



The Corporation of Norfolk County

By-Law 2016-72

Being a By-Law to Regulate the Setting of Fires in Norfolk County.

WHEREAS the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4, Section 7.1, as amended, states that a council of a municipality may pass by-laws regulating fire prevention, 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 Part 2 of the *Ontario Fire Code*, O.Reg. 213/07 as amended, provides that open air burning shall not take place in the Province of Ontario unless **approved**, or the open air burning consists of a small, confined fire, supervised at all times, and used to cook food on a grill, **barbecue** or spit and is commensurate with the type and quantity of food being cooked.;

AND WHEREAS the Council of the Corporation of Norfolk County is desirous of enacting a by-law to regulate the setting of fires;

NOW THEREFORE the Council of The Corporation of Norfolk County hereby enacts as follows

PART 1: DEFINITIONS

a) "**Adverse Effect**" includes:

- 1) impairment of the quality of the natural environment for any use that can be made of it,
- 2) injury or damage to property or to plant or animal life,
- 3) harm or material discomfort to any person,
- 4) an adverse effect on the health of any person,
- 5) impairment of the safety of any person,
- 6) rendering any property or plant or animal life unfit for human use,
- 7) loss of enjoyment of normal use of property,
- 8) interference with the normal conduct of business, and
- 9) nuisances including, but not limited to, excessive smoke, odour, dust, airborne sparks, embers or reduced visibility on roadways, railways or airfields

b) "**Approved**" means approved by the Fire Chief or designate.

c) "**Approved camp ground**" means an established and organized campground which has in place an **emergency response plan** that contains procedures provided by the camp ground operator for the safety of the occupants of the campground; and has been issued a **burn permit**.

d) "**Ban on open-air fires**" means a restriction or prohibition on Open-Air fires issued by the Fire Chief or designate.

e) "**Barbeque**" means an appliance or a **structure** solely designed and intended for the cooking of food in the open air utilizing wood, charcoal, briquettes, propane or natural gas.

- f) **"Building"** means any structure used or intended for supporting or sheltering any use or occupancy, but does not include a non-enclosing open-sided structure.
- g) **"Burn barrel"** means a metal container that is structurally sound and no larger than approximately 204 litres (45 gallons), with small holes in the side for ventilation and small holes in the bottom for drainage, a metal 16 millimetre (5/8 inch) screen completely covering the top to prevent debris and/or embers from escaping while burning, and an internal grate 25 cm (10 inches) off the bottom to support the burning material. (refer to Ministry of Natural Resources website ontario.ca/fire prevention)
- h) **"Burn Permit"** means a written conditional authorization issued and administered by the Municipality to set or maintain an **Open-Air Fire**, as per any restrictions and conditions contained in this By-Law or as may be specified on the burn permit itself.
- i) **"Burn Safety Plan"** means procedures provided by the applicant and/or **Owner**, and shall include provisions for facilitating emergency vehicle access and response, and **Open-Air Fire** safety and control and protection of the environment.
- j) **"Campfire"** means a fire designed for essential cooking or warmth that meets the following conditions:
 - a) the site of the fire is bare rock or other non-combustible material
 - b) the fire does not exceed approx. 66 cm (26 inches) in height and approx. 66 cm (26 inches) in diameter and,
 - c) the space above the 66 cm (26 inch) fire is at least 4 metres (13.1 feet) from **combustibles**.
- k) **"Combustibles"** means any material, combination of materials, or arrangement of materials in which any portion thereof is susceptible to catch fire when exposed to heat or flames.
- l) **"Designate"** means every person designated by the Fire Marshal as an assistant to the Fire Marshal for the Municipality of Norfolk County.
- m) **"Farm or Agricultural Operation"** as defined under the Farming and Food Production Protection Act, 1998, and may include a power to purchase permit, and/or a present lease agreement.
- n) **"Incinerator"** means a device that is operated and regulated (licensed) under a certificate of approval from the Ontario Ministry of the Environment and is not subject to the requirements of this By-Law.
- o) **"Multi-unit Residential Building"** means any building in which there is three or more residential dwelling units as defined by the Ontario Building Code.
- p) **"Municipal Law Enforcement Officer"** means that person or persons appointed by Council of the Corporation of Norfolk County for the purpose of enforcing Norfolk County by-laws and includes a provincial offences officer.
- q) **"Normal Farm Practices"** as defined in the Farming and Food Production Protection Act, 1998.
- r) **"Occupancies"** means the use or intended use of a building or part thereof as defined in the Ontario Building Code.

