

THE CORPORATION OF THE TOWNSHIP OF NORTH ALGONA WILBERFORCE

Bylaw to regulate Open-Air Burning

BY-LAW NO 2020-03

WHEREAS Section 11 of the *Municipal Act*, 2001, Chapter 25, as amended, authorizes a municipality to enact bylaws regarding the health, safety and well-being of persons and protection of persons and property;

AND WHEREAS Part XIV of the *Municipal Act*, 2001, Chapter 25, as amended, authorizes a municipality to create offences, establish fines and administrative penalties;

AND WHEREAS Section 391(1)(a) of the *Municipal Act*, 2001, Chapter 25, as amended, authorizes a municipality to impose fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS Section 7.1(1) of the *Fire Protection and Prevention Act*, S.O. 1997, c.4, as amended, authorizes a municipality to, (a) regulate fire prevention, including the prevention of the spread of fires; and (b) regulate the setting of open-air fires, including establishing the times during which open-air fires may be set;

AND WHEREAS Division B, Part 2, Section 2.4.4.4 (1)(a) of the *Ontario Fire Code* provides for the prohibition of open-air burning unless approved;

AND WHEREAS Council desires to establish a framework that allows residents and visitors to responsibly enjoy campfires while protecting persons and property from careless burning practices;

NOW THEREFORE the Council for the Corporation of the Township of North Algona Wilberforce hereby enacts as follows:

1.0 DEFINITIONS:

- (a) **"Approved Campfire Pit"** means an area of ground not greater than 3 ft X 3ft that has been completely cleared of combustible material and lined with a minimum thickness of 15cm (6 inches) of sand or mineral soil that will extend a minimum of 30 cm (12 inches) beyond the limit of the fuel used for a campfire or burning of leaf material, or as approved by the Fire Chief or delegate.
- (b) **"Approved Material"** means clean wood that has not been painted, stained or otherwise treated; wood chips and byproducts, clean paper products, leaves and other vegetation.
- (c) **"Authorized Agent"** means any person authorized by the Fire Chief or the Council of the Township to carry out duties in relation to this bylaw.
- (d) **"Burn Barrel" or "Incinerator"** means any enclosed device open-air burning device, regardless of size or construction, covered with a screen capable of preventing the escape of sparks with mesh (holes) 5mm or less, in which a fire can be set for the burning of materials, but does not include an outdoor furnace.
- (e) **"Campfire"** means a fire, having a maximum fuel volume of .6 meters x .6 meters x .6 meters (2 feet x 2 feet x 2 feet), that is set or maintained in an approved campfire pit or outdoor fireplace and is used solely for the purposes of cooking food, providing warmth or recreational enjoyment.
- (f) **"Campground"** means a commercial operation providing an overnight tenting or camping area, where people are temporarily accommodated in tents, trailers, travel trailers, motor home, cabin or similar facilities, whether or not a fee or charge is paid for the rental thereof, but does not include a mobile home or a mobile home park.
- (g) **"Chinese Lantern" or "Sky Lantern" or "Flying Lantern"** means a small hot air balloon made of paper or any other material with an opening at the bottom where a small fire is suspended such that the lantern will rise and float in the air while ignited.
- (h) **"Combustible"** means any material, trees or vegetation, susceptible to catch fire when exposed to heat, flame or other burning materials. Examples include but are not limited to: buildings, trees, clotheslines, fences, lumber, deck, shed, etc.
- (i) **"Council"** means the elected Council for the Corporation of the Township of North Algona Wilberforce.
- (j) **"Fire Chief"** means the Chief Fire Official of the Township of North Algona Wilberforce, or his/her designate.
- (k) **"Fireworks"** means a device containing combustibles or explosives that, when ignited, produce a brilliant display of light and/or a loud noise.
- (l) **"Household Waste"** means any solid waste, composed of garbage or rubbish, which normally originates in a private home or apartment.

