

Town of Creston

Bylaw No. 1929

A bylaw to regulate, prohibit and impose requirements respecting open fires in the Town of Creston.

WHEREAS, the *Community Charter* authorizes Council, by bylaw, to regulate, prohibit and impose requirements in relation to municipal services and any matter within the scope of the *Fire Services Act* including the prevention and control of fires and regulation of the conduct of persons at or near fires.

NOW THEREFORE, the Council of the Town of Creston, in open meeting assembled, enacts as follows:

Part 1 Citation

1.1 This Bylaw may be cited as “Open Burning Bylaw No. 1929, 2021”.

Part 2 Severability

2.1 If a portion of This Bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of This Bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause, or phrase.

Part 3 Definitions

3.1 In This Bylaw, unless the context otherwise requires,

“**Assistance Response**” means the initial response and emergency aid, other than fire protection, provided by the Fire Department at an incident (as defined in This Bylaw);

“**Authority Having Jurisdiction**” means the Fire Chief, a Local Assistant and any other person authorized by the Fire Chief to exercise some or all of a Local Assistant's power;

“**Building**” means any structure used or intended to be used for supporting or sheltering any use or occupancy;

“**Costs**” in the context of Costs recovered by the Fire Department under This Bylaw, means Costs as defined in the Fees and Charges Bylaw;

“**Council**” means the elected Council of the Town of Creston;

“**Exposure Fire**” means a fire that

- a) is the result of heat radiation, heat convection or direct flame contact from a fire that is proximate to the Exposure Fire; and
- b) affects a person, object, thing, or structure;

“**Fee**” and “**Fees**” means the Fees and charges prescribed by the Fees and Charges Bylaw;

“**Fees and Charges Bylaw**” means the Fees and Charges Bylaw in force from time to time and adopted by the Council under section 194 of the *Community Charter* or similar successor legislation;

“**Fire Chief**” means a person appointed by Council to serve as Chief of the Fire Department;

“**Fire Department**” means Creston Fire & Rescue Services, a department of the Town of Creston;

“**Local Assistant**” means a Local Assistant as defined in the *Fire Services Act*;

“**Member**” means any person appointed by the Fire Chief as an employee of the Fire Department, whether paid or volunteer, and includes the Fire Chief;

“**Municipality**” means the body incorporated as the Town of Creston and the Town’s territorial jurisdiction, according to its context in This Bylaw;

“**Occupier**” includes an Owner, tenant, lessee, agent, and any other person who has the care, control and the right of access to real property or a Building;

“**Owner**” has the same meaning as in the *Community Charter*;

“**Permit**” means a document issued by the Fire Chief, Officer or person(s) authorized by the Fire Chief, to approve a person to carry out a procedure or undertaking described in the Permit;

“**Prohibited Materials**” means oil, rubber, plastics, fertilizers, tires, material containing creosote, wiring insulation, petroleum products, biomedical waste, herbicides, pesticides, drywall, asphalt, asphalt products, paint, railway ties, chemicals, insulation, treated lumber, fuel and lubricant containers, garbage, recyclables, demolition waste, land clearing waste, construction waste, manure, other manufactured material, and any prohibited material listed in Schedule A of the Open Burning Smoke Control Regulation, B.C. Reg. 145/93, under the *Environmental Management Act*;

“**This Bylaw**” means Open Burning Bylaw No. 1929, 2021.

Part 4 Open Burning Regulations and Permits

General Restrictions

- 4.1 No person shall, except as expressly permitted by This Bylaw, start, light, ignite, or maintain any open air fire or allow any outdoor fire to burn on property owned or occupied by that person or on property owned or occupied by any other person or business.
- 4.2 No person shall light, start or maintain a fire on public lands without submitting a written fire safety plan and obtaining a valid Permit approved by the Fire Chief prior to commencement of the fire.

Exemptions – Cooking Fires

- 4.3 A Permit is not required under This Bylaw for cooking fires contained within a barbecue or fire pit having a surface area not greater than .5 meter (half meter) in diameter and less than .5 meter (half meter) high, using natural gas, propane, charcoal, or clean dry seasoned firewood with a screen covered fire area or within a manufactured gas, propane, electric, charcoal, or wood fired barbecue as long as the requirements of Schedule “A” of This Bylaw are met.

