

THE CORPORATION OF THE TOWNSHIP OF MADAWASKA VALLEY

BY-LAW NUMBER 2019-22

Being a By-Law for the time for setting fires in the Township of Madawaska Valley and precautions to be observed.

WHEREAS the *Fire Protection and Prevention Act* 1997, (Ontario Regulation 213/07, as amended) Division B, Part 2, Section 2.4.4. Article 2.4.4.4(1) provides that open air burning shall not be permitted unless approved by the Fire Chief, or designate, or less such burning consists of a small, confined fire, supervised at all times, and used to cook food on a grill or a barbeque.

AND WHEREAS The *Fire Protection and Prevention Act*, 1997, S.O. 1997, c 4, as amended, provides:

In Section 7.1(1)(a) that a council of a municipality may pass by-laws regulating fire prevention, including of the spreading of fire;

In Section 7.1(1)(b) that a council of a municipality may pass by-laws regulating the setting of Open-Air Fires, including establishing the times during which Open Air Fires may be set.

In Section 7.1(4) that a municipality may appoint an officer to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether by-laws enacted in accordance with this section are being complied with;

AND WHEREAS the *Municipal Act* 2001, S.O. 2001, c. 25, as amended, provides;

In Section 10(2) that a municipality may pass by-laws respecting:

- 5. Economic, social and environmental well-being of the municipality;
- 6. Health and well being of person;
- 8. Protection of persons and property;
- 10. Structures, including fences and signs;

In Section 391 that a municipality is authorized to pass a by-law imposing fees or charges on the persons for services or activities provided or done by it or on behalf of it, and for the use of its property including property under its control;

In Section 446(1) that if a municipality authority under a by-law under this or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that in default of being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

In Section 446(2) for the purposes of subsection (1), the municipality may enter upon land at any reasonable time;

In Section 446(3) that the municipality may recover the costs of doing a matter or thing under subsection (1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

PART 1

1.0 SHORT TITLE:

- 1.1 This by-law shall be known and may be cited as the "The Township of Madawaska Valley Open Air Burning By-Law".

PART 2

2.0 DEFINITIONS:

- 2.1 In this by-law

- (a) "Adverse Conditions" shall mean, lack of precipitation, winds over 10km/hr, from April 1st to October 31st.

- (b) **“Approved Pit”** means an area of ground that has been completely cleared of combustible material lined with sand or mineral soil that will extend a minimum of 30cm (12 Inches) beyond the limit of the fuel used for a Camping Fire.
- (c) **“Built-up area”** shall be an area in which there are two (2) or more houses which are less than 30 meters (100 feet) apart and within the hamlet of Combermere, hamlet of Wilno or the Village of Barry’s Bay.
- (d) **“Campfire”** means an open fire having a maximum fuel volume of 60cm (2 feet) X 60cm (2 feet), that is set or maintained in an approved pit or outdoor fireplace and is used solely for the purposes of cooking food, providing warmth or recreational enjoyment.
- (e) **“Fire Chief”** shall mean the Chief Fire Official of the Township of Madawaska Valley and the Officers of the Township of Madawaska Valley Fire Department acting under the direction of the Chief Fire Official.
- (f) **“Open Air”** shall mean any open place, yard, field or construction area which is not enclosed by a building or structure.
- (g) **“Open Air Burning”** shall mean a fire set in an open area.
- (h) **“Permit Holder”** shall mean any person, organization, company or group that has been granted a permit by the Fire Chief or Designate.
- (i) **“Prohibited Materials”** shall mean any materials such as but not limited to household waste, petroleum products, plastics, rubber, painted lumber, tires, furniture, carpeting, Styrofoam or any other item that could cause noxious or toxic smoke or fumes.
- (j) **“Restricted Fire Zone”** shall mean a Fire Ban issued by the MNR, you cannot have campfires (even in outdoor fire grate, fire place, or fire pit), burn grass or woody debris, charcoal or wood barbecues, or propane fire pits. The only thing that is allowed is propane or natural gas barbecues with a shut off valve.
- (k) **“Township”** shall mean the Corporation of the Township of Madawaska Valley.