- s) "**Open-Air Fire**" means any fire set outdoors or any fire set in a device or appliance located outside of a building; but does not include fires in incinerators or fires in devices installed outside of a building and that are used as a source of heat or power for the building or that are ancillary to a manufacturing process, and provided that such device is certified for the purpose by a recognized and appropriate agency.
- t) "**Owner**" means any person, firm or corporation having control over any portion of the building or property under consideration and includes the persons in the building or property.
- u) "**Prescribed Burn**" is the deliberate, planned and knowledgeable application of fire by authorized personnel and only in accordance with Ministry of Natural Resources legislation, policy and guidelines to a specific land area to accomplish pre-determined forest management or other land use objectives.
- v) "**Recreational Fire**" is a fire that does not require a permit, and must meet the conditions set out in section 3.1.
- w) "**Responsible Person**" means any adult person (18 years of age or older) who is capable of exercising the required judgment and capable of performing the necessary actions to control a fire and prevent its unwanted spread.
- x) "**Structure**" means anything constructed or erected, the use of which requires location on or in the ground.
- y) "**Ultra-vires**" means beyond the legal capacity of a person, company, or other legal entity with the exception of the Environmental Protection Act, the Pesticides Act, the Health Protection and Promotion Act, or the Ontario Water Resources Act.
- z) "**Rubbish**" means any other material not included in Schedule "A".

PART 2: CONDITIONS FOR ALL FIRES

2.1 Unless specified elsewhere in this bylaw, every person setting, permitting to be set, maintaining, or permitting to be maintained, an open air burn authorized under this by-law shall comply with all the following conditions:

- a) The *open air burning* must not create *adverse effects*.
- b) The holder of a *burn permit* shall keep it or a legible copy of it at the location of the fire(s) specified on the permit during burning operations.
- c) The permit fee shall be as set out in the User Fees and Services Charges By-Law as amended.
- d) Burning is prohibited on any public road allowance or municipal property unless such burning is being conducted by authorized employees or authorized agents of Norfolk County.
- e) A *responsible person* must stay with the fire at all times with the means immediately available to extinguish the fire, or limit its spread and to summon the fire department.
- f) The person responsible for operating the open air burn is also responsible for making every reasonable effort to respond to local resident's complaints received about their open air burning practises.
- g) The owner shall extinguish the fire if it creates an *adverse effect* at any time.
- h) Burning is only permitted between sunrise and sunset.
- i) At the completion of the burn the fire shall be completely extinguished before it is left unattended unless otherwise specified in this By-Law.
- j) Burning must be carried out when prevailing weather and atmospheric conditions are suitable.

- k) Burning must not be carried out when:
 - 1) Rain, fog or smog appears to be present; smoke cannot disperse properly and may be concentrated in one particular area under these conditions; or,
 - 2) Wind speeds are above 20km/h or wind directions are changing frequently enough to cause fire to spread rapidly; or,
 - 3) The Ministry of the Environment has issued a Smog Advisory or Smog Alert applicable to the area; or there is poor air quality.
- l) Except for **approved camp grounds**, all **open air fires** shall automatically be suspended during such periods and in such areas where the Fire Chief or **designate** has determined that there exists a high or extreme fire weather index (FWI) or other hazardous conditions and a burn ban has been declared. The Fire Chief may declare a total ban against outdoor burning when atmospheric conditions or local circumstances make such fires hazardous, and may also include a ban on the discharge of consumer fireworks.
- m) Despite the existence of a valid **burn permit** the Fire Chief or **designate** may issue a ban on any or all **open-air fires** or may suspend without recourse any or all **burn permits** and cause to be extinguished any or all **open-air fires**.
- n) Except for **approved camp grounds**, the holder of a **burn permit** shall be required to call fire dispatch before any burning commences to verify if the conditions are favourable for an open air burn.
- o) **Burn permits** are non-transferable.
- p) Permit fees will be in accordance with Norfolk County's User Fees and Service Charges By-law.
- q) The fee collected for each **burn permit** is non-refundable regardless of whether or not the privileges granted under the permit have been exercised. No adjustment or refund of fee shall be provided due to suspension or revocation of any **burn permit**.
- r) Any fires under the direct and constant supervision and control of Norfolk County Fire & Rescue Services are exempt from the provisions of this By-Law, as approved by the Fire Chief or **designate**.
- s) **Barbeques** or other fuel fired appliances that produce an open flame must be operated and maintained in conformance with the manufacturer's instructions.
- t) **Barbeques** or other fuel fired appliances that produce an open flame are not permitted on balconies, porches, roofs or verandas that are attached to or part of a multi-storey and **multi-unit residential building**.