Open Burning Permits

- 4.4 Except as provided for in sections 4.6 and 4.7, open air burning is only permitted
- a) during the months of April and October; and
 - b) where authorized by a Permit issued by the Fire Chief under This Bylaw.
- 4.5 The Council, in consultation with the Fire Chief, may authorize a period of time for the issuance of open burning Permits in a month other than April or October if open burning during the months of April and October has been limited by weather conditions or fire bans authorized under This Bylaw or provincial legislation.
- 4.6 The Fire Chief may, at his or her sole discretion, allow open air burning outside of the prescribed periods in section 4.4(a) and may issue a Permit for open air burning for
- a) fire training exercise;
 - b) municipal purposes and trail or forest maintenance in undeveloped lands where it enhances community protection through fuels mitigation;
 - c) fires on special occasions for celebratory or religious ceremonial purposes; and
 - d) land clearing for developments where burning in the periods prescribed in section 4.4(a) would be considered an increased risk to the community due to fire hazard risks, forest proximity, lack of available firefighting water, or environmental reasons.
- 4.7 In exercising his or her discretion to allow open air burning outside of the periods prescribed under section 4.4(a), the Fire Chief shall require that all regulations within This Bylaw be adhered to and may, in issuing the Permit, require stricter conditions than contained in This Bylaw and in provincial and federal regulations in order to minimize impacts to the Municipality.
- 4.8 A person must obtain an open burning Permit in one of four (4) categories, issued by the Fire Chief, before burning any one or of the following:
- a) residential piles containing no more than the size specified in section 4.36 of leaves or foliage;
 - b) field clearing of freestanding grass or underbrush;
 - c) large piles exceeding the size of residential piles specified in section 4.36;

- d) commercial or industrial waste; and
 - e) natural vegetation generated from on-site land-clearing projects.
- 4.9 Permits issued for the categories listed in section 4.8 are subject to the applicable Fee.
- 4.10 The Fire Chief may issue a Permit authorizing open burning in accordance with This Bylaw and may include, as a condition of the Permit, any conditions that the Fire Chief considers advisable, having regard to the nature and extent of the open burning and local conditions.
- 4.11 The Fire Chief, or Member in charge, may require site clearances and other stipulations on the Permit.
- 4.12 Land clearing and large piles for burning require an on-site inspection by the Authority Having Jurisdiction.
- 4.13 Only six (6) burning Permits will be issued to a property address in each calendar year.
- 4.14 Permits issued for open air burning will be valid for one (1) week from the date of issuance, except for land clearing, unless revoked earlier by the Fire Chief due to violations of the open burning regulations in This Bylaw.
- 4.15 Permits for open air burning may not be issued for a property where violations of the open burning regulations contained in This Bylaw have occurred or to a person who has not adhered to those regulations, in both cases on more than one occasion. The Permits will be refused for a period of one (1) year from the date of the last non-compliance.

Open Burning – Fees and Costs

- 4.16 The applicant for a Permit under This Bylaw must
- a) comply with all applicable *Acts* and regulations of the Province of British Columbia;
 - b) comply with the burning Permit regulations in This Bylaw, including Schedule “A” of This Bylaw; and
 - c) pay the applicable Permit Fee.
- 4.17 A person who obtains an open burning Permit under This Bylaw, and the Owner of the land on which the open burning takes place, are liable to the Municipality for Costs incurred by the Fire Department for fire suppression, containment or protection against an Exposure Fire on the land by the Fire Department required as a result of any one or more of the following:
- a) the Permit holder’s non-compliance with the conditions of the open burning Permit or any other applicable regulations;
 - b) weather; or
 - c) contact with combustible materials which may or did create an Exposure Fire.

- 4.18 An Owner or Occupier who fails to comply with the regulations, conditions or requirements for open burning prescribed by This Bylaw and the attached Schedules is subject to a Fee for the Assistance Response.

