



City of North Bay Report to Council

Report No: CSBU-2022-007

Date: January 27, 2022

Originator: Jason Whiteley

Business Unit:

Department:

Community Services

Fire Department

Subject: Amendments to By-Law No. 2015-115, being a By-Law to Regulate the Setting of Fires and to Set Out Precautions to be Taken with Open Air Fires, Barbecues and Gas Fired Outdoor Appliances

Closed Session: yes ☐ no ☒

Recommendation

That Council authorize the amendments to By-Law No. 2015-115, being a By-Law to Regulate the Setting of Fires and to Set Out Precautions to be Taken with Open Air Fires, Barbecues and Gas Fired Outdoor Appliances, as set out in Report to Council CSBU-2022-007, dated January 27, 2022 from Jason Whiteley.

Background

The Ontario Fire Code 2.6.3.4. (1) does not permit open air burning unless approved. The *Fire Protection and Prevention Act*, provides authority for a council of a municipality to pass by-laws regulating fire prevention, including the prevention of the spreading of fires, and regulating the setting of open air fires, including establishing the times during which open air fires may be set. As well, the City is situated within the East Fire Region as defined and prescribed by the *Forest Fires Prevention Act*, and O Reg 207/96 made pursuant to the *Forest Fires Prevention Act*, and must therefore comply with this Act and Regulation. In 2015, By-Law No. 2015-115, Being a By-Law to Regulate the Setting of Fires and to Set Out Precautions to be Taken with Open Air Fires, Barbecues and Gas Fired Outdoor Appliances was updated and approved by Council to regulate the setting of fires and to set out precautions to be taken with open air fires, barbecues and gas fired outdoor appliances.

Like every by-law, this by-law tries to balance safety, liability, convenience and pleasure of all citizens. Every year North Bay Fire and Emergency Services (NBFES) receives several suggestions and complaints in regards to this by-law; in 2021 fire crews responded to 116 burning complaints. Suggestions range from no control of open air burning, to a total ban of open air burning.

NBFES has done a review of our most common complaints and suggestions and has identified two areas that we believe could be changed in the by-law. A common request that Fire Administration receives is an earlier start time, and the most common complaint comes in regards to the end time. It should be noted that the *Forest Fires Prevention Act* does not permit day time burning. After our analysis NBFES believes that a good balance would be changing the burning start time to 6:00pm and fires to be extinguished no later than 12:00am. This provides an extra 30 minutes of burning time and an earlier start for young families, but will help reduce nuisance complaints of late night burning.

The second suggestion is in regards to the prohibition of barbecues on balconies above the first floor. There is always a safety concern with any gas fired appliance and the storage of propane. For many years the Technical Safety Standards Association (TSSA) regulation on barbecues has been misunderstood. In a review of their regulations, barbecues are not prohibited from balconies. What is regulated is the storage, transportation and clearances required for propane use in a multi-storey building. NBFES does not have the authority to enforce these TSSA regulations. The Ontario Fire Code in regards to this type of propane use only allows us to regulate if we deem there is an extreme fire hazard or risk to life. Our enforcement is under direction of this by-law.

NBFES has done an environmental scan of enforcement in other jurisdictions and a risk versus reward analysis of allowing barbecues to be used. Based on all the information/analysis we believe that the prohibition or use of barbecues should be the responsibility of the building owner, condo board or management representative, and that NBFES does not provide an enforcement role of barbecue use in a building. NBFES would be available for consultation on the risks and regulations, as well as public education to decision makers and residents.

The changes to the By-Law are as follows:

- (i) Title of the By-Law changed to:

Being a By-Law to Regulate the Setting of Fires and to Set Out Precautions to be Taken with Open Air Fires, and Gas Fired Outdoor Appliances:

- (ii) Remove barbecue from the definition in Part 1.3 of “Gas Fired Outdoor Appliance” and be reworded to:

“Gas Fired Outdoor Appliance” means a portable or fixed appliance designed for use outdoors and which is fueled by natural gas or propane including, but not limited to, a heater, smoker, fireplace or fire pit.

- (iii) The hours permitted to have an approved outdoor fire be changed to 6:00 pm to 12:00 am; and Part 3.3 (1) would be reworded to:

3.3 (1) Where a fire is permitted under this By-Law, it shall only be permitted between the hours of 6:00 p.m. and 12:00 a.m. No person shall set, maintain, or cause or permit to be set or maintained, an open air fire outside of these hours.

- (iv) The prohibition of barbecues on balconies, roof tops or decks above the first storey of a building be repealed; and the following changes are made to 9.1 of the by-law:

9.1 (1) Without limiting the generality of Part 8, the provisions of this By-Law do not apply to the use of a barbecue, whether gas fired or designed or intended to use charcoal, briquettes or other fuel.

and

9.1 (2) and 9.1 (3) (a)(b)(c) be removed.

Financial/Legal Implications

There are no financial or legal implications.

Corporate Strategic Plan

- | | |
|---|--|
| <input type="checkbox"/> Natural North and Near | <input type="checkbox"/> Economic Prosperity |
| <input type="checkbox"/> Affordable Balanced Growth | <input type="checkbox"/> Spirited Safe Community |
| <input checked="" type="checkbox"/> Responsible and Responsive Government | |

Specific Objectives

Options Analysis

Option 1: That Council authorize the amendments to By-Law 2015-115, as set out in Report to Council CSBU 2022-007, dated January 27, 2022 from Chief Whiteley.

This is the recommended option.

Option 2: That Council not authorize the amendments to By-Law 2015-115.

This is not the recommended option.

Recommended Option

That Council authorize the amendments to By-Law No. 2015-115, being a By-Law to Regulate the Setting of Fires and to Set Out Precautions to be Taken with Open Air Fires, Barbecues and Gas Fired Outdoor Appliances, as set out in Report to Council CSBU-2022-007, dated January 27, 2022 from Jason Whiteley.

Respectfully submitted,

Name: Jason Whiteley

Title: Fire Chief

I concur with this report and recommendation

Name David Euler, P.Eng., PMP

Title: Chief Administrative Officer

Personnel designated for continuance:
Jason Whiteley
Fire Chief