

THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES

BY-LAW NUMBER 3542-25

**BEING A BY-LAW TO REGULATE THE SETTING OF OPEN AIR FIRES INCLUDING
ESTABLISHING THE TIMES DURING WHICH OPEN AIR FIRES MAY BE SET AND
TO REPEAL BY-LAW NO. 285-77 AND 2316-08.**

WHEREAS subsection 11(3)7 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the "*Municipal Act*"), authorizes a municipality to pass by-laws respecting structures, including fences;

AND WHEREAS section 7.1(1)(b) of the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended (the "FPPA"), states 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;

AND WHEREAS section 7.1(3) of the FPPA states that a by-law under this section may deal with different areas of the municipality differently;

AND WHEREAS section 7.1(4) of the FPPA states 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 that section are being complied with;

AND WHEREAS section 2.4.4.4(1)(b) of the Fire Code, O. Reg. 213/07, as amended (the "Fire Code"), prohibits open air burning unless approved, or unless such burning consists of a small, contained fire, supervised at all times, and used to cook food on a grill, barbeque or spit, and is commensurate with the type and quantity of food being cooked;

AND WHEREAS section 128(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "*Municipal Act, 2001*") provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

AND WHEREAS Council considers excessive smoke, smell, airborne sparks with ember to be or could become or cause public nuisance by creating negative health effects on neighbouring residents, increasing fire exposure hazards, infringing the use and enjoyment of neighbouring properties;

AND WHEREAS section 129(a) of the *Municipal Act, 2001* provides that a local municipality may prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination;

AND WHEREAS in section 446 of the *Municipal Act, 2001* that if a municipality has authority under the Act or 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 it being

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done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

NOW THEREFORE the Council of The Corporation of the Township of North Dumfries enacts as follows:

SECTION 1 – SHORT TITLE

- 1.1 This By-law may be referred to as the Open Fire By-law

SECTION 2 – DEFINITIONS

- 2.1 For the purposes of this By-law, all words shall have their normal and customary meaning save and except for those hereinafter defined;
- a) "Air Quality Advisory" means an advisory issued by the Ministry of the Environment with respect to air quality;
 - b) "Approved Device" shall mean a commercially manufactured device designed to contain a fire, complete with a mesh spark arresting screen to control sparks and embers, such as, but not limited to, chimineas, fire bowls or outdoor fireplaces;
 - c) "Conduct(ing)" shall mean the lighting, burning, use and maintenance of a fire and shall also include sitting by or remaining in close proximity to a Recreational Burn;
 - d) "Council" shall mean the Council of The Corporation of the Township of North Dumfries;
 - e) "Fire Chief" shall mean the Chief of the North Dumfries Fire Department or their designate;
 - f) "Fire Permit" shall mean written permission from the Fire Chief;
 - g) "Nuisance" means smoke, smell, airborne sparks, such as, particles or embers that:
 - a) Are likely to disturb a person;
 - b) Are likely to interfere with the enjoyment or use of a property; or
 - c) Negatively and unreasonably affect a person due to a medical condition while that person is at the property
 - h) "Officer" means any member of the Township Fire Department, a Municipal Law Enforcement Officer appointed by the Township by By-law and charged

with the duty of enforcing the provisions of the by-laws of the Corporation and any member of the Waterloo Regional Police;

- i) "Open Air Burning" shall mean any fire that is conducted outside of a building or structure in the Township;
- j) "Owner" means the registered owner of a property;
- k) "Permit" means a Permit issued by the Fire Chief to set and maintain an Open Air Burn for a specified period of time;
- l) "Person" means an individual, business, corporation, unincorporated association or partnership;
- m) "Recreational Burn" means a type of Open Air Fire conducted in a ring made of brick, concrete, rock, or in an Approved Device, for the principal purpose of warmth or recreational enjoyment;
- n) "Region" means the Regional Municipality of Waterloo;
- o) "Smog Alert" means an alert issued by the Ministry of the Environment, Conservation and Parks or similar public agency with respect to air quality in the Township of North Dumfries. Poor Air Quality Advisory shall have the same meaning;
- p) "Township" means The Corporation of the Township of North Dumfries;
- q) "Unattended" or "Unsupervised" means when no one is actively monitoring an open air fire or when someone is actively monitoring an open air fire but is incapable of controlling the open air fire.

