

Request for Recommendation

Open Air Burning By-Law

Presented To:	Priorities Committee
Presented:	Wednesday, Jul 09, 2008
Report Date	Thursday, Jun 19, 2008
Type:	Policy Discussion Papers - Decision Requested

Recommendations

It is recommended that the Open Air Burning By-Law be amended as follows:

1. That daytime burning in the winter (November 1 - April 30) be allowed subject to the other restrictions as contained in the By-law are followed.
2. That ceremonial and group bonfires be allowed during daytime hours subject to approval and an inspection by Fire Services.
3. That an open fire be located a minimum of 6 meters (20 feet) from a structure.

It is recommended that Option #_____ be chosen for the enforcement of the Open Air Burning By-law.

Signed By

Report Prepared By

Marc Leduc
Acting Fire Chief.
Digitally Signed Jul 4, 08

Recommended by the Department

Marc Leduc
Acting Fire Chief.
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Recommended by the C.A.O.

Mark Mieto
Chief Administrative Officer
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Finance Implications

If Option 2 or 3 are approved, a budget option will be prepared for the 2009 Budget based on Priorities Committee's direction.

Background

Fire Services Division

During the public input sessions, numerous concerns were raised about the existing by-law not being enforced and about the legality of enforcement. In order to address these matters the Fire Chief met with the By-law Enforcement officials and together made some moderate changes to the process to ensure enforcement is done consistently across the Community. As an interim measure, a form has been developed for use by Fire Fighters when responding to complaints.

Fire Services will continue responding to complaints for fire and smoke. Under the existing by-law, Fire Services have the authority to extinguish, or to direct a person to extinguish, any fire that is in violation of the by-law. Where there is a violation of the by-law, the Incident Commander may fill out a "Request for Prosecution" form. This form, along with a copy of the Fire Report, is then forwarded to the By-law Enforcement Section for processing.

The cost per call for Fire Services to respond to complaints varies. In areas covered by Career Fire Fighters the cost is basically the price of fuel and wear and tear on equipment. In the areas covered by Volunteer Fire Fighters the cost can range from \$ 100.00 to \$ 500.00.

We have also received additional information as to what other communities have in place for Open Air Burning.

City of North Bay: Residents in the urban area of the City are prohibited from open burning. This includes clay or stainless steel chimineas and outdoor fireplaces. Residents in the rural areas of the City may be approved for open burning provided a permit is obtained and all fire safety regulations are practiced.

In reviewing the Report submitted by Fire Services to the Priorities Committee on March 5, 2008, the following minor amendments are recommended:

1. Winter daytime burning – it was suggested by many at the public input sessions that it is not fair they cannot have daytime fires in the winter especially from a family standpoint where they may be out ice fishing on one of our over 300 city lakes and they cannot have a fire for fun, warmth and cooking. To address this concern, the Fire Chief is recommending that daytime burning in the winter (November 1 - April 30) be allowed following all other restrictions on size of fire, what can be burned etc., and which are already contained in the existing by-law.
2. Our current restrictions do not allow for open air daytime burning other than on fires via a permit process including an inspection by our staff. It was suggested that there are times this is not appropriate e.g. ceremonial fires for cultural issues; group bonfire activities for Scouts, carnivals, schools etc. To address this concern, the Fire Chief is recommending that these types of fires be considered pending an inspection by our staff and approvals based on meeting conditions set out in the inspection process which will mirror existing fire safety concerns in existing by-law.
3. The existing by-law requires an open fire to be located a minimum of 3 meters (10 feet) from a combustible structure. In order to accommodate the concerns of the public who do live in built up areas, we recommend increasing this distance to 6 meters (20 feet). Although this is not based on fire science but rather public input, it is supported by CGS Fire Services in order to accommodate the concerns raised in the public input sessions.

Compliance and Enforcement Section

Compliance and Enforcement can offer the following comments and options for enforcement of the Open Air Burning By-law:

Since the introduction of the Open Air Burning By-law, By-law Enforcement staff have worked hand in hand with Fire Services to ensure compliance to the by-law. This section has not received very many complaints regarding the by-law as most complaints are directed through Fire Services. Fire Services in turn has referred only a few complaints to this section for follow up prosecution. With this in mind, below are three options for the Committee's consideration:

Option 1: Enforcement Procedure to Remain Status Quo

Currently, Fire Services responds to initial complaints regarding the Open Air Burning By-law. If there is a need for follow up enforcement, the complaint is then turned over to the Compliance and Enforcement Section. This section reviews the information received from the Fire Service and if necessary a charge is laid. The complainant as well as the Fire Service personnel will then be required to attend court if a trial is set. This system has been in place for some time now however very few requests have come from the Fire Service for follow up enforcement.