PART 3: FIRES THAT DO NOT REQUIRE A PERMIT

3.1 Recreational Fires

A **recreational fire** does not require a permit and is allowed provided that the fire meets all of the following provisions:

- a) That the fire is for the provision of warmth or recreation: the fire must not be used to burn waste: only clean, dry wood or charcoal may be burned.
- b) The fire is contained in an above ground fire grate, fireplace, fire bowl or other similar device, covered by a mesh screen, that is designed to burn wood safely and is 3 metres (10 feet) from any **combustible** building material, or partition, exterior window opening, overhead wire, exit access or exit, unless authorized by the Fire Chief or **designate**, or

- c) The site of the fire is bare rock or other non-combustible material and is surrounded by a barrier of rocks, steel or similar non-combustible materials and is located 4 metres (13.1feet) from any **combustible** building material, or partition, exterior window opening, overhead wire, exit access or exit unless authorized by the Fire Chief or **designate**.
- d) All **recreation fires** must be limited in size to 66cm (26 inches) in any direction.
- e) The fire shall only be conducted between the hours of sunrise and 12:00 am.

3.2 Outdoor Gas Fired Appliances

- a) Open air fires from gas fired appliances are permitted provided they are in conformance with the Technical Standards and Safety Act and are for outdoor use and are installed and used in accordance with the manufacturer's instructions.
- b) **Open-air fires** may be considered exempt if they involve an appliance of a portable nature which requires an open flame for the heating of material during a construction or maintenance process, provided that such appliance is safe and is not operated in a manner that creates a fire hazard or **adverse effects**.

3.3 Burn Barrels

Burn barrels are permitted provided that all the following conditions are met:

- a) Burning is only permitted between sunrise and sunset.
- b) the **burn barrel** must be situated securely on level ground.
- c) the **burn barrel** must be in good condition.
- d) all openings in the **burn barrel** must be covered at all times by a suitable metal wire mesh with grid openings of not more than 16 mm (5/8 inch) in diameter.
- e) The barrel must be located at least 4 metres (13.1 feet) from any **combustibles** and property lines and 30 metres (100 feet) from any occupied building that is located on an adjacent property.
- f) Only the materials listed on Schedule "A" may be burned.

PART 4: FIRES THAT REQUIRE BURN PERMITS

4.1 All Properties:

A burn permit is required if you want to burn leaves, tree clippings or other similar materials as outlined in schedule A of this bylaw. A burn permit issued under this section shall require compliance with all applicable provisions of this bylaw and any additional restrictions deemed necessary to protect the health and safety of the public.

- a) The size of any pile of materials to be burned cannot exceed 9 square metres (96.84 square feet) in area and 2 metres (78.75 inches) in height unless specifically approved under application of a **burn safety plan**.
- b) Fires shall be located at least 30 metres (98.43 feet) away from any building, **combustible** structure, **combustible** vegetation, accumulation of **combustible** materials, or as measured on the ground horizontally from any overhead wires carrying electricity and property lines. In any case, longer distances may be required if, in the opinion of a **municipal law enforcement officer**, the material burned will emit sparks and embers in a manner that could create a fire hazard.

4.2 Burning on Properties Classified as Farms or Agriculture Operations

- a) If the Normal Farm Practices Protection Board deems that specific provisions of this By-Law interfere with what it considers "**normal farm practices**" for a farming operation, such provisions will be deemed to be **ultra-vires**.
- b) Materials to be burned must not exceed 53 square metres (570 square feet) in area and 2 metres (6.5 feet) in height without an **approved burn safety plan**, and with the safety plan, the materials to be burned shall not exceed 200 square metres (2153 square feet) in area and 5 metres (16.4 feet) in height.
- c) More than one fire is permitted at the same time provided that an **approved burn safety plan** is completed.
- d) Fires shall be located at least 30 metres (98.43 feet) away from any building, **combustible** structure, combustible vegetation, accumulation of **combustible** materials, property lines or as measured on the ground horizontally from any overhead wires carrying electricity. In any case, longer distances may be required if, in the opinion of a **municipal law enforcement officer**, the material burned will emit sparks and embers in a manner that could create a fire hazard.
- e) Clearance from **structures**, abutting land/crops may be reduced if the size of the fire is also reduced or an **approved burn safety plan** is completed.
- f) Fires may be allowed to continue to burn through the night provided that an **approved burn safety plan** is completed and that at one hour before sunset each day, no more material is added to the fire. The fire must be controlled in such a way that the flames, smoke and embers will not pose a risk to or have an **adverse effect** on neighbouring properties before it is left unattended.
- g) In all cases, materials being burned are restricted to those listed in Schedule A of this By-Law unless written permission is granted from the appropriate authority having jurisdiction.
- h) **Open air fires** are not permitted when gusting or sustained wind speeds exceed 30 kilometers per hour (18.64 miles per hour) unless approved by the Fire Chief or **designate**.