SECTION 3 – GENERAL PROVISIONS

- 3.1 The provisions of this By-law shall apply to all lands within the Township and to all outdoor burning except as otherwise stated herein.
- 3.2 No Person shall Conduct Open Air Burning without first having obtained a Fire Permit. Recreational Burns do not require a Permit but must meet all other requirements in section 5.
- 3.3 Upon direction of an Officer or upon suspension or revocation of a Fire Permit, every Person shall extinguish a fire forthwith.

SECTION 4 – FIRE BANS

- 4.1 The Fire Chief may issue a ban for any reason pertaining to fire safety or a smog alert.
- 4.2 The Chief Administrative Officer of the Township and/or a Municipal Law Enforcement Officer may issue a fire ban due to a smog alert upon receipt of credible information that a smog alert is in effect and the Air Quality Health Index (AQHI) is 7 or greater.
- 4.3 Where a ban is issued by the Fire Chief, Chief Administrative Officer or the Municipal Law Enforcement Officer, the Township shall ensure that notice to the public of the fire ban is given by:
 - a. the issuance of a media advisory; and,
 - b. posting of notification on the Township's website; and,
 - c. any other means of giving notice that has a reasonable likelihood of coming to the attention of persons who are impacted.
- 4.4 No Person shall conduct any outdoor burning at any time when a fire ban is in effect.

SECTION 5 – RECREATIONAL BURNS

- 5.1 No Person shall Conduct a Recreational Burn with materials other than brush material including logs, branches, tree limbs, bush trimmings or manufactured logs specifically designed for fireplaces.
- 5.2 No Person shall Conduct a Recreational Burn that becomes a Nuisance to adjacent properties, people or pets.
- 5.3 No Person shall Conduct a Recreational Burn between the hours of 12:00 a.m. (midnight) and 8:00 a.m. on any day.
- 5.4 No Person shall Conduct a Recreational Burn within five (5) metres (16.4 feet) of any building, structure, property line, tree, hedge, fence, roadway, overhead wire or other combustible article.
- 5.5 No Person shall Conduct a Recreational Burn larger than one (1) metre (3.2 feet) in any direction and shall ensure that the flames do not reach higher than 1 metre (3.2 feet).
- 5.6 No Person shall Conduct a Recreational Burn without having the equipment and resources immediately available to fully extinguish the fire including a garden hose or suitable fire extinguisher.

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- 5.7 No Person shall Conduct a Recreational Burn that is not supervised by someone at least 18 years of age at all times.
- 5.8 No Person shall Conduct a Recreational Burn outside of or greater than the size of the fire pit or container, and, in compliance with provisions of Sections 5.4 and 5.5 of this Bylaw.
- 5.9 No Person shall store an outdoor fire pit, outdoor fireplace or outdoor appliance in an area where a Recreational Burn is not permitted.

SECTION 6 – OPEN AIR BURNING

- 6.1 No Person shall Conduct Open Air Burning without first having obtained a Permit from the Fire Chief.
- 6.2 No Person shall Conduct Open Air Burning between the hours of 8:00 p.m. and 8:00 a.m.
- 6.3 No Person shall Conduct an Open Air Burn with materials other than wood or wood by-products that originate from the Permit holder's property.
- 6.4 No Person shall use flammable or combustible liquids or accelerants of any kind.
- 6.5 No Person shall Conduct Open Air Burning in an area greater than one (1) metre (3.2 feet) in size unless otherwise Permitted by the Fire Chief and noted on the Permit.
- 6.6 No Person shall Conduct Open Air Burning within five (5) metres (16.4 feet) of any property lines, building, structure, roadway or overhead wire.
- 6.7 No Person Shall Conduct more than two fires on the same day on any given property for which a Permit has been obtained.
- 6.8 No Person shall Conduct an Open Air Burn without having the equipment and resources immediately available to fully extinguish the fire.
- 6.9 No Person shall Conduct an Open Air Burn that is not supervised at all times or completely extinguished once the site is vacated.
- 6.10 No Person shall Conduct an Open Air Burn that becomes a Nuisance to adjacent properties, people or pets.
- 6.11 No Person shall Conduct an Open Air Burn within 300 metres (984 feet) of any Liquified Petroleum Gas (LPG) distribution site or LPG gas valve site when the facility requires a facility transfer license issue by the Technical Standards and Safety Authority (TSSA).

