

# The Corporation of the Township of Whitewater Region

## By-law Number 20-06-1292

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### **A by-law to establish an Open Air Burning and Permitting System**

**Whereas**, pursuant to Section 7.1, (a)(b) of the *Fire Protection and Prevention Act, S.O. 1997*, as amended, Council may pass by-laws to establish regulations and precautions for the setting of fires, 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; and

**Whereas**, the *Ontario Fire Code* Section 2.6.3.4 permits open air burning if approved; and

**Whereas**, the Council of the Corporation of the Township of Whitewater Region deems it expedient and necessary to allow open air burning and to establish a permit system to control and/or regulate open air burning.

**Now Therefore the Council of the Corporation of the Township of Whitewater Region hereby enacts as follows:**

#### **1.0** Definitions:

**Agriculture** means a property used for agricultural purposes, specifically the cultivation of the soil and the associated production of field crops, vegetables, fruit, horticultural crops and nursery stock and the limited accessory processing, storage, promotion and selling of such products primarily produced on the farm; the breeding, caring and/or keeping of livestock including horses and bees and the selling of such stock or the product of such stock and includes a farm dwelling and accessory buildings and uses;

**Barrel Burning** means a metal barrel with an opening at the top and a screen covering the opening to prevent sparks from flying.

**Building** means a permanent structure or part of a structure occupied or capable of being occupied in whole or in part for its intended use and includes a vacant structure that could be occupied for its intended use except for its state of disrepair.

**By-law Enforcement Officer (BLO)** means the persons appointed by Council to administer and enforce municipal by-laws.

**Chief Fire Official (CFO)** means the appointed Fire Chief of the Township of Whitewater Region Fire Department or their designate.

**Chiminea/Appliance** means a manufactured non-combustible enclosed appliance designed to hold a small fire for decorative purposes and may include, and is limited to, chimineas or other appliances that are CSA or ULC approved and designed for recreational fires.

**Combustible Material** means material capable of burning, including wood, paper, plastic and vegetation.

**Dangerous Condition** means any condition determined by the Fire Chief that increases the risk of spread of a fire or is adverse to public safety.

**Designated Campground** means a campground that is inspected annually and satisfies the criteria in this by-law. This means that the Fire Chief, or their designate has completed an inspection and has determined that the campground is in compliance with criteria under the *Forest Fire Prevention*

Act and meets the conditions in the Designated Campground Exemption Criteria.

**Fire Permit** means a permit issued by the CFO or their designate to a person, authorizing that person to burn in accordance with the terms and conditions stated on the permit and in accordance with this by-law.

**Maintain** means to allow on open air fire to continue to burn, and "maintaining" and "maintained" have corresponding meaning.

**Municipal Fire Ban** means a state and related period of time declared by the Fire Chief or their designate during which no one may set or maintain any open air fire, including camp fires, fireworks, fires in outdoor fireplaces, and includes the use of charcoal briquettes and all wood burning devices, whether portable or stationary, and may include other outdoor open air burning devices not defined in this by-law. A Municipal Fire Ban applies to all Open-Air Fires within the boundaries of the Township, with the exception of those exemptions contained herein.

**Open Air Burning** means burns with an area larger than an appliance or fire pit intended for clearing away dead vegetation, grass, brush or similar debris.

**Owner** means the registered Owner of the land.

**Person** means any individual, association, firm, partnership, corporation, agent or trustee and the heirs, executors, or other legal representatives of a person to whom the context can apply according to law.

**Provincial Fire Ban** means a state and related period of time declared by the Province during which no one may set or maintain any open air fire, including camp fires, fireworks, fires in outdoor fireplaces, and includes the use of charcoal briquettes and all wood burning devices, whether portable or stationary, and may include other outdoor open air burning devices not defined in this by-law. A Provincial Fire Ban applies to all Open-Air Fires within the boundaries of the Province.

**Recreational Burning** means small burning to be conducted in an appliance or pit, as outlined in this by-law.

**Special Permit** means a permit issued by the CFO or their designate authorizing a person to burn material not specifically identified in this by-law and under special circumstances.

**Structure** means any permanent or temporary thing constructed or erected which requires location on the ground or attachment to something located on the ground, which is not adapted for occupancy. For the purpose of this by-law, structure shall include a tent, platform, staging, wall, retaining wall, antenna, shed, garbage bin, fence, sign and every other construction or erection of a thing that is not a building.