Option 2: Enforcement to Operate a 2 Shift Schedule

Implement By-law Enforcement on a 2 shift schedule operating from 8:00 a.m. to 4:00 p.m., and the second shift would be from 4:00 p.m. to 12:00 a.m. Officers would be required to enforce all by-law complaints during this time period. This option could be an interim start up point and a 3 shift schedule could be implemented if needed. This option will affect staffing levels and will become a budget option. A report will have to be drafted for the fall of 2008 to show how this model could be implemented. This option may require some amendments to the Collective Bargaining Agreement.

Option 3: Enforcement to Operate 24/7 on Shift Work

This option would entail having enforcement officers working 7 hour shifts within a 24 hour period. This would also include weekends and holidays. Officers would be answering calls not only for smoke complaints but also complaints regarding noise, traffic and parking, property standards and all other calls which are now only investigated during the day shift.

If the Committee should consider this option, a review would have to be done of the whole section to determine the number of additional staff that would be required. This would become a major budget option and could be presented to the Finance Committee in the fall. This option may require some amendments to the Collective Bargaining Agreement.

Policy Discussion Papers - Preliminary Discussion



Request for Recommendation

Public Input Meetings on the City of Greater Sudbury's Open Air Burning By-law

Presented To:	Priorities Committee
Presented:	Wednesday, Mar 05, 2008
Report Date	Friday, Feb 22, 2008
Type:	Consent - Policy Discussion Papers - Preliminary Discussion

Recommendations

That the recommendations contained in the report of the Fire Chief dated February 22, 2008 regarding public input meetings on the Open Air Burning By-law be accepted and that By-law 2004-160 be amended.

Signed By

Report Prepared By

Donald Donaldson
Fire Chief

Digitally Signed Feb 29, 08

Recommended by the Department

Donald Donaldson
Fire Chief

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Recommended by the C.A.O.

Mark Mieto
Chief Administrative Officer

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Background

This report will provide a brief background and summarize the public input sessions held in January of 2008. Additionally, based on the public input received and further input from Fire Services, adjustments to the existing by-law will be recommended.

In the summer of 2007, several Council Members were contacted by their constituents expressing their discontent with the current by-law regulating open air burning.

In October of 2007, Fire Chief Donaldson met with the Mayor, Councillor Dutrisac and two members of her ward who had concerns regarding the harmful aspects of smoke. They were asking for a complete open air burning ban in the city core or other built up areas. This was in reference to the residential neighbourhoods, not commercial.

As a point of interest, we cannot argue the fact that smoke is bad – we do know that. Our Fire Fighters have expensive protective equipment to protect them from smoke and associated hazards, plus we have presumptuous legislation from WSIB that if after 20 years on the job a Fire Fighter gets certain cancers, it is presumed to be from the smoke on the job.

At this meeting, the Fire Chief explained that the existing open air burning by-law is reviewed every 2 – 3 years. As a result, the Chief suggested there should be some public input into any proposed changes, which was supported by those in attendance. However, it was also made very clear to all by the Mayor that an outright ban (being completely opposite to existing by-law) was not likely.

Councillor Dutrisac broached the subject with Council at a subsequent Council Meeting and it was asked for the Fire Service to conduct a review of the by-law including public input sessions and report back to Council prior to the end of March 2008. This report will summarize the actions since then and present recommendations.

In addition, a comparison with other Northern communities was conducted. The results of this comparison are summarized later in this report.

Input Sessions

There were five (5) public input sessions held across the community in order to receive as broad a base of community feedback as possible. The sessions are summarized in the table below.

LOCATION	DATE	APPROXIMATE ATTENDANCE	APPROXIMATE % FOR	APPROXIMATE % AGAINST
CITY COUNCIL CHAMBERS	January 14, 2008	100	70	30
GARSON ARENA	January 15, 2008	75	95	5
CHELMSFORD ARENA	January 17, 2008	50	90	10
T.M. DAVIES ARENA	January 21, 2008	60	90	10
HOWARD ARMSTRONG CENTRE	January 23, 2008	200	99	1
TOTALS (weighted averages)		485	90	10

In addition to Fire Services staff, Councillors Dutrisac, Caldarelli, Callaghan and Gasparini attended session #1; Councillor Dutrisac also attended sessions #3 and #4; no Councillors were present at either #2 nor #5. Session #5 had the date changed by Fire Chief and unfortunately this coincided with a Priorities Meeting of Council, so Council was double booked. This was explained to the public at the start of session #5 as there were questions as to where the Councillors were. The Fire Chief publicly accepted all responsibility at that time for the double booking. However, several of the public attendees did not feel comfortable with my explanation.

At this point it is very clear that the public input is very much in favour of keeping the existing by-law with some possible minor revisions. There does not seem to be an appetite from the public for wholesale changes.

This on the surface seems okay but there are opposing views especially from citizens in built up areas that should not be ignored even though they are very much in the minority.

All of the public input is available for viewing in the City Clerk's office. The above is a summary based on what was presented to Fire Services at the Public Input meetings.

