

**THE CORPORATION OF  
THE TOWNSHIP OF WELLESLEY  
BY-LAW NO. 50/2015**

Being a by-law to regulate open air fires within the Township of Wellesley

**WHEREAS** section 7.1(1)(b) of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended (the “Act”), 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 Act states that a by-law under that section may deal with different areas of the municipality differently;

**AND WHEREAS** section 7.1(4) of the Act 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;

**NOW THEREFORE** the Council of The Corporation of the Township of Wellesley enacts as follows:

**Definitions**

1. In this By-law:

“Act” means the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended;

“building” means:

- (a) a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto;
- (b) a structure occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto; and,
- (c) structures designated in the *Building Code*, Ontario Regulation 350/06, as amended.

“**Contained Site Camp Fire**” means a circle of stones, bricks, concrete or truck or tire rim, of a maximum diameter of 60 cm (24 inches) and includes manufactured non-combustible outdoor fire containers;

“**Council**” means the Council of the Township;

“**Fire Chief**” means the person appointed by Council pursuant to sections 6 (1), (2) or (4) of the Act, or his or her designate;

“**highway**” means a common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway and, except as otherwise provided, includes a portion of a highway;

“**Municipal Law Enforcement Officer**” means a person appointed by the Township under s. 15 of the *Police Services Act*, R.S.O. 1990, c. P.15;

“**open air fire**” means a fire that takes place outside of a building;

“**owner**” means the registered owner of the property;

“**person**” means an individual, corporation, unincorporated association or partnership;

“**Region**” means the Regional Municipality of Waterloo;

“**Rural Area**” means any property in the Township zoned Agricultural (A1) in a Township zoning by-law;

“**Township**” means The Corporation of the Township of Wellesley;

“**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; and,

“**Urban Area**” means any property in the Township that is not a Rural Area.

#### **General Prohibitions**

2. No person shall set or maintain an open air fire, or permit an open air fire to be set or maintained, at any time without a permit from the Township.
3. No person shall leave an open air fire unattended or unsupervised, or permit an open air fire to be unattended or unsupervised, at any time.
4. No person shall burn anything, or permit anything to be burnt, in an open air fire so as to create obnoxious odours or hazardous fumes.
5. Without limiting the generality of section 4 of this by-law, no person shall burn, or permit to be burnt, in an open air fire:
  - (a) waste or rubbish;
  - (b) plastics;
  - (c) asphalt products;
  - (d) painted or stained wood;
  - (e) plywood and other laminates;
  - (f) pressure treated wood; or,
  - (g) hazardous substances.
6. No person shall burn anything, or permit anything to be burnt, in an open air fire so as to cause a decrease in visibility on a highway.

#### **Exemptions**

7. This by-law shall not apply to:
  - (a) the Township;
  - (b) a Contained Site Camp Fire, provided the regulations contained in **Schedule “A”** are complied with.

#### **Permits**

8. Any person at least eighteen (18) years of age or older may apply to the Fire Chief to be granted a permit to have an open air fire in a Rural Area. The Fire Chief may grant or refuse the application or grant an application with terms or conditions.
9. No open air fire permits shall be granted for open air fires in Urban Areas.

10. Any permits granted by the Fire Chief shall specify the time period during which it is effective and may also contain such terms or conditions, in addition to those set out in **Schedule "B"**, as the Fire Chief deems reasonably necessary.
11. An application to the Fire Chief for an open air fire permit shall be made in writing to the Fire Chief and shall include the following:
  - (a) the name, address and contact information of the applicant(s);
  - (b) the owner's written consent to the open-air fire, if the applicant is not the owner of the property on which the open air fire is to occur;
  - (c) the name and address of the organization(s) represented by the applicant(s), if applicable;
  - (d) the purpose or rationale, if any, behind having an open air fire;
  - (e) the date(s), time(s) and location(s) of the proposed open air fire;
  - (f) what is proposed to be burnt in the open air fire;
  - (g) the name of the contact person or persons who will be supervising the open air fire;
  - (h) the applicable fee, as set out in the Township's Fees and Charges By-Law, as amended; and,
  - (i) such further and other information as the Fire Chief may request.
12. In determining whether or not to grant (with or without conditions) or refuse an open air fire permit, the Fire Chief shall consider the following:
  - (a) the health and safety of the citizens of the Township;
  - (b) the general intent and purpose of this by-law; and,
  - (c) whether the applicant(s) have complied with previous permits that may have been granted under this, or a predecessor, by-law.
13. No person shall contravene any of the terms or conditions of an open air fire permit, including those set out in **Schedule "B"**.
14. No person shall, at any time, lose control of a permitted open air fire.