PART 3

3.0 GENERAL PROVISIONS:

- 3.1 All persons setting an open-air fire in the Township of Madawaska Valley shall first obtain a fire permit at a cost of \$10.00 from the municipal office or specifically designated locations within the municipality or designated persons pursuant to this section. The material to be burned shall be limited to wood or by-products of wood. A person who has obtained a fire permit to this section shall:
 - (a) Not permit more than one (1) cubic metre of material to be burned at any one time;
 - (b) Ensure that the means of extinguishing the fire designated on the permit form is available at the site at all times during the fire; and
 - (c) The said permit shall be in accordance with **Schedule “A”** attached hereto.
- 3.2 A fire permit is only required for the Fire Season (April 1st to October 31st) The Fire Chief, or his Designate and/or Deputy Fire Chief must first be contacted before setting fires outside Fire Season.

- 3.3 No person shall own a burn barrel in the Township – **THEY ARE PROHIBITED**
- 3.4 A fire permit may be cancelled or suspended at any time by the Fire Chief or his Designate and immediately upon receiving notice of such cancellation or suspension; the permit holder shall extinguish any fire under the permit.
- 3.5 Notwithstanding the provisions of Section 2.1 hereof, open fires may be set when such burning consists of a small confined fire, supervised at all times and is used to cook food on a grill or a barbecue, or is for person warmth, except during a **TOTAL FIRE BAN**.
- 3.6 Notwithstanding the provisions of Section 2.1 hereof, the Fire Chief may upon application, approve the setting of any fire subject to the fire being supervised by the Fire Chief of the Township of Madawaska valley or his designate.
- 3.7 (a) No person shall set an uncontained fire, including but not limited to grass fire; and
(b) No person shall set an open-air fire in a built-up area within the Village of Barry's Bay, the Hamlet of Combermere or the Hamlet of Wilno, in the Township of Madawaska Valley.
(c) No person shall burn grass or leaf litter in an over-sized area. The fire size shall not be larger than 2 metres square, at any time.
- 3.8 All Persons setting an open-air fire in the Township of Madawaska Valley shall:
(a) be responsible for any damage to property or injury to persons occasioned by the said fire; and
(b) be liable for costs incurred by the fire department, including personnel, equipment, outside agency assistance and apparatus necessary and called in to extinguish the fire.
- 3.9 No person shall set or maintain an open-air fire when the wind is in such a direction or intensity (over 10kms/hr) so as to cause any or all of the following:
(a) A decrease in visibility on any highway or roadway;
(b) Rapid spread through grass or a brush area; and
(c) Smoke affecting public health.
- 3.10 No person shall burn, in an open-air fire any Prohibited Materials, such as, but not limited to household waste, petroleum products, plastics, rubber, painted lumber, tires, furniture, carpeting, Styrofoam, or any other item that could cause a noxious or toxic smoke or fumes.

PART 4

4.0 FIRE BANS:

- 4.1 The Fire Chief or authorized agent may, at any time, and in the exercise of his/her sole discretion, issue a fire ban prohibiting the setting of any and all open-air fires within any area of the Township based on local conditions.
- 4.2 No person shall at any time set, maintain, or allow any open-air fire, during a **LEVEL ONE (1)** fire ban, other than:
(a) Campfires as described in definitions;
(b) Enclosed barbecues fueled by propane or charcoal;
(c) Outdoor furnaces; and
(d) Fireworks, chimineas, ban busters.

ALL FIRE PERMITS ARE SUSPENDED; NO NEW FIRE PERMITS MAY BE ISSUED.

