

**THE CORPORATION OF THE TOWNSHIP OF SEGUIN**

**OPEN AIR BURNING BY-LAW NO. 2023-107**

**BEING A BY-LAW PRESCRIBING TIMES FOR SETTING FIRES, PRECAUTIONS TO BE OBSERVED AND PENALTIES FOR CONTRAVENTIONS AND TO REPEAL BY-LAW NO. 2020-058 AND ALL OF ITS AMENDING BY-LAWS IN THEIR ENTIRETY**

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**WHEREAS** Section 7.1 of the *Fire Protection and Prevention Act*, provides that the council of a municipality may pass By-laws regulating fire prevention, including the prevention of the spreading of fires and the setting of open air fires, including establishing the times during which they may be set;

**AND WHEREAS** the *Forest Fires Prevention Act* and O. Reg 207/96, as amended, provide rules for outdoor burning within the Fire Regions;

**AND WHEREAS** Section 425 of the Municipal Act, 2001 provides that any Person who contravenes any by-law of the municipality is guilty of an offence;

**NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF SEGUIN HEREBY ENACTS AS FOLLOWS:**

**1 DEFINITIONS**

**1.1 In this By-law:**

1.1.1 "Appliance" means equipment or a device specifically designed and constructed to provide for and contain the burning of combustible materials, including gases and liquified gases;

1.1.2 "Campfire" means any fire that is:

- a) confined to a single pile of material that is less than one (1) meter in diameter; and
- b) has a flame height less than one (1) meter; and
- c) which is ignited for the purposes of cooking, warmth, or socializing; and
- d) a chiminea;

1.1.3 "Chiminea" means clay, porcelain or metal receptacle used for the purposes of burning;

1.1.4 "Council" means the Council of The Corporation of the Township of Seguin;

1.1.5 "Daytime Outdoor Fire" means any fire which is not a Campfire, and which is:

- a) confined to a single pile of material that is less than two (2) meters in diameter; and
- b) has a flame height that is less than two (2) meters; and which is ignited and maintained between two (2) hours after sunrise and two (2) hours before sunset;

1.1.3 "Designated Appliance" means:

- a) An Incinerator;
  - b) A propane, natural gas, or pellet fueled barbeque or smoker; or
  - c) An Outdoor Solid Fuel Burning/Combustion Appliances;
- 1.1.4 "Evening Outdoor Fire" means any fire that is not a Campfire and which is:
- a) confined to a single pile of material that is less than two (2) meters in diameter; and
  - b) has a flame height that is less than two (2) meters; and
  - c) which is ignited during the hours of two (2) hours before sunset until 2 hours after sunrise the following day;
- 1.1.5 "Extinguish" means to put out or quench a fire completely, such that no smoke or hot or glowing embers or heat remain;
- 1.1.6 "Fire Ban" means a ban on burning within the Township imposed by the Fire Chief;
- 1.1.7 "Fire Chief" means the person appointed by Council as the Fire Chief for the Township;
- 1.1.8 "Fire Hazard Rating" means a Low, Medium, High or Extreme Fire Hazard as declared by the Fire Chief;
- 1.1.9 "Fireworks" means a pyrotechnic device or a substance that is made, manufactured or used to produce an explosion or detonation or and includes Fireworks composition and manufactured Fireworks as defined in the Explosives Regulations made pursuant to The Explosives Act;
- 1.1.10 "Incinerator" means an appliance that conforms with Subsection 6.2.6 of the Ontario Building Code (Ont. Reg 332/12) and Div. B, Subsection 2.6.3 of the Ontario Fire Code (Ont. Reg. 213/07 as amended);
- 1.1.11 "Officer" means a Municipal Law Enforcement Officer, Police Officer, Chief Fire Official or any other person designated by Council as responsible for the administration of this By-law from time to time;
- 1.1.12 "Open Air Fire" means any fire or burning practice that does not occur or take place inside a building or designated appliance but does not include:
- a) Fireworks as defined herein (which Fireworks the regulation of which is subject to a separate municipal by-law);
  - b) a gel pot designed to hold one (1) fuel cell at a time, providing the fuel cell does not exceed 396g (13 oz);
  - c) candles with a total fuel capacity not more than 510g (18 oz);
- 1.1.13 "Outdoor Solid Fuel Burning/Combustion Appliances" (also referred to as an outdoor wood burning furnace), means a solid fuel burning appliance, which is used for the space heating of buildings, the heating of water or other such purpose and which is located in a separate building or the

exterior of the building which it serves;

1.1.14 "Person" or any expression referring to a person, means an individual, sole proprietorship, partnership, limited partnership, trust, corporate body, organization, charity and/or an individual in his or her capacity as a trustee, executor, administrator, or other legal representative;

1.1.15 "Township" means The Corporation of the Township of Seguin.