PART 5: PRESCRIBED BURNING

5.1 Low Complexity Controlled Burns Less Than 1 Hectare:

This section is intended to assist farming operations in conducting low complexity controlled burns that are required as part of a habitat management plan.

- a) It is recommended that an Ontario Ministry of Natural Resources and Forestry RX 100 certified person be responsible and on site for the burn *or*,
- b) a **responsible** person with the experience required to conduct the burn in a safe manner must be on site for the burn.
- c) The burn must be conducted in accordance with the Ontario Ministry of Natural Resources and Forestry (OMNRF) Prescribed Burn Planning Manual and must not compromise the logistical and tactical requirements needed to ignite, control and carry out the burn safely.

5.2 Low or High Complexity Prescribed Burns

This section applies to prescribed burning that does not meet the conditions of section 5.1 Low Complexity Controlled Burning Less Than One Hectare.

- a) An Ontario Ministry of Natural Resources and Forestry RX 200 certified person must be responsible, and on site for, the burn.
- b) A copy of a burn plan must be submitted to the Fire Chief or designate before burning commences. This plan must contain the relevant sections from the Ontario Ministry of Natural Resources and Forestry (OMNRF) Prescribed Burn Planning Manual and must not compromise the logistical and tactical requirements needed to ignite, control and carry out the burn safely.

PART 6: PROHIBITED FIRES

- a) No one shall install, use, and maintain an unlicensed incineration device for the burning of garbage or other refuse in any class or classes of building that was erected after September, 1966.
- b) The use of flying sky lanterns is prohibited.

PART 7: RIGHT TO ENTER AND ENFORCEMENT

- a) **Municipal law enforcement officers** shall have the right to enter any property in order to ascertain whether this By-Law is being obeyed and to enforce or carry into effect this By-Law.
- b) Any **Burn Permit** holder who is in violation of this By-Law may have their **Burn Permit** summarily revoked and all fires may be immediately extinguished or may be caused to be extinguished. The permit holder will not be eligible to apply for a new permit for a period of 60 days.
- c) The property **owner** shall be held responsible and shall be liable individually and severally for their actions or of their **authorized agent** with respect to the provisions, conditions, and penalties contained in this By-Law.
- d) Every person who knowingly provides false or misleading information for the purposes of obtaining a **Burn Permit** or 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*.
- e) If the contravention of this By-Law results in fire suppression or fire safety personnel and vehicles being dispatched to respond, the person in control of the fire and/or the property owner may be invoiced, at the discretion of the Fire Chief or **designate**, for the cost of such response in accordance with the User Fee and Service Charges By-Law as amended. However, nothing in any schedule of rates shall be construed as limiting the rights of Norfolk County to seek restitution for other direct or consequential damages or costs incurred beyond those listed.
- f) The quantity and type of fire vehicles and personnel dispatched to respond for the purposes of extinguishing, controlling, or investigating any **open-air fire** are at the discretion of the Fire Chief or **designate**.

PART 8: VALIDITY

In the event that any of the provisions of this By-Law are deemed Ultra-vires by any Court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.


PART 9: REPEAL

That By-Law 2012-01 of The Corporation of Norfolk County and any amendments thereto, are hereby repealed in their entirety.

PART 10: EFFECTIVE DATE

That the effective date of this By-Law shall be the date of June 29, 2016.

ENACTED AND PASSED this 28th day of June, 2016.



Mayor



Clerk/Manager of Council Services

Schedule “A” to By-Law 2016-72

Authorized Materials that May be Burned

- wood that has not been chemically treated or painted or stained
- only enough white or brown paper and cardboard to start an authorized fire
- dry brush, stumps, hay, straw, and grass and other dry yard or natural agricultural materials
- natural or petroleum gases or liquids used as appliance fuels
- charcoal, briquette materials intended for BBQ use.
- other clean burning combustible materials that may be specifically authorized by the appropriate authority having jurisdiction.