- 4.3 (a) No person shall at any time set, maintain, or allow any open-air fires or camp fires, while a **LEVEL TWO (2) TOTAL FIRE BAN** is in effect, other than enclosed barbeques fueled by propane, or at the discretion of the Fire Chief or authorized agent;
- (b) No person shall set, maintain or allow charcoal barbeques, fireworks, torches, flares, candles, propane fire pits during a **LEVEL TWO (2) FIRE BAN**; and
- (c) During a **LEVEL TWO (2) FIRE BAN**:
**ALL FIRE PERMITS ARE SUSPENDED; NO NEW FIRE PERMITS MAY BE ISSUED
NO CAMPFIRE, FIREWORKS, CHIMINEAS, BAN BUSTERS ARE PERMITTED
NO BURNING OF ANY KIND IS PERMITTED.**
- 4.4 No person shall light **CHINESE LANTERNS AS THEY ARE NOT ALLOWED AT ANYTIME, THEY ARE TOTALLY BANNED.**
- 4.5 The Fire Chief will assess the need for a total or partial fire ban on a daily basis and will downgrade or cancel the fire ban as soon as possible based on local conditions
- 4.6 Notwithstanding any other provisions of this By-Law, the Fire Chief or agent may revoke any or all permits, refuse to issue permits where one or more of the following conditions exist in respect of, or in proximity to, the proposed open-air burning site:
- (a) A lack of precipitation that, in the opinion of the Fire Chief, increases the risk of the spread of fire;
- (b) Winds that, in the opinion of the Fire Chief, increase the risk of the spread of the fire;
- (c) The issuance, by the Fire Chief, Fire Marshall, or other fire officials (MNRF) in the exercise of his/her statutory powers of a fire ban; and
- (d) Any other conditions that in the opinion of the Fire Chief will increase the risk of the fire spread.
- 4.7 The Fire Chief may, at their sole discretion, refuse to issue a requested fire permit.
- 4.8 No person shall set or maintain an open air-fire during adverse burning conditions.

PART 5

5.0 SAFETY:

- 5.1 No person shall at any time set, maintain or allow to be set or maintained an Open-Air Fire/Bonfire:
- (a) Unless a person over the age of 18 is in attendance and shall supervise all Open-Air Fires/Bonfires until fully extinguished;
- (b) Unless equipment and other resources capable of controlling and extinguishing an Open-Air Fire/Bonfire are available and maintained at the site until the fire is fully extinguished;
- (c) Except a Campfire in an Approved Pit, no earlier than two hours (2) before sunset and extinguished no later than two (2) hours after sunrise; and
- (d) In the presence of any wind or wind gusts in excess of 10km/h or any other adverse burning conditions.
- 5.2 Every Person setting or maintaining a Campfire shall ensure that such campfire is set or maintained in an Approved Fire Pit and totally extinguished before leaving.

PART 6

6.0 OUTDOOR FURNACES:

- 6.1 No person shall at any time burn or allow to be burned any household waste or prohibited materials in any Outdoor Furnace.
- 6.2 Dry non-glossy, cardboard and natural vegetation may be used to start a fire in an Outdoor Furnace only.

PART 7

7.0 ADMINISTRATION AND ENFORCEMENT:

- 7.1 This By-Law shall be administered and enforced by the Chief Fire Official, Deputy Fire Chiefs, Captains and By-Law Officer.
- 7.2 No person shall interfere, obstruct or mislead the Fire Chief, Deputy Chief, Fire Captain, or By-Law Officer, while gaining access &/or investigating a fire scene.
- 7.3 No person shall change, tamper with or remove any Fire Rating Signs.

PART 8

8.0 POWERS OF INSPECTION:

- 8.1 The Fire Chief, Deputy Chief, Captain or Investigator, may, at anytime, inspect any open-air fire to ensure the provisions of this By-Law have been complied with, and the person who is in care of the fire shall grant unobstructed access to such fire.
- 8.2 Upon Inspection under section 7 above, the investigator:
 - (a) Is entitled to request and have produced any relevant permit issued in respect of the open-Air Fire that is being inspected; and;
 - (b) May, where there are reasonable and probable grounds that any offence under this by-law has been committed, request any person believed to have committed such an offence to provide suitable identification and information; and
 - (c) May, where there are reasonable and probable grounds that any offence under this by-law has been committed, order the person or persons to immediately extinguish the Fire.