## **2 GENERAL BURNING RESTRICTIONS**

2.1 No Person shall start or maintain an Open Air Fire unless it is a Campfire, Daytime Outdoor Fire or Evening Outdoor Fire.

2.2 No Person shall start or maintain an Open Air Fire unless conditions will allow the fire to burn safely from start to extinguishment.

2.3 No Person who starts an Open Air Fire shall leave the fire unattended. For the purpose of this section unattended also means to leave the fire in the care of a person who is under the age of eighteen (18) years.

2.4 Every Person who starts or maintains an Open Air Fire shall take all necessary steps to tend to the fire, keep the fire under control, and Extinguish the fire before leaving the area of such Open Air Fire.

2.5 No Person shall start or maintain an Open Air Fire except on land that Person legally occupies or has the permission of the Person who has lawful occupation of the land on which the fire is started.

2.6 No Person shall use as fuel for an Open Air Fire any substance, including but not limited to any kitchen waste, general garbage, pressure-treated wood products, construction materials (excluding dry wood or discarded wood by-products) or materials made of or containing rubber, plastic, petroleum, synthetics, or tar, other than dry wood, discarded wood by-products, brush, leaves or grass.

2.7 No Person shall start or maintain any Open Air Fire such that it may or does cause any of the following:

2.7.1 a decrease in visibility on any highway;

2.7.2 adversely affect an adjacent property by the products of combustion due to the size of fire and smoke;

2.7.3 the ignition of and/or spread of fire through grass, brush, forested area or other property that was not intended to be burned;

2.7.4 the contravention of any applicable municipal law, provincial or federal legislation, regulation, order or by-law.

2.8 No Person shall:

2.8.1 start or maintain any Open Air Fire during a Fire Ban.

2.8.2 start or maintain any Open Air Fire during a period of Extreme Fire Hazard.

2.8.3 start or maintain any Open Air Fire during a period of High Fire Hazard,

other than a Campfire as defined in Section 1.1.2 of this By-law.

- 2.9 No Person shall start or maintain an Open Air Fire within two (2) meters of any flammable materials including any flammable materials intended to be stored and used as fuel for such Open Air Fire.
- 2.10 No Person shall start, tend or maintain an Open Air Fire unless such Person has adequate tools or water readily accessible to contain the fire within the fire site.
- 2.11 No Person shall set off or cause to be set off any Consumer Fireworks during a period of High or Extreme Fire Hazard and in accordance with the Township's Fireworks By-law.
- 2.12 No Person shall ignite Consumer Fireworks during a Fire Ban and in accordance with the Township's Fireworks By-law.

### **3 REQUIREMENT FOR PERMIT**

- 3.1 No Person shall start or maintain a Daytime Outdoor Fire at any time during the calendar year unless the Person has a permit issued under Section 4.1 of this By-law.

### **4 ISSUANCE OF PERMITS**

- 4.1 The Fire Chief may issue a Person a fire permit, as provided for in Section 3 of this By-law if the Fire Chief is satisfied that the fire can be started, tended, and extinguished safely in consideration of, among other things, the declared Fire Hazard Rating, the prevailing weather, site and site conditions.
- 4.2 Every Person to whom a fire permit is issued shall ensure that the material burned, and the method of burning are consistent with the information provided to the Fire Chief in order to obtain the permit and in accordance with all conditions of the permit.
- 4.3 Every Person to whom a fire permit is issued shall keep a copy of the permit at the location of the activity authorized by the permit and produce the fire permit to an Officer upon request.
- 4.4 The Fire Chief may cancel or revoke any permit issued under this By-law and/or order any fire extinguished, or enact a Fire Ban at any time within the Township in the interest of public safety. Upon issuance of such cancellation, revocation, or order, every Person shall Extinguish the Open Air Fire.