SECTION 7 – PERMITS

- 7.1 An application for an Open Air Burn must be made in writing on the prescribed form, by a person at least 18 years of age, who lives on or owns the property, or is given authorization by the owner, in writing, to conduct the burn.
- 7.2 A Permit shall not be issued under this By-law if the proposed site at which the Open Air Burning is not suitable for that purpose.
- 7.3 The Fire Chief may place additional terms on any Permit that is issued to Conduct an Open Air Burn. Additional items shall be listed on the Permit.
- 7.4 Fees for Permits shall be charged as per the Township of North Dumfries Fees and Charges By-law as may be amended from time to time.
- 7.5 Permits are not transferable and no Person shall transfer an Open Air Burn Permit.
- 7.6 No Person shall fail or refuse to comply with the conditions set out in this By-law or any condition set out in the Open Airn Burning Permit. Failure to comply may cause the Permit to be immediately revoked and/or financial penalties or fines invoked.
- 7.7 The Permit holder shall be responsible for compliance with all applicable conditions of the Permit, whether in attendance at the Open Air Burn or not.
- 7.8 No Person shall Conduct an Open Air Burn with an authorized Permit without first having called fire dispatch prior to the start of the burn and calling at the extinguishment of their burn.

SECTION 8 – ENFORCEMENT

- 8.1 This By-law shall be enforced by any member of the Township Fire Department, Municipal Law Enforcement Officers appointed by the Township with the duty of enforcing the provisions of the By-laws of the Corporation or any member of the Waterloo Regional Police.
- 8.2 Any Officer designated to perform inspections pursuant to this By-law may at all reasonable times, enter upon any Property for the purpose of carrying out an inspection to determine whether or not this By-law is being contravened and/or to determine if an order has been complied with.

SECTION 9 - PENALTY

- 9.1 Every Person who contravenes any provision of this By-law is guilty of an offence and is liable, upon conviction, to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

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- 9.2 No Person shall provide false information or give a false statement to an officer, employee and/or agent of the Municipality in the lawful exercise of a power or duty under this by-law.
- 9.3 No Person shall hinder or 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.
- 9.4 Where action is required by the Township's Fire Department or reciprocal providers, fees will be recovered by the Township as per the Fees and Charges By-law, as may be amended from time to time. Should those fees not be recovered, the Township shall recover such fees in a like manner as property taxes, in accordance with Section 446 of the Municipal Act, SO 2001, c25.

SECTION 10 – EXEMPTION

- 10.1 A campground facility operating in a location permitted by the Township's Zoning By-law 689-83, as amended or any successor thereto, shall be exempt from Section 5 (Recreational Burns) of this By-law, save and except a fire ban issued by the Fire Chief, Chief Administrative Officer or Municipal Law Enforcement Officer.

SECTION 11 – SEVERABILITY

- 11.1 It is hereby declared that notwithstanding any part of this By-law, or parts thereof, may be found by any Court of law to be invalid or beyond the power of Council to enact such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this By-law are separate and independent there from and enacted as such.

SECTION 12 – REPEAL- ENACTMENT

- 12.1 By-laws 285-77 and 2316-08 are hereby repealed.
- 12.2 This By-law shall come into force and effect on February 10, 2025



Susan Foxtton, Mayor



Ashley Good, Clerk