PART 9

9.0 REMEDIAL ACTION – COSTS:

- 9.1 Any person who contravenes any such provision of this By-Law is guilty of an offence and may be subject to such fees or charges as laid out in **Schedule “B”** to this by-law; Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for the by the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended.
- 9.2 Should the Township, through the Fire Department, or its authorized agent extinguish, demolish, or repair, property or, take any or all measures to terminate the danger of unauthorized activity, the Township may recover all of the expenses

incurred in respect thereof by any or all of the methods provided for in section 446 of the *Municipal Act*, 2001 in addition to any other fees of charges prescribed. The person or persons responsible for setting, maintaining or permitting to be set or maintained an Open-Air fire shall be liable to the Township by way of a fee and/or a charge, in accordance with **Schedule "C"** to this by-law, on account of those costs and expenses incurred by the Township in;

- (a) Investigating and responding to a complaint made to the Township or Fire Department in good faith of a possible contravention of Section " " of this by-law;
- (b) The Dispatching of Fire Department Vehicles and firefighting personal for the purpose of extinguishing the Open-Air Fire; and
- (c) Investigating any complaint from any person acting reasonably and in good faith, which complaint results from setting and/or maintenance of an open-Air Fire and in the opinion of the Fire Chief or the Fire Chief's designate smoke or emissions from such Open-Air Fire are contrary to the guidelines that are detailed in the section of this by-law.

9.3 All fees and charges payable under this by-law are due and owing to the Township within 30 days of the date of an invoice rendered to the person liable to pay them.

9.4 All overdue accounts shall accrue interest at the rate of 1.25% per month (15% per annum) calculated monthly, from the due date until paid in full.

9.5 All fees and charges payable under this by-law constitute a debt of the person liable for payment of them to the township and, in the case of the owners of a property being responsible for the payment of the fees and charges, the Township may add the amount owing to the tax roll for the owner(s) real property and collect them in like manner as municipal taxes.

9.6 If a person who sets or maintains an Open-Air Fire in contravention of this by-law is not the owner of the property but occupies or is using the property with the owner's consent, the owner and the person conducting the open-air burning shall be jointly and several liable to pay any fees and charges imposed by this by-law.

PART 10

10.0 REPEAL OF PRIOR BY-LAWS and ENACTMENT:

10.1 That By-Law Number 2019-14 is hereby repealed.

10.2 That By-Law Number 2013-04 shall be repealed upon the approval of the Set Fines, by the Ministry of the Attorney General for this by-law.

READ A FIRST AND SECOND TIME THIS 19th DAY OF March, 2019.

READ A THIRD TIME AND PASSED THIS 19th DAY OF March, 2019.



Acting

MAYOR – Kim Love

David Shulist

CAO/Clerk – Suzanne Diane Klatt

THE CORPORATION OF THE TOWNSHIP OF MADAWASKA VALLEY
Open Air Burning By-Law Number

Township of Madawaska Valley Fire Dept.

Permit: **N^o**



Municipal Office: 85 Bay Street, Barry's Bay, ON K0J 1B0
Telephone No.: 613-756-2747 • Fax No.: 613-756-0553

EMERGENCY NUMBER – "9-1-1"
DAILY PERMIT FOR OPEN AIR FIRES

Permission is hereby granted to: _____
(PRINT NAME)

Civic Address: _____

Mailing Address: _____

Postal Code: _____ Telephone No.: _____

For the Purpose of having an Open Air Fire on:

Date: _____ Time: _____

Location: _____
(911 CIVIC ADDRESS)

Legal Description:

Lot: _____ Concession/Plan Number: _____

Geographic Township: _____
(BURNS / JONES / RADCLIFFE / SHERWOOD / BARRY'S BAY)

Material to be burned: _____

Means of Extinguishment Available: _____

THE APPLICANT AGREES TO COMPLY WITH THE PROVISIONS OF BY-LAW NUMBER AS AMENDED FROM TIME TO TIME AND AGREES TO ASSUME ALL RESPONSIBILITY FOR ANY DAMAGES OCCURING FROM THE FIRE FOR WHICH THIS PERMIT IS ISSUED.

Date: _____ Signature: _____
(APPLICANT)

Date: _____ Signature: _____
(CHIEF FIRE OFFICIAL OR DESIGNATE)

Permit Fee: \$ _____

Every person who starts or causes to be started a fire out of doors shall.
a) take all reasonable steps to keep the fire under control;
b) ensure that a responsible person tends the fire;
c) where the fire is started under a fire permit, extinguish the fire on or before the expiration of the permit; and
d) extinguish the fire before quitting the site of the fire.
Penalties: A conviction under the Forest Fires Prevention Act may result in fines not exceeding one thousand dollars (\$1000) or imprisonment of up to 3 months or both and in addition, you may be held liable for damages and cost of extinguishing any resultant fire.