- (m) **"Township Fire Ban"** means a state and related period of time declared by the Fire Chief or his/her designate during which no one may set or maintain any open-air fire, including campfires, cooking fires, fireworks, fires in outdoor fireplaces, and includes the use of charcoal briquettes and all wood burning devices, whether portable or stationary, and may include other outdoor open-air burning devices not defined in this by-law. A Township Fire Ban applies to all Open-Air Fires within the boundaries of the Township, with exception of those exemptions contained in Schedule "A" of this by-law.
- (n) **"Non-Transferable"** means a fire permit cannot be transferred to another premise. The fire permit applies to the premise it was originally issued to and is not valid at any other premise
- (o) **"Open-Air Fire"** means a fire set in the open-air for the purpose of burning brush or other approved combustible material, and includes fires in burn barrels and incinerators, but does not include a cooking fire, campfire or barbeque.
- (p) **"Outdoor Fireplace"** means an outdoor fireplace, Chiminea or other appliance, ULC or CSA approved and designed for outdoor recreational use, whether constructed of masonry, pottery, metal, or other material.
- (q) **"Outdoor Furnace"** means, a ULC or CSA approved device burning solid, liquid or gas fuels designed and used for providing heat or domestic hot water to another structure. May be commonly referred to as an outdoor furnace or boiler.
- (r) **"Permit"** means a permit issued by the Township of North Algona Wilberforce granting permission for open-air burning and setting any related conditions and requirements.
- (s) **"Permit Holder"** means any person who is a land owner, tenant, lessee or campground owner that has been granted a permit for open-air burning by the Township of North Algona Wilberforce.
- (t) **"Prohibited Material"** means any material 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 fumes or smoke.
- (u) **"Restricted Material"** means but is not limited to: a structure or building of any kind, and hay straw, or standing vegetation.
- (v) **"Special Event Permit"** means a permit allowing open-air burning on Township Property.
- (w) **"Special Permit"** means a permit issued by the Township to burn restricted materials.
- (x) **"Township"** means the Corporation of the Township of North Algona Wilberforce.

2.0 PERMITS- OPEN-AIR BURNING

All persons, being owners, tenants or occupants who wish to set or maintain an open-air fire, other than a campfire in the Township of North Algona Wilberforce must first obtain permission from the Township or its authorized agent.

A permit may be obtained from the North Algona Wilberforce Township Office or online. Permits are valid for the calendar year in which they were issued. The Fire Department must be informed prior to burning under any permit.

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 obtain an Open-Air permit to cover the specified period.

3.0 GENERAL REGULATIONS

No Person shall at any time:

- 3.1 Without first obtaining a Permit, set, maintain or allow being set or maintained any open-air fire that is not a campfire. All persons setting an open-air fire shall comply with the following regulations:
 - (a) The material to be burned shall be limited to grass, clean wood, clean wood wastes, and wood by-products, that have not been chemically treated, painted or stained.
 - (b) Brush piles for burning must be no larger than two metres (2m) in diameter, two metres(2m) high and placed not less than ten metres(10m) apart. There may be no more than three (3) brush piles burning at any one time.
 - (c) There shall be no burning within five metres (5m) of an adjacent property or within five metres (5m) of a combustible structure and ten meters (10m) of a wooded area.
 - (d) In the case of burning grass, the area to be burned shall be less than one acre (1ac.) and the length of the flaming edge shall be less than thirty metres (30m).
 - (e) The person conducting the burning is responsible for continuously supervising the burning and must ensure that the required means of fire extinguishment are available at the site at all times during the fire. i.e. shovels, rakes, water and sufficient manpower to control the fire.

- (f) During the fire season from April 1 to October 31, inclusive, daytime burning is prohibited. The Permit Holder must ensure that the fire is ignited no earlier than two (2) hours before sunset, and is extinguished no later than two (2) hours after sunrise.
- 3.2 Maintain, or allowed to be set, an open-air fire on any lands owned or controlled by the Township of North Algona Wilberforce without first obtaining a “special event” permit issued by the Fire Chief.
- 3.3 Burn any prohibited materials or any other item that could cause noxious or toxic smoke or fumes.
- 3.4 Burn any materials where the smoke from such fire impedes visibility on any public thoroughfare, or has a negative impact on neighbouring person’s or properties.
- 3.5 Ignite a “Chinese Lantern”, Sky Lantern or “Flying Lantern” within the Township.
- 3.6 Without a special permit issued by the Township set, maintain or allow being set or maintained any open-air fire of any restricted material such as but not limited to:
 - (a) A building or structure of any kind.
 - (b) Any hay, straw or standing vegetation.
- 3.7 Set or maintain a fire in a burn barrel, or incinerator when the wind is in such a direction or intensity as to cause any of the following:
 - (a) A decrease in visibility on any highway or roadway.
 - (b) A rapid spread of fire through a grass or brush area.
 - (c) A fire hazard, or other adverse effects to properties and individuals affected by the products of combustion (smoke or odors).

4.0 BURN BARRELS, AND INCINERATORS

- 4.1 All persons setting or maintaining a fire in a burn barrel, incinerator or similar device shall comply with the following conditions:
 - (a) They shall be enclosed devices.
 - (b) They shall be at least five meters (5m) from any forest or tree growth.
 - (c) They shall be at least five meters (5m) from any combustible material or structures.
 - (d) The top shall be covered by a screen capable of preventing the escape of sparks, having mesh (holes) 5mm or less.
 - (e) They shall be supervised at all times until the fire is extinguished.
- 4.2 May be used to burn dry non-glossy paper, cardboard, clean wood and natural vegetation.
- 4.3 No person shall at any time burn or allow to be burned any household waste or prohibited materials.

