oral or written notice be cancelled or suspended at any time by Enforcement Authority and upon receiving notice of a cancellation or suspension, the permit holder shall immediately extinguish any fire caused, set, lit or otherwise ignited under the permit.

- (c) Enforcement and prosecution under these Regulations may be undertaken by any Officer or by any other person so authorized by the Enforcement Authority.
- (d) Pursuant to Section 404(1) of the Act, the Enforcement Authority may serve upon the owner or person in charge who is violation of a provision of these Regulations, a serially numbered notice advising the nature of the violation and required action to conform with the standards set out in these Regulations.
- (e) The owner or person in charge shall carry out the directions of Council referred to in Section 9(d) at the cost of the owner or the person in charge and within the time specified.
- (f) Where the Enforcement Authority has placed or caused the placing of a sign, placard, or notice upon any premises under the authority of these Regulations or any other applicable law, by-law, or regulation, no person shall remove such sign, placard, or notice except with the consent of the Enforcement Authority.
- (g) Any cost to the Town for all works carried out in response to a violation of these Regulations, in addition to any penalty prescribed hereunder, may be recoverable from the person in contravention of these Regulations as a civil debt and shall attach to the property as a secured claim.

10. *Failure to Comply*

- (a) Pursuant to Section 404(5) of the Act, where a person to whom an order is directed does not comply with the order or part of an order made under Section 9(d) of these Regulations, Council may take the action that it considers necessary to carry out the terms of the order and any costs, expenses or charges incurred by Council in carrying out the terms of the order are recoverable from the person against whom the order was made as a civil debt owed to Council and shall attach to the property as a secured claim.
- (b) Council may delegate to an official or employee of Council the power to issue orders under this section.
- (c) The owner shall save harmless Council, its employees, servants or agents from any and all claims arising out of the actions of Council, its employees, servants or agents in the process of inspecting and/or carrying out work under Section 10(a), except in the case of gross negligence.

- (d) Council, its employees, servants or agents shall be saved harmless from any and all claims arising out of the actions of Council, its employees, servants or agents in the process of inspecting and/or carrying out work under these Regulations, except in the case of gross negligence.

11. *Right of Entry*

Pursuant to Section 158 of the Act, Council or its duly authorized agents have the authority to enter a property for the purposes of inspection and enforcement as required under these Regulations.

12. *Offence and Penalty*

- (a) Pursuant to Section 419 (2) of the Act, each day upon which the same offence is committed or continued is a separate offence;
- (b) Every person who commits an offence under these Regulations or who acts in contravention of or fails to comply with any provision thereof, or neglects or refuses to do so:
 - i. Shall be liable to penalties pursuant to Section 421.1 of the Act or,
 - ii. Shall be liable on summary conviction to a fine pursuant to Section 420 or 421.2 of the Act.
- (c) The conviction of a person for failing to comply with a requirement or obligation referred to in subsection (b) shall not operate as a bar to further prosecution under these Regulations for the continued failure on the part of the person in comply.
- (d) In addition to the penalty prescribed under subsection (b) a Provincial Court judge who convicts a person of an offence referred to in that subsection may order that person to carry out all work in accordance with these Regulations. If that person does not carry out that order within the time prescribed by the Provincial Court judge, the judge may designate a person to carry out the order and the cost of carrying out the order shall be borne by and may be recovered as a civil debt from the person convicted and shall attach to the property as a secured claim.

13. Severability

If a court of competent jurisdiction should declare any section or part of a section of these Regulations to be invalid, such declaration shall not affect the remainder of these Regulations and the remainder of these Regulations should be valid and shall remain in force.

Repeal of Previous Regulations

14. Repeal

All previous outdoor burning regulations relating for the Town are hereby repealed.