WHITE - ORIGINAL YELLOW - CHIEF FIRE OFFICIAL COPY PINK - OFFICE COPY

SET FINE SCHEDULE**TOWNSHIP OF MADAWASKA VALLEY****PART 1 – PROVINCIAL OFFENCES ACT****BURNING BY-LAW NUMBER 2019-22****TITLE: OPEN-AIR BURNING BY-LAW**

ITEM	SHORT FORM WORDING	SET FINE
1	Set open-air fire without permit	\$500.00
2	Set or maintain an oversized open-air fire	\$500.00
3	Own burn barrel	\$450.00
4	Set or maintain open-air fire in the Village of Barry's Bay	\$250.00
5	Set or maintain open-air fire in the Hamlet of Combermere	\$250.00
6	Set or maintain open-air fire in the Hamlet of Wilno	\$250.00
7	Impede visibility on public thoroughfare	\$250.00
8	Burn grass or leaf litter in oversize area	\$250.00
9	Burn prohibited materials in open-air fire	\$450.00
10	Set or maintain an open-air fire during a Level One (1) Fire Ban	\$500.00
11	Set or maintain an open-air fire during a Level Two (2) Fire Ban	\$500.00
12	Set or maintain or allow any camp fires during a Level Two (2) Fire Ban	\$500.00
13	Set or maintain or allow charcoal barbeques, fire-works, torches, flares, candles, propane fire pits during a Level Two (2) Fire Ban	\$500.00
14	Set or Maintain open-air fire in adverse burning conditions	\$250.00
15	Campfire not set or maintained in approved pit	\$250.00
16	Set or maintain open-air fire under-age supervision	\$250.00
17	Set or maintain open-air fire during non-approved times	\$250.00
18	Burn household or prohibited waste in Outdoor Furnace	\$500.00
19	Obstruct any Fire Chief, Deputy Chief, Captain, or Fire Investigator while performing their duties	\$200.00
20	Unlawfully Interfere with Fire Rating Signs	\$200.00

NOTE: The general penalty provision for the offences listed above are pursuant to Item 9.1 of By-Law Number 2019-22, a certified copy of which has been filed and s. 61 of the *Provincial Offences Act* R.S.O. 1990, c. P.33, as amended.

TOWNSHIP OF MADAWASKA VALLEY**BY-LAW NUMBER 2019-22****SCHEDULE OF COST RECOVERY FEES****1. Fees Relating/Penalties to Offences:****(a) First Offence**- Fire Chief or authorized agent may:

- * Set Fine as per **Schedule "B"**
 - * Fire Truck (rates set at current MTO rate) and a rate of \$30/hr per fire fighter at a two (2) hour minimum
 - * additional time to be calculated on half hour increments
-

(b) Second Offence- Fire Chief or authorized agent may:

- * Set Fine as per **Schedule "B"**
 - * Fire Truck (rates set at current MTO rate) and a rate of \$30 per fire fighters at three (3) hours minimum
 - * additional time to be calculated on half hour increments
 - * banned from burning for three (3) months
-

(c) Third Offence

- * Set Fine as per **Schedule "B"**
- * Fire Truck (rates set at current MTO rate) and a rate of \$30 per fire fighters at 3 hours minimum
- * additional time to be calculated on half hour increments
- * banned from burning for one (1) calendar year

2. Fees to respond to and investigate a complaint to a possible violation under Section 3.0 regarding open air burning:

- (a) Fee of \$75.00 per response payable by the permit holder or person setting, maintaining or allowing such a fire to be lit if the complaint is substantiated;
- (b) Fee of \$75.00 per response payable by the complainant if the complaint is not substantiated; and
- (c) Fee may be waived at the discretion of the investigator if in their opinion the complaint was reasonable and made in good faith but investigation showed no violation under any section of this by-law had occurred.