**Tenant** means a person who occupies land or property rented from an Owner.

## **2.0 General Information for Burning**

- 2.1 Every person shall ensure that an effective extinguishing agent of sufficient size and with the capability of extinguishing the fire is at the site of the burning and be immediately available for use. These may include an ample water supply, sand to smother the fire, or equipment.
- 2.2 Every person shall ensure that fires are attended, controlled, and always supervised by a person who is 18 years of age or older.
- 2.3 Every person shall ensure that the fire is completely extinguished before the fire is vacated, with ashes cold to the touch.

- 2.4 No person, being the Owner or Tenant, in possession of lands within the municipality shall allow a fire to be set or allow a fire to burn on such lands unless a permit has been issued by the CFO or their designate in respect to that fire.
- 2.5 No person shall conduct a burn when the wind is in such direction or intensity to cause any or all of the following:
- a. The possible spread of the fire beyond the approved burn site
  - b. The decrease in the visibility on any highway or roadway due to smoke and/or ash
  - c. The rapid spread of fire to any building structures
  - d. Any odour or smoke to such an extent or degree as to cause discomfort to the persons in the immediate area
  - e. Any other dangerous conditions exist.
- 2.6 No person shall set or maintain a fire on any municipal property without the permission of the CFO or their designate.
- 2.7 No person shall provide false or misleading information when applying for a fire permit.
- 2.8 The CFO may revoke an existing permit or may refuse to issue permits where, on the opinion of the CFO, the ability to control the fire is hampered by the existence in or near the proposed burn site of a dangerous condition.
- 2.9 The CFO may withdraw a permit and/or stop an open air burning/recreational fire if, in their opinion, any or all of the following apply:
- a. The fire is causing negative impact on the occupants of adjacent land.
  - b. Smoke produced by the fire is causing visibility concerns on roads in the area of the burn.
  - c. The weather has deteriorated and has become unfavourable for burning.
  - d. The conditions attached to the granting of permission are not being adhered to.
  - e. If this by-law is being contravened.
- 2.10 The CFO may order the permit holder, Owner or occupant to immediately extinguish the fire when a change in conditions occurs. The permit holder, Owner or occupant shall immediately extinguish the fire when ordered to do so. Failure to do so may result in the CFO or their designate extinguishing the fire and the permit holder, Owner or occupant will be responsible for all costs incurred.
- 2.11 No person shall conduct any burning when a Municipal Fire Ban or Provincial Fire Ban is enacted.

### **3.0 Permits**

3.1 All Owners who wish to set or allow a fire in the Township of Whitewater Region must first obtain one of the following permits:

- a. Open Air Permit
- b. Recreational Permit
- c. Agriculture/Special Permit

Permits are valid for the calendar year in which they are taken out and expire December 31 of that year.

3.2 No permits shall be issued when a Municipal Fire Ban or Provincial Ban is in place.

- 3.2 No permit holder shall undertake to set or maintain any open air fire except in accordance with the conditions of the permit.
- 3.3 The CFO may attach such additional conditions to a permit as they deem necessary to ensure public safety.
- 3.4 A site inspection of the proposed site of the fire may be required by the CFO prior to issuing a permit.
- 3.5 A permit is not transferable to another person or to a new location.

#### **4.0 Recreational Burning**

Every person, owner or tenant shall comply with the following regulations when conducting a recreational burn:

- 4.1 Burning is to be contained within a commercial, non-combustible or fabricated appliance that is CSA or ULC approved and specifically designated for recreational fires, or a fire pit that is 60 centimetres by 60 centimetres (2 feet by 2 feet) with a flame no higher than 0.91 metres (3 feet); and dimension of the fuel being burned shall not be greater than the size of the appliance or fire pit and shall always be totally confined within the appliance or pit
- 4.2 No materials other than commercially produced charcoal, briquettes or clean, dry, seasoned wood shall be burned.
- 4.3 A recreational fire appliance shall be confined to a location that provides for a minimum distance of 5 metres (16.4 feet) from adjacent properties.
- 4.4 Recreational fires shall be confined to an area that is a minimum of 5 metres (16.4 feet) from combustible structures or objects in all directions, including overhead; and,
- 4.5 No tarps shall be erected above any fire.

#### **5.0 Open Air Burning**

- 5.1 Those persons living in the areas designated as part of settlement areas in the Official Plan of the County of Renfrew, as amended, shall not conduct an open air burning at any time unless:
  - a. The lot is larger than 0.40 hectares (1 acre), or
  - b. A special permit is issued by the CFO.
- 5.2 A person who has obtained a fire permit shall:
  - a. Only burn grass, weeds, wood or material that is composed of wood or any other specifically approved material.
  - b. Not ignite or maintain a fire within 30 metres (98.4 feet) of a structure.
  - c. Not ignite or maintain multiple fires or fires greater than 2 metres (6.5 feet) in diameter and greater than 2 metres (6.5 feet) in height.
- 5.3 No person shall allow a fire to burn between the hours of sunrise to sunset, unless otherwise permitted by the CFO or their designate.
- 5.4 The CFO or their designate may revoke permits or invoke a fire ban when snow is not on the ground or conditions are dry.