Revocation of Permits and Bans on Fires

- 4.19 The Fire Chief, or Member in charge, due to weather conditions or violations of regulations, conditions or requirements for open burning prescribed by This Bylaw, may revoke Permits.
- 4.20 Permits shall be revoked or suspended during a total fire ban proclaimed by the Fire Chief, or Member in charge, Ministry of Forests, Lands and Natural Resource Operations and Rural Development, British Columbia Forest Service, or Ministry of Environment, or other Authority Having Jurisdiction to make that proclamation.
- 4.21 Where the Fire Chief considers that environmental conditions are not safe for open burning, he or she may impose a general ban on open burning for the duration of those conditions.

General Regulations and Prohibitions – All Open Burning

- 4.22 The Permit holder must post the Permit on the site for which the Permit was issued and keep it available for inspection at the request of a Member.
- 4.23 No person shall burn during times for which the Ministry of Forests, the Ministry of Environment or other Authority Having Jurisdiction to do so has issued a ban on open burning.
- 4.24 No person shall use burning barrels.
- 4.25 No person shall burn Prohibited Materials.
- 4.26 No person shall burn material brought from another location or property except clean dry seasoned firewood as permitted by This Bylaw.
- 4.27 No person shall set, start, or kindle open air burning, or allow open air burning to continue to burn during winds strong enough to carry sparks to other combustibles.
- 4.28 No person shall set, start or kindle open air burning except during daylight hours or as otherwise permitted by This Bylaw.
- 4.29 No person shall burn during periods of air stagnation.
- 4.30 No person shall burn unless the ventilation index is favorable, as provided by the Ministry of Environment.
- 4.31 No burning shall exceed a four (4) hour duration unless otherwise permitted by This Bylaw.
- 4.32 All fires must be contained within a firebreak (bare ground) equal in size to the height of the pile.
- 4.33 Fires shall be extinguished immediately if smoke or ash is a nuisance to neighbours.

- 4.34 Burning shall be in open areas, no closer than 4.5 metres (15 feet) from combustibles, such as standalone trees, coniferous shrubs, fences, and Buildings and shall be 15 metres (50 feet) from standing timber / tree line.
- 4.35 Permission of the Owner, for Permits under This Bylaw, must be obtained in writing if the burning takes place on the Owner's property by another person, particularly if the property is rented or leased property.

Specific Permit Conditions

- 4.36 **Residential fires** (open burning) must
- a) not exceed size one (1) metre in diameter and one half (.5) metres high;
 - b) consist only of leaves, clipping, pruning debris, and other yard and garden debris that are generated on the property;
 - c) be supervised as required in Schedule "A" of This Bylaw;
 - d) be provided with firefighting water and equipment required by Schedule "A" of This Bylaw;
 - e) consist of only one (1) pile to be burned at a time, unless permitted otherwise by This Bylaw; and
 - f) adhere to the additional requirements in Schedule "A" of This Bylaw.
- 4.37 Fires for **field clearing of freestanding grass or underbrush**, burning must
- a) be supervised in accordance with Schedule "A" of This Bylaw;
 - b) be provided with firefighting water or equipment in accordance with Schedule "A" of This Bylaw;
 - c) prior to commencing burn, have pre-fire preparation of clearing of fuels (grass and underbrush) away from property lines, combustibles such as fences, trees and structures;
 - d) have areas around combustibles, such as fences, trees and structures wetted down with a garden hose prior to and during burning to assist in fire control;
 - e) burn raked piles developed from clearing grass away from combustibles, according to the criteria listed in section 4.36; and
 - f) meet additional requirements under Schedule "A" of This Bylaw.
- 4.38 Fires of **large piles** or for **land clearing** exceeding a residential pile size specified in section 4.36, must meet the following regulations:
- a) have appropriate supervision and persons present to control fire in accordance with Schedule "A" of This Bylaw;

- b) have appropriate water supply for firefighting in accordance with Schedule “A” of This Bylaw;
- c) have appropriate firefighting equipment in accordance with Schedule “A” of This Bylaw;
- d) consist of piles of materials as restricted in Schedule “A” of This Bylaw;
- e) piles not exceeding pile size limited by Schedule “A” of This Bylaw;
- f) a written site plan provided to the Fire Department showing piles, dimensions of piles, locations, distances from property lines, location of firefighting equipment and supplies;
- g) burn land clearing waste a minimum of 100 metres (325 feet) from any occupied residence and 500 metres (1800 feet) from any schools in session, hospitals and continuing care facilities;
- h) not release smoke from the fire for more than seventy-two (72) consecutive hours;
- i) in the case of large pile fires, conform to the Open Burning Smoke Control Regulation under the *Environmental Management Act*;
- j) comply with the thirty (30) days limit on the validity of Permits issued for land clearing; and
- k) comply with the additional requirements of Schedule “A” of This Bylaw.