5.0 SAFETY

- 5.1 No person shall at any time set, maintain or allow to be set or maintained an Open-Air Fire other than a campfire except where:
 - (a) A valid authorized open-air burning permit issued by the Township is in effect; and
 - (b) Such fire is under the constant supervision of a competent person of 18 years or older; and
 - (c) All conditions as detailed on the permit have been followed; and
 - (d) Equipment and other resources capable of controlling and extinguishing an Open-Air Fire are available and maintained at the site until the fire is fully extinguished.
- 5.2 No Permit Holder shall at any time set, maintain or allow being set or maintained an Open-Air Fire where the weather conditions have changed to create adverse or dangerous conditions for the setting of an open-air fire.
- 5.3 Where a Permit Holder has set or maintained an open-air fire and winds or wind gusts of more than 15km/h occur the permit holder shall ensure that the fire is extinguished immediately.
- 5.4 **Camp Fires** – Every person setting or maintaining a camp fire shall ensure that the campfire is set or maintained in an approved pit, appliance or outdoor fireplace and supervised at all times.
- 5.5 **Hours**
 - (a) Between April 1st and October 31st, no person shall set an open-air fire other than a campfire or cooking fire between the hours of two (2) hours after sunrise until two (2) hours before sunset.
 - (b) Between November 1st and March 31st open-air fires may be set at any time during the day when authorized by a valid open-air burning permit.

6.0 FIRE BANS

- 6.1 The Fire Chief may, at any time, issue a fire ban, effective for a specified period of time, prohibiting the setting of any and all Open-Air Fires, including campfires and cooking fires within any area of the Township.
- (a) All Previously Issued Fire Permits are cancelled during the period of a Township Fire Ban.
 - (b) No open-air fires, including campfires and cooking fires will be permitted within the Township while a Township Fire Ban is in effect, except within a Designated Campground that has met the criteria in Schedule "A" this by-law.
 - (c) An organized campground in the Township of North Algona Wilberforce may request Designated Campground Status by being inspected by the Fire Chief or his/her designate, and meeting and maintaining the criteria outlined in the Designated Campground Exemption Criteria in Schedule "A" hereto attached and forming part of this by-law.
- 6.2 No person shall at any time while a Township Fire Ban is in effect:
- (a) Set or maintain any open-air fire, including campfires, cooking fires, fires in outdoor fireplaces, and may include other outdoor open-air burning devices not defined in this by-law. A Township Fire Ban applies throughout the entire Township, with the exception of Designated Campgrounds.
 - (b) Deploy, set off or allow for the deployment or setting off of fireworks.
 - (c) Set, maintain or allow a fire in any burn barrel or incinerator.
- 6.3 Outdoor furnaces, are exempt from section 6.0 of this by-law.
- 6.4 During a Township Fire Ban the use of liquid fuel or gas propane stoves are permitted for the preparation of food and for heat, as long as it is enclosed, i.e. covered with a lid, and there is a method of regulating the heat.
- 6.5 **Revocation of Permits** - Notwithstanding any other provision of this by-law, the Fire Chief may revoke any or all permits, or refuse to issue permits where one or more of the following conditions exist in respect of, or in proximity to, the proposed Open- Air Fire Site:
- (a) Any condition that in the opinion of the Fire Chief may increase the risk of the spread of fire;
 - (b) Failure of a Permit Holder to comply with the requirements of the permit or other provision of this bylaw;
 - (c) The issuance by another level of government of a fire ban or prohibition against any and all Open-Air Fires; or;
 - (d) Weather conditions that, in the opinion of the Fire Chief, increases the risk of the spread of fire;

7.0 ADMINISTRATION AND ENFORCEMENT

This by-law shall be administered and enforced by the Fire Chief and his/her designate.

8.0 INSPECTION POWERS

- 8.1 For the purpose of Section 8 and 9 Open-Air Burning shall be deemed to include campfires.
- 8.2 The Fire Chief or designate may at any time inspect an Open-Air Fire to ensure compliance with this bylaw. Any person who has the care and control of such fire shall provide the Fire Chief with free and unobstructed access to the Open-Air Fire.
- 8.3 The Fire Chief or his/her designate:
- (a) Is entitled to request and have produced any relevant Permits-in respect of the Open-Air Burning and;
 - (b) May, order the person(s) to immediately extinguish the fire or where such person has refused to extinguish or does not have the resources available to extinguish the fire, call for assistance as is required under the circumstances to aid in the extinguishing of the fire.