### **5 ENFORCEMENT AND PENALTY**

- 5.1 The provisions of this By-law may be enforced by an Officer.
- 5.2 An Officer may enter on land at any reasonable time to inspect the land and to determine whether there is compliance with this By-law.
- 5.3 For the purposes of conducting an inspection pursuant to this By-law, an Officer may:
  - (1) require the production for inspection of documents or things relevant to the inspection;

- (2) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (3) require information from any Person concerning a matter related to the inspection; and
- (4) alone, or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

5.4 No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law. Any Person who is alleged to have contravened any of the provisions of this By-law shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of his duties.

5.5 Every Person who contravenes any provision of this By-law, including failing to comply with an order made under this By-law, is guilty of an offence and is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended (the "Provincial Offences Act").

5.6 Any costs and expenses for services, provided by or on behalf of The Corporation of the Township of Seguin, or for which the said Corporation is liable in endeavoring to control or Extinguish any fire caused by or resulting from a Person contravening or failing to comply with any provision of this By-law, shall be a fee or charge pursuant to Section 391 of the Municipal Act, 2001 and shall constitute a debt of such Person to the Township.

5.7 Any such fee or charge imposed pursuant to this By-law shall be payable within 15 days after the said Corporation has delivered or sent by pre-paid registered post an invoice to the Person responsible, at the Person's last known address, and interest shall accrue and be added to the amount at the rate of 1.25% per month commencing on the sixteenth day following the delivery or sending of the fire invoice.

## **6 TITLE AND INTERPRETATION**

6.1 This By-law may be referred to as the "Open Air Burning By-law".

6.2 Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in Section 1 of this By-law. Where any word appears in ordinary case, the commonly applied English language meaning is intended.

6.3 Wherever a word defined in Section 1 of this By-law is used in the form of a noun, verb, adverb, or adjective, it shall be interpreted as having a corresponding defined meaning even if it is in ordinary case.

6.4 All words importing the singular shall include the plural, and words importing the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law requires otherwise.

## **7 SEVERABILITY**

7.1 Should any section, clause or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the by-law as a whole or any part thereof, other than the part which was declared to be invalid.

**8 REPEAL**

8.1 That By-law No. 2020-058 and all other By-laws and Resolutions, or parts thereof, contrary hereto or inconsistent herewith of The Corporation of the Township of Seguin and the former Corporations of the Townships of Christie, Foley and Humphrey and the Village of Rosseau relating to prescribing times for setting fires, precautions to be observed and penalties for contraventions be and the same are hereby repealed.

**9 ADMINISTRATION**

9.1 This By-law applies to the entire geographic area of the Township.

**10 ENACTMENT**

10.1 This By-law shall come into full force and effect on the date it is passed.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED AND ENACTED** this 18<sup>th</sup> day of September, 2023.



  
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MAYOR Ann MacDiarmid

  
\_\_\_\_\_  
CLERK Craig Jeffery

OFFICE OF THE REGIONAL SENIOR JUSTICE  
ONTARIO COURT OF JUSTICE  
NORTHEAST REGION

159 CEDAR STREET  
3<sup>rd</sup> FLOOR, SUITE 303  
SUDBURY, ONTARIO P3E 6A5



CABINET DU JUGE PRINCIPALE RÉGIONALE  
COUR DE JUSTICE DE L'ONTARIO  
RÉGION DU NORD-EST

159, RUE CEDAR  
3<sup>e</sup> ÉTAGE, BUREAU 303  
SUDBURY (ONTARIO) P3E 6A5

TELEPHONE/TÉLÉPHONE (705) 564-7624  
FAX/TÉLÉCOPIEUR (705) 564-7620

October 5, 2023

Mr. Rory Payton, C.P.S.O, M.L.E.O.  
Supervisor, By-law Services  
Seguin Township  
5 Humphrey Drive  
Seguin, Ontario, P2A 2W8

Dear Mr. Payton;

**Re: Set Fines – Provincial Offences Act  
Part I – Seguin Township, Parry Sound District**

Thank you for your letter dated September 21<sup>st</sup>, 2023, directed to The Ministry of the Attorney General, Crown Law Office-Criminal, regarding set fines for By-Law 2023-107.

I have had an opportunity to consider your request. For the reasons that follow, I have set appropriate amounts for the fines, which do not necessarily accord with the amounts you requested.

A set fine is a sentencing process and must consider the circumstances of the offence, the need for deterrence and must also consider proportionality (minor versus serious offences). Early guilty pleas are also an important consideration.

The set fine regime is meant to encourage out of court settlements, while also considering the above principles and must also consider similar sentences for similar offences in the region.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

OFFICE OF THE REGIONAL SENIOR JUSTICE  
ONTARIO COURT OF JUSTICE  
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I have forwarded the copy of the Orders and the schedules of these set fines to the Ontario Court of Justice in Parry Sound together with a certified copy of the By-Law.