#### **6.0 Agricultural/Special Permit**

- 6.1 The CFO may, upon receipt of an application for a Special Permit, approve the setting of any fire subject to the fire being supervised by CFO or their designate.

- 6.2 Every person who intends to set or maintain an Agricultural fire in the open air on a specified day, for the disposal of vegetable matter or vegetation on farm lands which is normal and incidental for farming purposes, shall notify the fire department for each day of the proposed fire and obtain a special permit, which will be issued by the CFO or their designate to cover the specified period.
- 6.3 Every person who burns grass shall ensure that the area to be burned is less than 0.40 hectare (1 acre) and the length of the flaming edge is less than 30 metres (98.4 feet).
- 6.4 No permit holder for a specific event open air fire shall set or maintain a fire that is not in compliance with the requirements.

## **7.0 Requirements for Windrows**

- 7.1 No permit holder shall set or maintain an open air fire that is a windrow unless the following conditions are met.
- a. The windrow does not exceed the size limits set out in this by-law.
  - b. The windrow is located not less than 91 metres (300 feet) from a building, overhead wiring or highway.
  - c. The windrow is located a distance of not less than 6 metres (20 feet) from a wooden fence rail, hedge or standing timber.
  - d. Subject to clauses b and c, the windrow is located not less than 30 metres (98.4 feet) from any other combustible material.
  - e. A firebreak of 5 metres (16 feet) in width surrounds the windrow until the open air fire is extinguished.
  - f. The windrow is constructed at right angles to the prevailing west wind direction.
  - g. The windrow is constructed on soil other than peat soil types.
  - h. There is a separation distance of at least 15 metres (50 feet) between the ends of the windrows and at least 25 metres (82 feet) between parallel windrows, if more than one windrow is set and maintained at the same time at the same location.
  - i. The windrow is set first at its centre.
  - j. The windrow is set and maintained only between Monday to Friday, inclusive.
  - k. The permit holder notifies the CFO each day that the windrow is set and maintained until the windrow is extinguished.
  - l. The permit holder ceases to add material to the windrow if a fire ban comes into effect.
  - m. The permit holder uses best efforts to aerate and separate any soil from wood, tree limbs and branches in the windrow.
  - n. The permit holder ensures that a person 18 years of age or older maintains constant watch and control over the windrow from the time of the setting of the windrow until there is no visible open flame.

## **8.0 Designated Campground**

### **General Provisions**

- 8.1 Every Designated Campground shall attain designation and exemption from Municipal Fire Bans by being inspected annually by the CFO or their designate, and shall meet and maintain the criteria outlined in the Designated Campground Exemption Criteria.
- 8.2 During a Municipal Fire Ban, no outdoor fires will be permitted within the municipality except within a campground that has met

the Designated Campground Exemption Criteria or a Provincial Park, over which the Township of Whitewater Region has no authority.

#### Designated Campground Exemption Criteria

- 8.3 For a Designated Campground to be exempt from a Municipal Fire Ban the following conditions must apply:
- a. The campground does not allow the burning of campfires between 10:00 a.m. and 7:00 p.m.
  - b. The campground clearly posts the hours that campfires will be allowed.
  - c. The campground has printed information on safe campfires and provides it to all of its guests.
  - d. The campground has on site at all times when burning is allowed, staff who are instructed in the location and use of fire extinguishing equipment.
  - e. The campground has reliable two-way telecommunications equipment to allow it to obtain assistance if a fire escapes control.
  - f. The fire is contained in an above ground fire grate or fireplace that is designed to safely burn wood and that cannot be moved to an unsafe location; or have a pit in the ground that has fireproof walls and is designed to safely burn wood.
  - g. The fire grate or fireplace cannot be moved to an unsafe area.
  - h. The fire installation is at least 30 metres (98.4 feet) from any forest or woodland and the area within 3 metres (10 feet) of the location of the fire is completely free of any combustible material.
  - i. The space immediately above the location of the fire is at least 3 metres (10 feet) from any overhanging vegetation.
- 8.4 Every owner or operator of a designated campground, which has received an exemption from the Municipal Fire Ban, shall comply with the conditions of the exemption listed in section 8.3.
- 8.5 During a declared Municipal Fire Ban, should a fire get out of control and demand a response from the Whitewater Region Fire Department, or any assistance requested by them either through Mutual Aid or through a request to the Ministry of Natural Resources and Forestry (MNR), the campground Owner shall pay for all costs associated with the extinguishment of said fire. Such costs shall be calculated in accordance with the current fee structure established by the Ministry of Natural Resources and Forestry (MNR). Times shall be calculated from the receipt of the call through to the time that responding personnel and equipment are back in service.

