

The Corporation of the Township of Centre Wellington

By-law 2019-35

A By-law to Regulate the Setting of Open Air Fires in the Township of Centre Wellington and to repeal By-law 2018-52

Whereas Part 7.1(1)(b) of the *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4*, as amended, provides that the 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;

Whereas Section 7.1 (1) of the *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4*, as amended, provides authority to the Council of a municipality to pass By-laws to regulate fire prevention including the prevention of the spreading of fires; and

Whereas Section 128 of the *Municipal Act, S.O. 2001*, as amended, provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances; and

Whereas the Council of the Corporation of the Township of Centre Wellington deems it necessary and expedient to regulate the setting of open air fires in the Township of Centre Wellington;

Now Therefore the Council of the Corporation of the Township of Centre Wellington hereby enacts as follows:

1. Definitions

1.1 In this By-law:

“Agricultural Property” means any lands designated as an agricultural zone under the provisions of the Township’s Zoning By-law and any property where the predominant use is for agricultural purposes.

“Building” means any structure used or intended for supporting or sheltering any use or occupancy.

“Chief Fire Official” means an assistant to the Fire Marshal who is the Municipal Fire Chief or a member or members of the Fire Department as delegated by the Municipal Fire Chief, as provided in the *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4*, Part II, Article 6(6).

“Chiminea” means clay, porcelain or metal receptacle used for the purposes of burning and constitutes an open air fire under this By-law.

“Class A Burn Permit” means a permit for an open air fire not exceeding 0.6 metres in diameter or height.

“Class B Burn Permit” means a permit for an open air fire greater than 0.6 metres in diameter or height but does not exceed 2 metres in diameter or height.

“Class C Burn Permit” means a permit for an open air fire exceeding 2 metres in diameter or height.

“Controllable Fire” means an open air fire that can be extinguished using resources on the property.

“Extinguish” means to put out or quench an open air fire completely, no smoke, hot or glowing embers are to remain.

“Flying Lantern” means a small hot air balloon made of treated paper or any other material, with an opening at the bottom, which is propelled by an open flame generated by a small candle or fuel cell, allowing the balloon to rise and float in the air, while ignited.

“Gas-fired outdoor campfire device” means listed ULC or CSA gas (natural or propane) appliances, and does not constitute an open air fire under this By-law.

“Highway” includes a common and public highway, street, avenue, parkway, driveway, square,

place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

“Nuisance” as determined by the Chief Fire Official or their designate, or an Officer, means excessive smoke, smell, airborne sparks or embers, and airborne particles or burnt materials by creating negative health effects on neighbouring residents, increasing fire exposure hazards, infringing on the enjoyment of the use of neighbouring properties or generating false fire alarms;

“Officer” means the Chief Fire Official, a Police Officer, a Municipal Law Enforcement officer or other person appointed by By-law to enforce the provisions of this By-law.

“Owner” means any person, firm or corporation having control over any portion of a building or property under consideration and includes the persons in the building or property.

“Open Air Fire” means any fire situated outside, whether burned in a container or on the ground, but does not include a gas-fired outdoor campfire device.

“Permit” means a Class A Burn Permit, a Class B Burn Permit or a Class C Burn Permit issued by the Township in accordance with this By-law.

“Person” includes an individual, sole proprietorship, partnership, limited partnership, trust, corporation, and an individual in his or her capacity as a trustee, executor, administrator, or other legal representative.

“Property” means a parcel of land which is capable of being legally conveyed.

“Township” means the Corporation of the Township of Centre Wellington or the land within the geographic limits of the Corporation of the Township of Centre Wellington as the context requires.

2. Application

2.1 This By-law shall apply throughout the whole of the Township.

3. General Provisions

3.1 No person shall set, maintain, permit or cause to be set or maintained an open air fire in the Township without a current valid permit.

3.2 No person shall set, maintain, permit or cause to be set or maintained an open air fire in the Township other than in accordance with this By-law and the terms and conditions of a permit.

3.3 An owner of property on which an open air fire has been set or permitted to burn shall be deemed to have permitted the open air fire and assumes all responsibility.

3.4 No person shall set or permit an open air fire on any property owned by the Township without having obtained permission from the Township.

3.5 No person shall ignite or release into the air, an ignited flying lantern in the Township.

4. Exemptions

4.1 A gas-fired outdoor campfire device is exempt from this By-law, but is subject to conform with Article 2.6.3.4 of the Ontario Fire Code i.e gas barbeques, heatalators, outdoor radiant gas heaters. Appliances of this nature are regulated under the Propane Utilization Code or the Natural Gas Installation Code, depending the gas being used.

4.2 The Township is exempt from the provisions of this By-law for the purpose of conducting training, education or research for the Fire Rescue Services Department and for operations associated with the Public Works Department.