Recommendation

During the initial by-law establishment (2003), Fire Services had a great deal of input into the parameters surrounding open air burning. These included distances from combustible structures; time constraints – no day time burning due to higher winds in the daytime along with higher temperatures increasing risk of fire spread; fire size restrictions etc. Based on those inputs there is no reason from a fire safety standpoint that there should be any changes with the following exceptions (based on public input).

1. Winter daytime burning – it was suggested by many at the input sessions that it is not

fair they cannot have daytime fires in the winter especially from a family standpoint where they may be out with the family ice fishing on one of our over 300 city lakes and they cannot have a fire for fun, warmth and cooking. To address this concern, the Fire Chief is recommending that daytime burning in the winter (November 1 - April 30) be allowed following all other restrictions on size of fire, what can be burned etc., and which are already contained in the existing by-law.

2. Our current restrictions do not allow for open air daytime burning other than on fires via a permit process including an inspection by our staff. It was suggested that there are times this is not appropriate e.g. ceremonial fires for cultural issues; group bonfire activities for Scouts, carnivals, schools etc. To address this concern, the Fire Chief is recommending that these types of fires be considered pending an inspection by our staff and approvals based on meeting conditions set out in the inspection process which will mirror existing fire safety concerns in existing by-law.

There are no other changes recommended by the Fire Services from a fire protection perspective. However, based on the public feedback, there is one more recommendation being presented representing the public viewpoint.

3. The existing by-law requires an open fire to be located a minimum of 3 meters (10 feet) from a combustible structure. In order to accommodate the concerns of the public who do live in built up areas, we recommend increasing this distance to 6 meters (20 feet). Although this is not based on fire science but rather public input, it is supported by CGS Fire Services in order to accommodate the concerns raised in the public input sessions.

Further to this information, according to Communiqué 2005-09 and the Q & A (which is a guideline from the O.F.M. to provide Fire Departments and municipal officials with measures that could be considered to manage open air burning within their communities), states that the Fire Chief is “not empowered to enforce the Environmental Protection Act”. Based on this, the Fire Chief (and by extension, the Fire Service) has no authority to deal with smoke complaints. The majority of concerns about open air burning raised were about smoke issues. Additionally, the majority of calls that CGS Fire Services responds to about open air burning (about 200 - 250 per year) are based on smoke matters, which we should not be getting involved with. If this is supported by Council, Fire Services will change their operating procedures so that we do not respond and deal with smoke complaints.

It should also be noted that the Ministry of Environment (MOE) recommends that in order to address smoke concerns the fire should be set at a minimum of 150 meters (500 feet) from any building. If we follow this, there will effectively be no open air burning within the city except for large open tracts of land. It is very clear from the public input sessions that the majority of citizens are not in favour of such a recommendation. The above recommendation (#3) does attempt to address concerns about smoke but it is not in the Fire Services responsibility to do so.

Enforcement

During the input sessions, we heard numerous concerns about the existing by-law not being enforced and about the legality of enforcement. In order to address these matters the Fire Chief has met with the By-law officials and together we are making changes to the process to ensure enforcement is done consistently across the community.

Community Comparisons

As part of this process, we asked other Northern communities for their input as to what is done in their community.

Sault Ste. Marie

They do not have an open air burning by-law.

West Nipissing

Again, they do not have an open air burning by-law. They attempt to use the Ontario Fire Code to enforce open air burning.

Espanola

They are in the process of developing an open air burning by-law but have nothing at this time.

Elliot Lake

They break the community into urban and rural sections. Fire size and time of burning (evenings), along with the other safety concerns built into CGS by-law is identical to our by-law. The rural portion allows for bigger fires, similar to our use of permits for agricultural burns.

Baldwin Township (McKerrow)

They have a by-law very similar to our existing by-law.

Huntsville

They have a permit system similar to our by-law to address large rural agricultural burns and also for fires to be set during the daytime. For recreational burning, the size is identical to the size limit in our by-law. The distance requirements are that the fire must be a minimum of 6 meters (20 feet) from adjacent properties in all directions.

To summarize this comparison, it is very easy to see that most of the by-laws are very similar. The fire safety concerns built into each are almost identical giving credibility to the fire safety measures contained within these by-laws. Copies of these by-laws are available from Fire Services Administration staff.

Conclusion

We allowed equal opportunity for all to comment publicly or provide a written input. There was a great deal of public participation, roughly 500 persons attended the public sessions which is very high for a public input in general. Additionally, we received a large number of submissions post the public sessions with citizen views and input. All of these were equally considered in providing this report to council.

It is clear; there are two opposing views about open air burning in this community. One view is the long standing tradition of fires for family and social events, which is seen as a benefit of living in this Northern community, particularly for those who live on one of our over 300 lakes. The other view is that we should progress to the 21st century and ban any and all pollution including smoke from fires or wood stoves. Fire Services has no jurisdiction with regard to the smoke from wood stoves inside a dwelling or any other structure.

The recommendations in this report are based on the public input and also on fire science and public safety.