

# THE CORPORATION OF THE TOWNSHIP OF WHITEWATER REGION

## BY-LAW NO # 13-07-642

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A By-law Regulating Open Air and Recreational Burning in the  
Township of Whitewater Region and  
the Provision of Fire Permits and the Conditions to be Observed

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**WHEREAS** pursuant to Section 7.1, paragraph (a) and (b) of the Fire Protection and Prevention Act, S.O. 1997, as amended, Councils 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 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:**

### DEFINITIONS:

**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.

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

**By-law Enforcement Officer** – hereinafter referred to as the BLO means the person(s) appointed by Council to administer and enforce municipal by-laws;

**Chief Fire Official** – hereinafter referred to as the “CFO” means the Fire Chief of the Township of Whitewater Region Fire Department or his designate, including Fire Wardens;

**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.

**Fire Permit** – means a permit issued by the CFO or his 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.

**Municipal Fire Warden** – means a person appointed by the Council of the Township of Whitewater Region with the authority to issue fire permits.

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

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

**Structure** - shall mean 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.

**Special Fire Permit** – shall mean a permit issued by the CFO or his designate authorizing a person to burn material not specifically identified in this By-law and under special circumstances.

### PART I - PERMITS – OPEN AIR BURNING

1. All persons, being owners, tenants or occupants, who wish to set or maintain an open air fire in the Township of Whitewater Region must first obtain permission to open air burn from a Municipal Fire Warden. A permit may then be obtained from the Municipal Fire Warden or at the Whitewater Region Municipal Office. Permits are valid for a period of 14 days and may be

renewed by contacting the Whitewater Region Municipal Office (613-646-2282), **unless a Fire Ban is in place**. Those persons living in the areas outlined in Schedule A, attached to this By-law, are not permitted open air burning at any time (see "Recreational Burning" section of By-Law). As well, this section does not apply to campfires on property zoned Tourism Commercial (ie. Campgrounds).

Additionally, anyone who intends to set or maintain a 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, is required to notify the fire department for each day of the proposed fire and a special permit will be issued by the CFO or his/her designate to cover the specified period.

2. No person being the owner, tenant or occupant 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 his/her designate or the Municipality in respect of that fire.

3. A person who has obtained a fire permit pursuant to Section 1 shall;

- a. only burn grass, weeds, wood or material that is composed of wood by-products or any other specifically approved material;
- b. not ignite or maintain a fire within 60 metres of a structure;
- c. not ignite or maintain multiple fires or fires greater than 2 metres in diameter and greater than 2 metres in height and in the case of burning grass, the area to be burned should be less than (1) hectare and the length of the flaming edge should be less than 30 metres;
- d. keep said burn permit on his or her possession at all times during the burn;

4. Notwithstanding the provisions of section 1 hereof, 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 an area Fire Chief of the Township of Whitewater Region or his designate.

5. No person shall ignite or maintain a home incinerator.

6. No person shall ignite or maintain a burn barrel within the hamlets/villages of Beachburg, Cobden, Forrester's Falls, Westmeath, Lapasse, Haley Station and Haley Station Townsite. See Schedule A for restricted open air burning areas.

7. Any person who sets a fire in contravention of this By-law is liable for costs incurred by the fire department, including personnel, equipment and apparatus necessary to extinguish said fire or exposures and the Township shall have a lien on the property for the costs and the amount shall be deemed to be Municipal real property taxes 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.

8. No fires shall be set or maintained on any Municipal property without the permission of the CFO or his/her designate.

9. An effective extinguishing agent of sufficient size and with the capability of extinguishing the fire shall be at the site of the burning and be immediately available for use.

10. Open air fires shall be attended, controlled and supervised at all times and shall be completely extinguished before the fire site is vacated. Ashes should be cold to touch by hand.

11. Burning is only permitted between the hours of 6 p.m. and 8 a.m., unless otherwise permitted by the CFO or his/her designate.

12. In the winter months from December to March of each year, daytime burning will be allowed with a permit. The CFO or his/her designate may revoke permits in the spring or invoke a fire ban if snow is not on the ground and conditions are dry.

## **PART II - RECREATIONAL BURNING – NO PERMIT REQUIRED**

1. All persons, being owners, tenants or occupants, who wish to set or maintain a recreational fire in the Township of Whitewater Region shall be permitted to do so, so long as all regulations are adhered to and a fire ban is not in effect. This section does not apply to campfires on property zoned Tourism Commercial.

## 2. Regulations

The following regulations shall apply with respect to recreational (appliance or pit) burning:

- a. burning is to be contained within a commercial, non-combustible or fabricated appliance that is CSA or ULC approved and specifically designed for recreational fires, or
- b. a fire pit that is 2 ft. by 2 ft with a flame no higher than 3ft.
- c. no materials other than commercially produced charcoal, briquettes or clean, dry, seasoned wood may be burned;
- d. the dimension of the fuel being burned shall not be greater than the size of the appliance or fire pit and shall be totally confined within the appliance or pit at all times;
- e. a recreational fire appliance shall be confined to a location that provides for a minimum distance of ten (10) metres from adjacent properties;
- f. recreational fires shall be confined to an area that is a minimum of ten (10) metres from combustible structures or objects in all directions, including overhead; and,
- g. No tarps shall be erected above any fire.