5. Permit

5.1 A person making an application for a permit for an open air fire shall:

- (a) submit a complete application in the form provided by the Township;
- (b) submit written permission of the registered owner of the property, if applicable;

- (c) in the case of a Class C Burn Permit, submit plans showing the location of buildings in relation to property lines;
 - (d) submit any other documents as may be required by the Township;
 - (e) submit the required permit fee.
- 5.2 A permit is valid for the current calendar year in which it is issued.
- 5.3 A permit is valid only for the property identified on the permit.
- 5.4 A permit is not transferable.
- 5.5 A permit is non-returnable and non-refundable.
- 5.6 A Class C Burn Permit shall only be issued for an Agricultural Property.
- 5.7 The Chief Fire Official may:
- (a) refuse to issue a permit where a person has previously failed to comply with the terms and conditions of a permit or the provisions of this By-law;
 - (b) impose any additional terms or conditions that he considers necessary in the interest of public safety;
 - (c) vary the terms and conditions of a permit upon conducting an inspection and determining safety is maintained through approved site specific terms and conditions;
 - (d) revoke a permit where complaints are received regarding an open air fire or for failing to comply with the terms and conditions of a permit.
- 5.8 The Chief Fire Official is hereby delegated authority to issue a permit in accordance with the provisions of this By-law.

6. Terms and conditions of a permit

- 6.1 A permit for an open air fire is subject to the following terms and conditions, with which every person, who receives a permit, shall comply:
- (a) the permit shall be available for inspection at the property upon request;
 - (b) no more than one (1) controllable fire on a property at any time, unless otherwise approved by the Chief Fire Official;
 - (c) the burning only of brush and unpainted/untreated wood is permitted;
 - (d) an open air fire shall be attended and supervised at all times by a person at least sixteen (16) years of age for a Class A Burn Permit or a Class B Burn Permit;
 - (e) an open air fire shall be attended and supervised at all times by a person at least eighteen (18) years of age for a Class C Burn Permit;
 - (f) an open air fire shall not occur without appropriate extinguishing agents such as portable fire extinguishers, garden hose, portable pump and hose, frontend loader being on-hand at all times until the open air fire is extinguished;
 - (g) an open air fire shall be extinguished when not attended and supervised by a person at least sixteen (16) years of age for a Class A Burn Permit or a Class B Burn Permit;
 - (h) an open air fire shall be extinguished when not attended and supervised by a person at least eighteen (18) years of age for a Class C Burn Permit;
 - (i) an open air fire is not permitted when the wind velocity is reported to be greater than twenty (20) kilometers per hour;
 - (j) an open air fire shall not create excessive smoke;

- (k) an open air fire is not permitted during a fire ban;
- (l) an open air fire shall not create a nuisance or have an adverse effect on a neighbouring property owner;
- (m) with the exception of an open air fire for which a Class A Burn Permit has been issued, an open air fire shall be a minimum of thirty (30) metres from a building, fence, hedge, other combustible material, highway, overhead wire or a property line;
- (n) in the case of an open air fire for which a Class A Burn Permit has been issued, an open air fire shall be:
 - (i) physically confined i.e. by steel tire rims, bricks or stones
 - (ii) a minimum of three (3) metres from a building, fence, hedge, other combustible material, highway, overhead wire or a property line;
- (o) the owner(s) agree on behalf of himself, its heirs, executors, administrators and assigns to defend, indemnify and save harmless the Township, and their elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expense resulting from disruption of service, arising out of or allegedly attributable to the negligence, acts, errors, omissions, misfeasance, nonfeasance, fraud or willful misconduct of the owner(s), its directors, officers, employees, agents, contractors and subcontractors, or any of them, in connection with or in any way related to the issuing of a permit.

7. Fees

7.1. The fee for a permit shall be as prescribed in the Township's Fees and Charges By-law.

8. Enforcement and penalty provisions

- 8.1 The enforcement of this By-law shall be conducted by the Chief Fire Official or an Officer.
- 8.2 The Chief Fire Official or an Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the By-law is complied with.
- 8.3 Any person who contravenes any provision of this By-law and every director or officer of a corporation, who knowingly concurs in the contravention by a corporation is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act, R.S.O. 1990, c. P. 33*, as amended.
- 8.4 Every person who is issued a Part 1 offence notice or summons and is convicted of an offence under this By-law shall be subject to a fine, to a maximum as provided for in the *Provincial Offences Act, R.S.O. 1990, c. P. 33*, as amended.
- 8.5 No person shall hinder or obstruct, or attempt to hinder or obstruct, the Chief Fire Official or any Officer exercising a power or performing a duty under this By-law.
- 8.6 Every person who is alleged to have contravened any of the provisions of this By-law, shall identify themselves to the Chief Fire Official or an Officer upon request, failure to do so shall be deemed to have hindered or obstructed the Chief Fire Official or an Officer in the execution of his or her duties.
- 8.7 Upon conviction any penalty imposed under this By-law may be collected under the authority of the *Provincial Offences Act, R.S.O. 1990, c. P. 33*, as amended.
- 8.8 The Chief Fire Official or an Officer may determine that an owner shall immediately extinguish an open air fire. If an owner refuses to immediately extinguish an open air fire, the Chief Fire Official or an Officer may extinguish or cause to be extinguished the open air fire at the expense of the Owner as prescribed in the Township's Fees and Charges By-law.

8.9 Any person in violation of this By-law or the terms and conditions of a permit shall be liable for all costs incurred by the Township as prescribed in the Township's Fees and Charges By-law.

9. Severability

9.1 If a court of competent jurisdiction declares any section or part of this By-law invalid, it is the intention of Council of the Township that the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

10. Singular and plural use

10.1 In this By-law, unless the context otherwise requires words importing the singular shall include the plural and use of the masculine shall include the feminine, where applicable.

11. Repeal

11.1 By-law 2018-52 is hereby repealed.

Read a first, second and third time and finally passed this 29th of July, 2019.



Mayor – Kelly Linton



Deputy Clerk – Lisa Miller