#### **Indemnification**

15. All permit holders shall indemnify and save harmless the Township from any and all claims, demands, causes of action, losses, costs or damages that the Township may suffer, incur or be liable for resulting from the issuance of an open air fire permit as set out in this by-law or its predecessor, whether with or without negligence on the part of the applicant, the applicant's employees, directors, contractors and agents.

#### **Revocation of Permits**

16. The Fire Chief may immediately revoke an open air fire permit if, in the opinion of the Fire Chief:
  - (a) the terms or conditions of the permit are being violated, including those set out in **Schedule "B"**;
  - (b) the provisions of this by-law are being violated; or,

- (c) a dangerous condition exists at or near the location of the open air fire.

**Fire Ban**

17. Notwithstanding any other provision of this by-law, the Fire Chief may issue a complete ban on any and all open air fires in the Township, including a Contained Site Camp Fire, for a specified period of time if, in the Fire Chief's opinion, drought conditions are occurring that increase the potential fire hazard (a "Fire Ban"). Any open air fire permits in effect during a Fire Ban shall be deemed to be immediately revoked.

**Inspections**

18. A Municipal Law Enforcement Officer may enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether this by-law is being complied with.
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### **Order to Discontinue Activity**

19. Where a Municipal Law Enforcement Officer has reasonable grounds to believe that a contravention of this by-law has occurred, a Municipal Law Enforcement Officer may make an order requiring the person who contravened this by-law, or who caused or permitted the contravention, or the owner of the land on which the contravention occurred, to discontinue the contravening activity.
20. An order under s. 19 of this by-law shall set out:
  - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
  - (b) the date by which there must be compliance with the order.
21. Any person who contravenes an order under s. 19 of this by-law is guilty of an offence.

### **Work Order**

22. Where a Municipal Law Enforcement Officer has reasonable grounds to believe that a contravention of this by-law has occurred, a Municipal Law Enforcement Officer may make an order requiring the person who contravened this by-law, or who caused or permitted the contravention, or the owner of the land on which the contravention occurred, to do work to correct the contravention.
23. An order under s. 22 of this by-law shall set out:
  - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
  - (b) the work to be done and the date by which the work must be done.
24. An order under s. 22 of this by-law may require work to be done even though the facts which constitute the contravention of this by-law were present before this by-law came into force.
25. Any person who contravenes an order under s. 22 of this by-law is guilty of an offence.

### **Remedial Action**

26. If a person fails to do a matter or thing, including comply with an order under this by-law, as directed or required by this by-law, the Township may, in default of it being done by the person directed or required to do it, do the matter or thing at the person's expense. The Township may recover the costs of doing a matter or thing 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 municipal taxes.
27. The costs outlined in s. 26 of this by-law shall include interest calculated at a rate of 15 per cent per annum, calculated for the period commencing on the day the Township incurs the costs and ending on the day the costs, including the interest, are paid in full.
28. The amount of the costs, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date the payment is made. Upon receiving payment of all costs payable plus interest accrued to the date of payment, the Township shall register a discharge of the lien in the proper land registry office.

### **Enforcement**

29. This by-law may be enforced by Municipal Law Enforcement Officers and Police Officers.

**Penalties**

30. Every person who contravenes a provision 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*, R.S.O. 1990, Chapter 33, as amended.

**Fees & Charges**

31. Council may impose fees and charges to recover its costs in relation to the administration and enforcement of this by-law.
32. Every person who contravenes a provision of this by-law shall, in addition to any penalty provided for herein, be liable to the Township for all fees, charges and expenses incurred by the Township in order to investigate, administer and enforce this by-law and such fees, charges or expenses may be added to the person's tax roll and collected in the same manner as municipal taxes.
33. Every person who sets an open air fire without a permit or who contravenes the conditions of a permit, shall, in addition to any penalty provided for herein, be liable to the Township for all fees, charges and expenses incurred by the Township in order to investigate, control and/or extinguish any open air fire and includes the cost of any attendances at the location of the open air fire by the Fire Department. The fees, charges or expenses incurred by the Township may be added to the person's tax roll and collected in the same manner as municipal taxes.