Yours truly,

A handwritten signature in blue ink that reads "Karen Lische".

KAREN LISCHE  
REGIONAL SENIOR JUSTICE  
ONTARIO COURT OF JUSTICE

KLL/hrd

Encl.

c.c.: His Worship Gary McMahon, Regional Senior Justice of the Peace  
Her Worship Ruby Beck, Local Administrative Justice of the Peace



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October 5, 2023

Ms. Melissa Adams, Crown Counsel  
Crown Law Office, Criminal  
720 Bay Street, 10th floor  
Toronto, Ontario  
M5G 2S9

Dear Ms. Adams:

**RE: Set Fines - Provincial Offences Act**  
**Part 1, Sequin Township, Parry Sound District**

Please find enclosed a copy of an Order dated October 5, 2023, and a copy of a letter to Mr. Rory Payton, C.P.S.O, M.L.E.O., Supervisor, By-law Services.

Should you have any questions, please do not hesitate to contact me at (705) 564-7624.

Yours truly,

A handwritten signature in blue ink that reads "Karen Lische".

KAREN LISCHE  
REGIONAL SENIOR JUSTICE  
ONTARIO COURT OF JUSTICE

KLL/hrd

Encl.

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## PROVINCIAL OFFENCES ACT

### Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-Law No. 2023-107, of Seguin Township, Parry Sound District, attached hereto is the set fine for that offence. This Order is to take effect October 5<sup>th</sup>, 2023.

Dated at the City of Greater Sudbury, this 5<sup>th</sup> day of October, 2023.

A handwritten signature in blue ink that reads "Karen Lische".

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KAREN LISCHE  
REGIONAL SENIOR JUSTICE  
ONTARIO COURT OF JUSTICE

THE CORPORATION OF THE TOWNSHIP OF SEGUIN

PART I Provincial Offences Act

By-law 2023-107: Open Air Burning By-law

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Conduct fire contrary to general burning restrictions	2.1	<del>\$400.00</del> \$300. <sup>00</sup>
2	Conduct unsafe open air burning	2.2	<del>\$400.00</del> \$300. <sup>00</sup>
3	Open air fire left unattended	2.3	<del>\$400.00</del> \$300. <sup>00</sup>
4	Fail to control open air fire and extinguish before leaving the area	2.4	<del>\$400.00</del> \$300. <sup>00</sup>
5	Conduct fire on lands without lawful permission	2.5	<del>\$400.00</del> \$300. <sup>00</sup>
6	Burning of restricted substances	2.6	<del>\$400.00</del> \$300. <sup>00</sup>
7	Decrease visibility on any highway	2.7.1	<del>\$400.00</del> \$300. <sup>00</sup>
8	Open air fire adversely affecting adjacent property	2.7.2	<del>\$400.00</del> \$300. <sup>00</sup>
9	Spread of fire through grass, brush, forested area	2.7.3	<del>\$400.00</del> \$300. <sup>00</sup>
10	Fire during a fire ban	2.8.1	<del>\$1000.00</del> \$475. <sup>00</sup>
11	Fire during an extreme fire hazard	2.8.2	<del>\$800.00</del> \$450. <sup>00</sup>
12	Fire during a high fire hazard contrary to restrictions	2.8.3	<del>\$600.00</del> \$425. <sup>00</sup>
13	Open Air Fire within two meters of flammable material	2.9	<del>\$400.00</del> \$300. <sup>00</sup>
14	Failure to possess adequate tools or water readily accessible	2.10	<del>\$400.00</del> \$300. <sup>00</sup>
15	Burning without a valid permit	3.1	<del>\$400.00</del> \$300. <sup>00</sup>
16	Burning contrary to conditions of fire permit	4.2	<del>\$400.00</del> \$300. <sup>00</sup>
17	Failure to produce valid permit	4.3	<del>\$400.00</del> \$300. <sup>00</sup>
18	Failure to extinguish fire	4.4	<del>\$400.00</del> \$300. <sup>00</sup>

*K. P. Roche*

19	Hinder or obstruct or attempt to hinder or obstruct an officer	5.4	\$500.00
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*Khicho*

**NOTE: The penalty provision for the offences indicated above is Section 5 of By-law No. 2023-107, a certified copy of which has been filed.**