Part 5 Offence and Penalty

- 5.1 A person who violates a provision of This Bylaw, or who consents, allows or permits an act or thing to be done in violation of a provision of This Bylaw, or who neglects or refrains from doing anything required by a provision of This Bylaw, commits an offence and is liable, upon summary conviction, to a fine not exceeding \$10,000 and not less than \$2,500, and is liable to either or both of the minimum or maximum fine for each day that the offence continues.

Part 6 Effective Date

- 6.1 This Bylaw shall come into full force and effect upon adoption.

READ A FIRST TIME by title and SECOND TIME by content this 22nd day of June, 2021.

READ A THIRD TIME by title this 22nd day of June, 2021.

ADOPTED this 13th day of July, 2021.

“Ron Toyota”
Mayor Ron Toyota

“Kirsten Dunbar”
Kirsten Dunbar, Corporate Officer

Schedule “A” – Burning Regulations

There are general regulations and prohibitions outlined in Part 4 of This Bylaw in addition to the specific Permit conditions listed within this appendix.

Part 1 - Cooking Fires
Cooking fires are permitted under the following conditions:
a) Fire cannot exceed 0.5 metre diameter by 0.5 metre in height.
b) Fire may only be fueled by natural gas, propane, charcoal, or clean dry seasoned firewood.
c) Materials being burned must be kept lower than the sidewalls of the enclosure and must be covered with a screen.
d) Enclosures shall be of non-combustible materials.
e) A charged garden hose shall be capable of reaching the fire on site near the fire and ready for use or 2 x 20 litre (5 US gallon) buckets of water must be on site near the fire.
f) One (1) person 19 years or older who is capable of putting the fire out must be in attendance at all times and have the means to contact 911.
g) A shovel or rake must be on site near the fire and ready for use.
h) The fire must be 7.5 metres (25 feet) from any standing timber / tree line.
i) Tree branches must be cleared to the height of 4.5 metres (15 feet) above the enclosure.
j) Burning must be in open areas, no closer than 4.5 metres (15 feet) from combustibles, such as standalone trees, coniferous shrubs, fences, and Buildings.
k) No yard waste can be burned on the fire at anytime, unless with Permit.
l) There is no bans on cooking (or camp fires) either by the Fire Chief or a Provincial Ministry.
m) The fire does not contravene any general regulation or prohibition in Part 4 of This Bylaw.

Schedule “A” – Burning Regulations

Part 2 – Residential Piles

Residential pile fires are permitted under the following conditions:

- a) Fire must not exceed 1 metre in diameter by 0.5 metre high.
- b) Fire may only consist of leaves, clipping, pruning debris, and other yard and garden debris that are generated on the property.
- c) A shovel or rake must be on site near the fire and ready for use.
- d) One (1) person age 19 or older who is capable of putting the fire out must be in attendance at all times and shall have a method to call 911 if needed.
- e) A charged garden hose shall be capable of reaching the fire on site near the fire and ready for use or 2 x 20 litre (5 US gallon) buckets of water must be on site near the fire.
- f) The fire does not contravene any general regulation or prohibition in Part 4 of This Bylaw.

Part 3 – Free Standing Grass and Underbrush

Free standing grass and underbrush fires consist of the burning of grassy areas and underbrush away from free standing timber. Due to the nature of burning freestanding grass and underbrush, the Permit holder shall strictly conform to the following criteria:

- a) A shovel or rake must be on site near the fire and ready for use for each person controlling the fire.
- b) Two (2) persons age 19 or older who are capable of putting the fire out must be in attendance at all times and shall have a method to call 911 if needed.
- c) A charged garden hose shall be capable of reaching the fire on site near the fire and ready for use or a minimum of a 220 litres water source with a pump can be utilized, with enough hose capable of reaching the fire and potential areas within the property where fire may spread.
- d) Burning shall be done in small controllable areas, utilizing fire breaks of bare / tilled ground to a width of not less than 1 meter (3 feet).
- e) The fire does not contravene any general regulation or prohibition in Part 4 of This Bylaw.