## PART III - GENERAL INFORMATION FOR BURNING

1. An effective extinguishing agent of sufficient size and with the capability of extinguishing the fire shall be at the site of the burning and be immediately available for use.
2. Fires shall be attended, controlled and supervised at all times and shall be completely extinguished before the fire site is vacated. Ashes should be cold to touch by hand.
3. No burning shall be permitted when the wind is in such direction or intensity so as 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 through grass or a brush area;
  - d. the rapid spread of fire to any building structures;
  - e. any odour or smoke to such an extent or degree so as to cause discomfort to the persons in the immediate area, and/or;
  - f. any other dangerous conditions exist, as defined by this By-law.

### 4. False Information

No person shall provide false or misleading information when applying for a fire permit.

### 5. Permit - Authority to Revoke

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.

### 6. Permission – Withdraw Permit

The CFO may withdraw a permit and/or stop an open air burning/recreational fire if, in the their opinion,:

- 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. conditions attached to the granting of permission are not being adhered to; or,
- e. if this By-law is being contravened.

### 7. Order to Extinguish

The CFO may order the permit holder, land owner or occupant to immediately extinguish the fire when a change in conditions occurs (ie: Provincial Fire Ban, high wind velocity, etceteras). The Permit holder, land owner or occupant shall immediately extinguish the fire upon order to do so. Failure to do so may result in the CFO or his/her designate extinguishing the fire and the permit holder, land owner or occupant will be responsible for any and all costs incurred.

8. Fire Ban

Absolutely no burning in any region of the municipality when a fire ban is enacted in the Township of Whitewater Region. To determine whether a fire ban is in effect, check with the municipal office at 613-646-2282 or visit the website at <http://www.whitewaterregion.ca/news.html> Local media stations will also advertise fire bans in the area.

**PART IV - ENFORCEMENT AND ENACTMENT**

1. Enforcement

This By-law shall be administered and enforced by the CFO and/or the BLO.

2. Contravention – Penalty

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.

3. Continuation – Repetition – Prohibition by Order

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.

4. Default – Collection of Costs

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 him/her by the CFO or his/her designate shall, in addition to any provided for herein, be liable to the Municipality for all expenses reasonably incurred for the purpose of controlling and extinguishing of any fires so set and left to burn. Such expenses may be recovered by Court action or in a like manner as municipal taxes or Council may provide that the expense incurred, with interest, shall be payable in annual installments not exceeding ten (10) years.

5. Separation

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.

6. Repeal

All By-laws or parts of By-laws previously passed that are inconsistent with the provisions of this By-law are hereby repealed.

PASSED: this 17<sup>th</sup> day of July, 2013.

  
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Mayor Jim Labow

  
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CAO/Clerk Christine FitzSimons

**TOWNSHIP OF WHITEWATER REGION**

**PART I PROVINCIAL OFFENCES ACT**

**By-law # 13-07- 642**

**OPEN AIR BURNING BY-LAW**

Item #	Column 1 Short Form Wording	Column 2 Offence Section	Column 3 Set Fine
1	Set Fire – No Permit	Part I Sec. 1	\$200.
2	Maintain Fire – No Permit	Part I Sec. 1	\$200.
3	Burn – Unapproved Material	Part I Sec 3(a)	\$200.
4	Ignite/Maintain Fire within 60 metres of a structure	Part I Sec 3(b)	\$200.
5	Ignite/Maintain Fire Multiple Fires	Part I Sec 3(c)	\$200.
6	Not in Possession Of Permit	Part I Sec 3(d)	\$200.
7	Ignite/Maintain Home Incinerator	Part I Sec 5	\$200
8	Ignite/Maintain Burn Barrel In Restricted Area	Part I Sec 6	\$200
9	Set/Maintain Fire On Municipal property Without Permission	Part I Sec 8	\$200
10	No Effective Extinguishing Agent Immediately Available	Part I Sec 9	\$200
11	Fail to Extinguish Fire	Part I Sec 10	\$200
12	Burn Outside Of Permitted Times	Part I Sec 11	\$200
13	Maintain Recreational Fire Contrary to Regulations	Part II Sec.1	\$200.
14	Provide False/Misleading Information On Fire Permit Application	Part III Sec.4	\$250.
15	Disobey Order to Extinguish Fire	Part III Sec. 7	\$500.
16	Set/Ignite/Maintain Fire During Fire Ban	Part III Sec. 8	\$500.

**NOTE:** The general penalty provision for the offences above is PART IV section 2 of By-law 13 - 07- 642