**Short Title**

34. This by-law shall be known as the "Open Air Fire By-Law."

**Severability**

35. If a Court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in full force and effect.

**Schedules**

36. Schedules "A" through "C" which are attached hereto shall form a part of this by-law.

**Coming Into Force**

37. This by-law shall come into force and effect on the date of its passage by Council.


Read a first and second time this    th day of    , 2015.

  
\_\_\_\_\_  
Mayor Joe Nowak

  
\_\_\_\_\_  
Clerk, Grace Kosch

Read a third and final time and passed this    th day of    , 2015.

  
\_\_\_\_\_  
Mayor Joe Nowak

  
\_\_\_\_\_  
Clerk, Grace Kosch

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**SCHEDULE "A" – CONTAINED SITE CAMP FIRES**

The following regulations shall apply to Contained Site Camp Fires:

1. The minimum distance between a Contained Site Camp Fire and buildings, structures, combustibles or overhead wires shall be 7 metres.
2. The minimum distance from the property line shall be 3 metres.
3. Combustible ground cover shall be removed within 2 metres of a Contained Site Camp Fire.
4. Only clean, dry wood shall be burnt in a Contained Site Camp Fire.
5. Contained Site Camp Fires shall not be permitted on days when:
  - (a) there is an air quality advisory in effect;
  - (b) atmospheric conditions such as rain or fog may cause smoke to remain close to ground level; or,
  - (c) wind speeds are high or wind directions are changing frequently, which could allow a fire to spread rapidly.
6. No person shall leave a Contained Site Camp Fire unattended or unsupervised, or permit a Contained Site Camp Fire to be unattended or unsupervised, at any time.
7. No person shall burn anything, or permit anything to be burnt in a Contained Site Camp Fire, so as to create obnoxious odours or hazardous fumes.
8. Without limiting the generality of section 6 of this Schedule, no person shall burn, or permit to be burnt, in a Contained Site Camp Fire:
  - (a) waste or rubbish;
  - (b) plastics;
  - (c) asphalt products;
  - (d) painted or stained wood;

(e) plywood and other laminates;

(f) pressure treated wood; or,

(g) hazardous substances.

9. No person shall burn anything, or permit anything to be burnt, in a Contained Site Camp Fire so as to cause a decrease in visibility on a highway.



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**SCHEDULE "B" – STANDARD TERMS AND CONDITIONS FOR OPEN AIR FIRE PERMITS**

In addition to the requirements set out in this by-law, and any other terms or conditions imposed, the following terms and conditions shall apply to all open air fire permits:

1. No person shall burn anything, or permit anything to be burnt, in an open air fire within 30 metres of any building or structure.
2. No person shall burn anything, or permit anything to be burnt, in a pile larger than 4.5 metres in diameter and 2.4 metres in height.
3. Sufficient water or other fire retardant equipment shall be readily available to keep the open air fire under control.
4. The applicant(s) shall notify fire dispatch prior to commencement of an open air fire and at its completion.
5. Open air fires shall be immediately extinguished if the smoke arising therefrom interferes with neighbours or by order of the Fire Chief, a Municipal Law Enforcement Officer or a Police Officer.
6. Open air fire permits shall be deemed to be void on days when:
  - (a) there is an air quality advisory in effect;
  - (b) atmospheric conditions such as rain or fog may cause smoke to remain close to ground level; or,
  - (c) wind speeds are high or wind directions are changing frequently, which could allow a fire to spread rapidly.

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**SCHEDULE "C" – SET FINE SCHEDULE**

	<b>COLUMN 1 DESCRIPTION OF OFFENCE Short Form Wording</b>	<b>COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE</b>	<b>COLUMN 3 SET FINE (Includes Costs)</b>
1	Burning without a permit	Section 2	\$85.00
2	Failing to supervise fire	Section 3	\$85.00
3	Creating odours or fumes	Section 4	\$85.00
4	Burning rubbish, hazardous materials	Section 5	\$85.00
5	Failing to adhere to permit requirements	Section 13	\$200.00
6	Lost control of a permitted fire	Section 14	\$200.00
The general penalty provision for the offences listed above is Section 30 of By-law _____ a certified copy of which has been filed.			