9.0 PENALTIES

- 9.1 Any person who contravenes any 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;
- 9.2 Any person who fails to comply with provisions of a fire permit may be assessed an administrative penalty for inspection and related costs;
- 9.3 Any costs incurred by, or on behalf of, the Township in investigating or responding to an unauthorized open-air fire may be recovered from the property owner of the involved property, in accordance with Schedule "B" to this by-law, on account of those costs and expenses incurred by the Township in:
- 9.4 All fees and charges payable under this by-law are due and owing to the Township within thirty (30) days of the date of an invoice rendered to the person liable to pay them.

- 9.5 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.
- 9.6 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 owners of a property being responsible for 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 a like manner as municipal taxes.
- 9.7 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 owners consent, the owner and the person conducting the open-air burning shall be jointly and severally liable to pay any fees and charges imposed by this by-law.

10.0 PENALTY PROVISIONS

Any person who contravenes or causes or permits the contravention of any provision of this by-law is guilty of an offence and upon conviction is liable to a fine, pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33, as laid out in Schedule "B" to this by-law.

11.0 SEVERABILITY


A decision of a competent court that one or more provisions of this by-law are invalid in whole or in part does not affect the validity, effectiveness or enforce ability of the other provisions or part of provisions of this by-law.

12.0 BY-LAW COMING INTO EFFECT

This by-law shall come into force on the day it is passed.

Read a FIRST and SECOND time this 7th day of January 2020

Read a THIRD time and passed this 7th day of January 2020



Mayor

CAO

THE CORPORATION OF THE TOWNSHIP OF NORTH ALGONA WILBERFORCE
Bylaw to regulate Open-Air Burning
Schedule "A" to By-Law NO 2020-03

DESIGNATED CAMPGROUND EXEMPTION FROM TOWNSHIP FIRE BANS

1.0 DEFINITIONS:

- (a) **"Designated Campground"** means a campground that is inspected annually and satisfies the criteria in Appendix "B" attached hereto. This means that the Fire Chief, or his/her designate completed an inspection and has determined that the campground is in compliance with criteria under the Forest Fire Prevention Act and meets the conditions in the Designated Campground Exemption Criteria attached hereto as Appendix "A".
- (b) **"Township Fire Ban"** means a state and related period of time declared by the Fire Chief or his/her designate, during which no one may set or maintain any open-air fire, including campfires, cooking fires, fires in outdoor fireplaces, and may include other outdoor open-air burning devices not defined in this by-law. A Township Fire Ban applies to all Open-Air Fires within the boundaries of the Township, with the exception of those exemptions contained herein.

2.0 GENERAL REGULATIONS:

- (a) A designated Campground may attain designation and exemption from Township Fire Bans by being inspected annually by the Fire Chief or his/her designate, and meeting and maintaining the criteria outlined in the Designated Campground Exemption Criteria attached hereto as Appendix "A".
- (b) During a Township Fire Ban, no outdoor fires will be permitted within the Township except within a Campground that has met the Designated Campground Exemption Criteria – Appendix "B".
- (c) The Owner or Operator of the campground expressly permits the fire to be set during a time when the Township is under a Fire Ban.

THE CORPORATION OF THE TOWNSHIP OF NORTH ALGONA WILBERFORCE
Bylaw to regulate Open- Air Burning
DESIGNATED CAMPGROUND EXEMPTION CRITERIA
Appendix 'A' to By-Law NO 2020-03

For a designated campground to be exempt from a Township fire ban the following conditions **MUST** apply:

1. The campground does **NOT** allow the burning of campfires between 10:00 a.m. and 7:00 p.m.;
2. The campground clearly posts the hours that campfires will be allowed;
3. The campground has printed information on safe campfires and provides it to all of its guests;
4. The campground has on site at all times when burning is allowed, staff who are instructed in the location and use of the fire fighting equipment, i.e. water, fire extinguisher, shovels, rakes, sufficient staffing to control the fire.
5. The campground has reliable communications equipment to allow it to obtain assistance from Township fire department if a fire escapes control;
6. The fire is contained in an approved campfire pit or outdoor fireplace which **WILL NOT** be moved to an unsafe location;
7. The fire installation is at least ten metres (10m) from any forest or woodland and the area within two metres (2m) of the location of the fire is completely free of any combustible materials and structures;
9. The space immediately above the location of the fire is at least three metres (3m) from any overhanging vegetation;
10. During a declared fire ban, should a fire get out of control and demand a response from the North Algona Wilberforce Fire Department, or any assistance requested by them either through Mutual Aid or through a request to the Ministry of Natural Resources and Forestry (MNRF), the campground owner shall pay for all costs associated with the extinguishment of said fire. Such fees or charges are laid out in Schedule "B" to this by-law.

