

TOWN OF NEW GLASGOW

FIRES AND BURNING OF MATERIALS BY-LAW

BE IT RESOLVED that this By-Law, known as the Fires and Burning of Materials By-Law for the Town of New Glasgow be enacted effective this 25th day of March, 2022.

SHORT TITLE

1. This By-Law shall be known By-Law Number 26 and may be cited as the Fires and Burning By-Law.

DEFINITIONS

2. In this By-Law:

- a. **"Burn Restrictions"** means burning restrictions issued by the Department of Natural Resources and Renewables by jurisdiction;
- b. **"Fire Chief"** means the Fire Chief of the Town of New Glasgow or his or her Designate;
- c. **"Owner"** has the same meaning as in the *Municipal Government Act*, SNS. 1998 c. 18;
- d. **"Peace Officer"** means a member of any policing agency as defined in section 42 of the *Police Act*, SNS 2004, c. 31 or section 2 of the *Criminal Code*, 1970, c. C-34.;
- e. **"Person"** means a body corporate or politic, or party, including a citizen, Owner or occupier of Property;
- f. **"Property"** means the subject land where any fire is occurring, including, without limitation, any buildings, outbuildings or structures located thereon;
- g. **"Recreational Outdoor Burning Appliance"** means an appliance that is approved by CSA (Canadian Standards Association) or ULC (Underwriters' Laboratories of Canada) and is designed to contain a small fire for recreation and entertainment purposes, equipped with a spark arrester, and includes an outdoor fireplace, an outdoor dome fireplace, or fire pit. This does not include an appliance that is designed or used to provide heat to a building. Fuel sources include propane, seasoned dry wood, natural gas, coal, and charcoal;
- h. **"Special Constable"** means any employee of the Town or other employee in connection with the Town charged with enforcement of the policies or By-laws of the Town, including, without limitation, a By-law enforcement officer, per the *Police Act*, SNS 2004, c. 31 ; and
- i. **"Town"** means the Town of New Glasgow.

APPLICATION

3. This By-Law is enacted pursuant to Section 172 of the *Municipal Government Act*, S.N.S. 1998, c. 18.
4. This By-Law applies to fire administration, fire prevention and any outdoor fires within the Town.

5. This By-Law is intended to add to, and not to conflict with or subtract from, the requirements contained in valid provincial or federal legislation and regulations in force from time to time, as well as all manufacturer operating instructions, and shall be interpreted accordingly.

FIRES AND BURNING OF MATERIALS

6. No Person shall light, ignite, start, allow or cause to be lit, ignited or started, or add fuel to, or otherwise permit or encourage to burn, a fire of any kind whatsoever in the open air, except as permitted by this By-Law within the limits of the Town.
7. The burning of materials, articles or substances in any container outside a building shall be considered burning outdoors, which includes any place on a Property that is not a building. A structure used mainly for the purpose of containing a burning facility or housing a vessel used for burning of materials or substances does not qualify as a building. No Person shall burn rubber tires, oil, plastic, petroleum products or domestic waste, such as leaf and yard waste including grass and grass clippings, twigs, house and garden plants, construction or demolition materials, including saw dust, wood shavings, planking, siding, wood beams, plastic and rubber.
8. Only Recreational Outdoor Burning Appliances compliant with the provisions of this By-Law may be used throughout the Town without a permit. Further, the users of Recreational Outdoor Burning Appliances shall ensure that the manufacturer's operating instructions are followed and a copy is retained and readily available upon request by any Peace Officer, Fire Chief or Special Constable. Further to section 5 herein, where the manufacturer operating instructions are stricter than the provisions of this By-Law, there must be compliance with the operating instructions together with this By-Law.

PERSON IN CHARGE OF THE FIRE

9. There shall be a Person designated in charge of the fire, who shall be the Owner of the subject Property, or a Person who has the Owner's consent to conduct the burning. The Person shall:
 - a. Be a minimum of nineteen (19) years of age and have the ability to act quickly without delay if an issue or incident occurs in relation to the fire, with the means to immediately call 911 from the site;
 - b. Be present at all times while the fire is burning and ensure smoldering embers are completely extinguished prior to leaving the site after burning is complete;
 - c. Be equipped with on-site tools or equipment to contain an outdoor fire, such as brooms, rakes, back tanks, shovels and which must include an extinguisher or garden hose with an adequate water supply;
 - d. Ensure that no fires are ignited when a Burning Restrictions indicator is issued for the Pictou County region by the Nova Scotia Department of Natural Resources and Renewables, between the period of March 15th to October 15th or as determined from time to time by the Province of Nova Scotia as set out in the Forest Fire Protection Regulations;
 - e. Ensure no fire is ignited or remains active when the wind speed is in excess of 25 km per hour as reported by Environment Canada for New Glasgow, Nova Scotia;
 - f. Ensure where the Recreational Outdoor Burning Appliance burns natural gas or propane, it shall not have combustible products added to it while in operation;