Schedule “A” – Burning Regulations

Part 4 – Large Pile Fires

Large pile fires may consist of leaves, clipping, pruning debris, and other yard and garden debris that are generated on the property. Large pile fires also apply to the burning of all industrial and commercial waste and land clearing.

- a) Fires may exceed Residential Pile sizes defined in section 3.36 of This Bylaw.
- b) Only one (1) pile can be burned at a time due to the limited firefighting equipment required, unless permitted otherwise. Once one pile has been burnt, a second may be lit, if required.
- c) Any fire size exceeding 1 metre (3 feet) in diameter may be required to have an onsite inspection by the Fire Department prior to the issuance of a Permit.
- d) A shovel or rake must be on site near the fire and ready for use for each person controlling the fire.
- e) Two (2) persons age 19 or older who are capable of putting the fire out must be in attendance at all times and shall have a method to call 911 if needed.
- f) A charged garden hose shall be capable of reaching the fire on site near the fire and ready for use or 2 x 20 litre (5 US gallon) buckets of water must be on site near the fire.
- g) Water for firefighting must be on site:
 - Fires less than 1.2 metres (4 feet) must have a charged garden hose capable of reaching the fire or 10 gallons of water and a bucket.
 - Fires 1.2 to 3 metres (4 to 9 feet) must have a charged garden hose or a 220 litre (55 gallon) water source with a pump and enough hose capable of reaching the fire.
- h) Commercial and industrial waste cannot be Prohibited Materials, but may consist of wood product waste generated through the course of business activities.
- i) Upon inspection by the Fire Department of any pile, additional requirements may be made to ensure the safe burning of materials.
- j) The fire does not contravene any general regulation or prohibition in Part 4 of This Bylaw.

Schedule “A” – Burning Regulations

Part 5 – Land Clearing (minimum requirements)

All land clearing fires require a Large Pile Permit and consist of natural vegetation generated from onsite land-clearing projects. All options on removal of debris from property should be considered first and not assumed that Permits will be issued for all land clearing burning.

- a) No pile size shall exceed 6 metres (20 feet) in diameter.
- b) A high volume fan must be used to start the fire and assist with burning.
- c) Any person carrying out fire control for a fire in one or two piles not exceeding 2 metres (6.5 feet) in height and 3 metres (9 feet) in width, shall have the following equipment and personnel available on site during all burning activities (minimum requirements of the *BC Wildfire Act*, as a defined category 2 fire):
 - one (1) piece of heavy equipment (bulldozer or excavator) with an operator on site at all times during burning;
 - one (1) fire suppression system with a minimum of a 1500 litre (350 gallon) water source and enough 1.5” hose to reach the entire fire; and
 - six (6) workers, each equipped with at least one (1) firefighting hand tool (shovel, rakes, Pulaski axe).
- d) Any person carrying out fire control for a fire in three (3) or more piles not exceeding 2 metres (6.5 feet) in height and 3 metres (9 feet) in width, or one (1) or two (2) piles exceeding 2 metres (6.5 feet) in height and 3 metres (9 feet) in width to a maximum of 6 metres (20 feet) in diameter shall have the following equipment and personnel available on site during all burning activities (minimum requirements of the *BC Wildfire Act*, as a defined category 3 fire):
 - two (2) pieces of heavy equipment;
 - two (2) fire suppression systems with a minimum of a 1500 litre (350 gallon) water source and enough 1.5” hose to reach the entire fire; and
 - eleven (11) workers, each equipped with at least one (1) firefighting hand tool (shovel, rakes, Pulaski axe).
- e) Upon inspection by the Fire Department of any pile, additional requirements may be made to ensure the safe burning of materials.
- f) The fire does not contravene any general regulation or prohibition in Part 4 of This Bylaw.