#### **9.0 Enforcement and Enactment**

- 9.1 This by-law shall be administered and enforced by the CFO and/or the BLO.
- 9.2 No person shall hinder or otherwise obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an Officer, employee and/or agent of the Municipality in the lawful exercise of a power or duty under this by-law.
- 9.3 Every person shall comply with any Order or Notice issued under the authority of this bylaw

- 9.4 Any person who contravenes any provisions of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, a copy of which is attached to this by-law.
- 9.5 The Court in which the conviction has been entered, and any Court of competent jurisdiction thereafter, may make an Order prohibiting the continuation or repetition of the offence by the person convicted and such Order shall be in addition to any other penalty imposed on the person convicted.
- 9.6 Any Person who fails to comply with the provisions of this by-law or who fails to extinguish a fire once notification to do so has been given to them by the CFO or their designate shall, be liable to the Township of Whitewater Region for all expenses reasonably incurred for the purpose of controlling and extinguishing any fires so set and left to burn. Such expenses may be recovered by Court action; or and may be added by the Treasurer to the collector's roll and collected in the same manner and with the same priorities as municipal real property taxes; or Council may provide that the expense incurred, with interest, shall be payable in annual installments not exceeding 10 years.
- 9.7 If any Court of competent jurisdiction finds that any of the provisions of this by-law is ultra vires of the jurisdiction of Council to pass or is invalid for any reason, such provision shall be deemed to be severable and shall not invalidate any of the other provisions of this by-law.
- 9.8 This by-law may be referred to as the "Burning By-law".
- 9.9 That By-law 2013-09-648 is hereby repealed effective July 1, 2020.
- 9.10 This by-law shall come into force and effect on July 1, 2020.

**Read a first, second and third time and finally passed this 3rd day of June, 2020.**

  
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**Michael Moore, Mayor**

  
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**Carmen Miller, Clerk**

**The Corporation of the Township of Whitewater Region  
Part I Provincial Offences Act  
Bylaw 20-06-1292: Open Air Burning**

**Schedule "A" – Penalty Provisions**

<b>Item</b>	<b>Short Form Wording</b>	<b>Provision Creating or Defining Offence</b>	<b>Set Fine</b>
1	Burn site -No Effective Extinguishing Agent	2.1	\$150.00
2	Fire Left Unattended	2.2	\$250.00
3	Failure to Extinguish Fire	2.3	\$250.00
4	Set/Allow Fire – No Permit	2.4	\$250.00
5	Set/Allow Fire – During Dangerous Conditions	2.5	\$250.00
6	Set/Allow Fire on Municipal property without permission	2.6	\$250.00
7	Provide False or Misleading Information on Fire Permit Application	2.7	\$250.00
8	Disobey Order to Extinguish Fire	2.10	\$250.00
9	Set/Allow Fire During Fire Ban	2.11	\$500.00
10	Set/Allow Fire – Failure to obtain Permit	3.1	\$250.00
11	Recreational Fire –Exceed Maximum Size	4.1	\$150.00
12	Recreational Fire -Burn – Unapproved Material	4.2	\$150.00
13	Recreational Fire – Too Close to Properties	4.4	\$150.00
14	Recreational Fire – Tarps over Fire	4.5	\$150.00
15	Open Air - Burning in Settlement Areas	5.1	\$250.00
16	Open Air fire– Unapproved Material	5.2.a	\$150.00
17	Open Air fire within 100 feet of structure	5.2.b	\$150.00
18	Open Air fire – Set/Allow Multiple Fires	5.2.c	\$250.00
19	Open Air fire– Prohibited Period	5.3	\$250.00
20	Agriculture Fire – No Permit	6.2	\$250.00
21	Agricultural Fire – Exceed Maximum Size	6.3	\$150.00
22	Special Event Fire – Failure to Comply with Requirements	6.4	\$250.00
23	Windrow fire – Failure to meet Conditions	7.1	\$250.00
24	Campground – Not Attaining Designation and Exemption	8.1	\$250.00
25	Exempted Designated Campground – Fail to meet Conditions	8.4	\$250.00
26	Obstruction/Hinder Officer	9.2	\$250.00
27	Non-Compliance with an Order or Notice	9.3	\$250.00

**Note: The general penalty provision for the offences listed above is Section 9.2 of By-Law No. 20-06-1292 certified copy of which has been filed.**