TOWNSHIP OF NORTH ALGONA WILBERFORCE
Part 1 Provincial Offences Act
By-Law No. 2020-03 Open- Air Burning
Schedule "B"
Schedule of Fines

| Item | Column 1 Short Form Wording | Column 2 Provision creating or defining offence | Column 3 Set fine |
|------|--|--|----------------------|
| 1 | Set, or maintain a fire on a farm for disposal of vegetation without a permit | 2.0 | \$250.00 |
| 2 | Set, or maintain or allow an open-air fire without a permit | 3.1, | \$250.00 |
| 3 | Burn unauthorized materials | 3.1 (a) | \$250.00 |
| 4 | Set, or maintain an oversize open-air fire, too many or placed too close together | 3.1 (b) | \$250.00 |
| 5 | Set, or maintain an open-air fire within 5 meters of combustible structures | 3.1(c) | \$250.00 |
| 6 | Set, or maintain an area grass where that leading edge exceeds 30 meters | 3.1(d) | \$250.00 |
| 7 | Set, or maintain an open-air fire without adequate extinguishment devices and/or supervision | 3.1(e) | \$250.00 |
| 8 | Set, or maintain open-air fire non approved hours | 3.1(f) | \$250.00 |
| 9 | Set, or maintain an open-air fire on Township property without a "special event" permit | 3.2 | \$250.00 |
| 10 | Burn prohibited materials – cause noxious/toxic fumes | 3.3 | \$250.00 |
| 11 | Impede visibility public thoroughfare | 3.4 | \$250.00 |
| 12 | Ignite Chinese lantern, flying lantern, sky lantern | 3.5 | \$450.00 |
| 13 | Set, maintain an open-air fire of restricted material without a "special" permit | 3.6 | \$250.00 |
| 14 | Set, or maintain an open-air fire that spread through grass or bush | 3.7(b) | \$250.00 |
| 15 | Set, or maintain open-air fires that adversely effect properties/individuals | 3.7(c) | \$250.00 |
| 16 | Burn barrel or incinerator not enclosed | 4.1(a) | \$250.00 |
| 17 | Burn barrel or incinerator within 5m of a forest or tree growth | 4.1(b) | \$250.00 |
| 18 | Burn barrel or incinerator within 5m of combustible materials or structure | 4.1(c) | \$250.00 |
| 19 | Burn barrel or incinerator top is not covered with mesh size 5mm or less | 4.1(d) | \$250.00 |
| 20 | Set or maintain a fire containing household waste or prohibited materials | 4.3 | \$250.00 |
| 21 | Failure to have a competent person over 18 years of age supervising the fire | 5.1(b) | \$250.00 |
| 22 | Set or maintain an open-air fire under adverse weather conditions | 5.2 | \$250.00 |
| 23 | Set or maintain an open-air fire during strong winds – 15km/h | 5.3 | \$250.00 |
| 24 | Set or maintain a campfire in an unapproved pit | 5.4 | \$250.00 |
| 25 | Set, or maintain an open-air burn during a Township fire ban | 6.2(a) | \$450.00 |
| 26 | Deploy fireworks during a Township fire ban | 6.2(b) | \$450.00 |
| 27 | Set, or maintain a fire in a burn barrel or incinerator during a Township fire ban | 6.2(c) | \$450.00 |

NOTE: The penalty provisions for the offences cited above are section 10 of By-law 2020-03; a certified copy of which has been filed.

THE CORPORATION OF NORTH ALGONA WILBERFORCE TOWNSHIP
By-Law to regulate Open-Air Burning
SCHEDULE "C" TO BY-LAW NO. 2020-03

Schedule of Fees

1. Fees to respond to and investigate a complaint in regards to a possible violation under Section 2.0 about open-air burning
 - (a) Fee of \$75.00 per response payable by the permit holder or person setting, maintaining or allowing such 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
 - i. 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.
2. Cost Recovery Fees:
 - (a) Dispatch of Fire-fighters - (to be calculated at \$25 per hour for a minimum of 2 hours per firefighter responding to the scene and calculated on one half hour increments thereafter).
 - (b) Dispatch of Fire Response vehicles actively involved in fighting the fire. – Rates for vehicles shall be at the current MTO rates.
 - (c) Actual costs incurred by the Township for additional firefighting support from other outside agencies.