- g. Ensure Recreational Outdoor Burning Appliances not be placed on wooden decks or combustible surfaces or under or near a combustible structure, and shall ensure only one Recreational Outdoor Burning Appliance is used on a Property at a time;
- h. Ensure burning does not take place within 4.75 metres (15 feet) of any dwelling, accessory building, flammable structure, combustible material or Property line;
- i. Ensure where the Recreational Outdoor Burning Appliance burns wood instead of natural gas or propane:
 - i. it shall have a spark arrestor or mesh screen used to contain any sparks or blowing debris that has no openings larger than 9.65 mm (3/8"). For clarity, a spark arrestor is a device fitted to a recreational outdoor burning appliance to prevent the release of sparks into the atmosphere or surrounding area;
 - ii. that only clean, dry, untreated wood or charcoal is burned; namely, wood that has not been chemically treated, stained or painted, and has been stored in a manner to deter dampness;
 - iii. the fire shall not exceed 60 centimeters in width at the largest point, not piled higher than 45 centimeters in height and shall not create an unreasonable interference with a neighboring property owner's enjoyment of his or her property.

SPECIAL BURNING PERMIT

- 10. Any outdoor fire not in accordance with the provisions of this By-Law must be approved for a special burning permit, the application for which shall be submitted to the Fire Chief for review.
- 11. The Fire Chief may issue a special burning permit to an applicant with prescribed conditions.
- 12. The issuance of a permit pursuant to this By-Law is at the discretion of the Fire Chief, and any issued permits may be revoked by the Fire Chief at any time.

AUTHORITY

- 13. Any Peace Officer, Fire Chief or Special Constable, who is directed by the Town to enforce this By-Law, shall have control over the prevention and suppression of fires governed by this By-Law, and may enter upon any land as required for the purpose of performing their duties and functions pursuant to this By-Law.
- 14. Upon determination that a fire poses a hazard to Persons or Property, a nuisance to Persons or Property, or is otherwise non-compliant with this By-Law, any Peace Officer, Fire Chief or Special Constable shall have the authority to extinguish or order extinguished such fire.

OFFENCE ENFORCEMENT AND PENALTIES

- 15. No Person shall contravene or fail to comply with any provision of this By-law.
- 16. This By-law may be enforced, at the discretion of the Town, by any Peace Officer, Fire Chief or Special Constable, in accordance with the procedures set out in the *Municipal Government Act* or by means of a Summary Offence Ticket under the *Municipal Government Act* or *Summary Proceedings Act*, RSNS 1989, c. 450.
- 17. The *Summary Proceedings Act*, where applicable, shall apply to proceedings under this By-Law.

18. Except as otherwise provided in this By-Law, any Person who violates any of the provisions of the By-Law or who suffers or permits any act or thing to be done in contravention of this By-Law, or who refuses, omits, fails to comply with or neglects to fulfill, observe, carry out or perform any duty or obligation imposed by this By-Law, shall be liable upon summary conviction:

i.(a) for the first offence to a penalty of not less than one hundred dollars (\$100.00) and of not more than ten thousand dollars (\$10,000.00) or imprisonment for a period of not more than six (6) months;

(b) for the second offence to a penalty of not less than three hundred dollars (\$300.00) and not more than ten thousand dollars (\$10,000.00) or imprisonment for a period of not more than six (6) months or both);

(c) for the third or subsequent offence to a penalty of not less than five hundred dollars (\$500.00) and not more than ten thousand dollars (\$10,000.00) or imprisonment for a period of not more than six (6) months or both.

EXCEPTION

19. This By-Law shall not apply to persons acting directly under the authority of the Fire Chief of the New Glasgow Fire Department in the performance of their duties.

20. No civil action lies against the Fire Chief, or Designate, a Peace Officer, Special Constable or a member of the New Glasgow Fire Department or any fire department for the doing of any act or the carrying out of any operation necessarily incident to the exercise of any duty or power pursuant to this By-Law.

COSTS

21. The Property owner, in addition to any penalty imposed pursuant to the provisions of this By-Law, shall be responsible for any costs incurred by the Town due to contravention or failure to comply with this By-Law, plus interest at a rate determined by Council calculated from work completion date to payment date inclusive, and shall be a first lien on the Property upon which, or for the benefit of which, such work was completed.

JURISDICTION AND PROCEDURE

22. No provision of this By-law shall be interpreted to exempt any Person from obtaining any license, permission, permit, authority or approval or other requisite of any By-law or regulation of the Town or any provincial or federal legislation.

REPEAL

23. The Town of New Glasgow By-law Number 26 known as the Fire Prevention By-law dated the 23rd day of January, 1989, and all amendments thereto is hereby repealed and this By-Law substituted therefor.

EFFECTIVE DATE

This By-Law shall come into effect on the day of publication.

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| Date of first reading: | February 14, 2022 |
| Date of advertisement of Notice of Intent to Consider: | February 24/22 |
| Date of second reading: | March 14, 2022 |
| Date of advertisement of Passage of By-Law: | March 24/22 |
| Date of mailing to Minister a certified copy of By-Law: | March 17, 2022 |

I certify that the above FIRE AND BURNING OF MATERIALS BY-LAW was duly adopted by New Glasgow Town Council at duly called meetings and was published as indicated above.



Chief Administrative Officer