

THE CORPORATION OF THE TOWNSHIP OF NORTH STORMONT

BY-LAW NO. 44-2017

BEING a by-law regulating the setting of open air fires, including establishing the times during which open air fires may be set.

WHEREAS Section 129 of the *Municipal Act, 2001, S.O.2001 c25*, as amended provides that the Council of a local municipality may pass by-laws prohibiting and regulating public nuisances;

AND WHEREAS Section 7.1(1)(b) of the *Fire Protection and Prevention Act, 1997, S.O. 1997, c4*, as amended, provides 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 10 of the *Municipal Act, 2001, S.O. 2001, c.25*, allows the municipality to regulate matters related to the health, safety and well being of the inhabitants of the municipality;

AND WHEREAS the regulation of open air burning is important for the health, safety and well-being of persons and property;

NOW THEREFORE, the Council of the Corporation of the Township of North Stormont ENACTS AS FOLLOWS:

Part 1 DEFINITIONS

1.1 Definitions

In this By-Law:

" Adverse Effect" means impairment of the safety of any person and/or damage to property as follows:

- I. impairment of the quality of the natural environment
- II. injury or damage to property, plant or animal life
- III. harm or material discomfort to any person
- IV. an adverse effect on the health of any person
- V. impairment of the safety of any person; or
- VI. loss of enjoyment of normal use of property;

" Burn Barrel" means an open air fire set and maintained in an open top steel barrel that does not exceed 1.5 meters in diameter and 1.5 meters in height and where the open air fire is set and maintained for the purposes of burning;

" Brush " means chopped-off tree branches;

"Cooking Fire" means an Open Air fire used for the purpose of cooking food on a grill but does not include a manufactured barbeque;

"Corporation" means the Corporation of the Township of North Stormont;

"Eligible Farmers" means farmers who are members in good standing of the Ontario Federation of Agriculture, the National Farmers' Union, the Christian Farmers' Association.

"Farm or Agricultural Operations" means is defined under the Farming and Food Protection Act, 1998 Chapter 1, Section and operates with a Farm Business Number;

"Fire Chief" means the person appointed by Council of the Corporation of the Township of North Stormont as defined in the Fire Protection Act, 1997 or designate;

"Firefighter" means the Fire Chief and any other person employed in, or appointed to the North Stormont's Fire Service Division of the Corporation of the Township of North Stormont, and assigned to undertake fire protection services;

"Grass Cuttings" means the lawn waste resulting from mowing;

"Ground Cover" includes but is not limited to: leaves, grasses, weeds, tree needles or wood chips on the ground;

"Municipal Law Enforcement Officer" means the Municipal Law Enforcement Officer appointed by the Council of the Corporation of the Township of North Stormont;

“Normal Farm Practices” means is defined under the Farming and Food Protection Act, 1998 Chapter 1, Section and operates with a Farm Business Number;

- I. makes use of innovative technology in a manner consistent with proper advanced farm management practices;

“Noxious Materials” includes tires, plastics, rubber products, drywall, demolition waste, construction waste, paint, animal organic waste, vegetable waste, food waste, biomedical waste, tar, asphalt products, battery boxes, pressure-treated wood, creosote-treated wood, painted wood and other similar materials;

“Nuisance” means excessive smoke, smell, airborne sparks or embers that is likely to disturb others, or that is likely to reduce visibility on roads in the vicinity of the Open Air Burning;

“Officer” means a Municipal Law Enforcement Officer or a Fire Chief

“Open Air” means any open place, yard, field or construction area which is not enclosed by a building or structure;

“Open Air Burning” means a fire set in the Open Air;

“Outdoor Fireplace” means a manufactured non-combustible enclosed container designed to hold a small fire for decorative purposes and the size of which is not larger than 1 meter in any direction, and may include, but is not limited to, chimneys, metal tubs, fire pits, and outdoor brick fireplaces;

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

“Permit” means a permit issued by the Township of North Stormont to set a fire in the Open Air for a specified time period;

“Person” means an individual, business, a partnership, or a corporation;

“Receptacle” means anything used to contain or hold something else which is made of non-combustible materials and is not greater than 1 meter square;

“Recreational Fire” means a small, controlled and contained fire for the purpose of cooking, warmth or personal enjoyment;

“Settlement areas” means urban areas and rural settlement areas within municipalities (such as cities, towns, villages and hamlets) that are:

- a) built up areas where development is concentrated and which have a mix of land uses and;
- b) lands which have been designated in an official plan for development over the long-term planning
- c) land designated as settlement area in the municipal official plan

“Smog Alert” means an alert issued by the Ministry of Environment with respect to air quality;

“Township” means the geographic area of the Corporation of the Township of North Stormont.

Part 2 GENERAL REQUIREMENTS

- 2.1** Except for a recreational fire, no person shall set, or permit to be set, a fire in the open air within the settlement area boundaries as indicated in the zoning By-Law No. 08-2014.
- 2.2** No person shall set or permit to be set, a fire when the wind velocity is greater than 15 kilometers an hour.
- 2.3** No person shall burn during dry periods or burn ban as designated by the Fire Chief or the Ministry of Natural Resources.
- 2.4** No person shall burn petroleum products, plastics, rubber or any other noxious material that will cause excessive smoke or noxious fumes.
- 2.5** The burning of buildings and machinery is prohibited.
- 2.6** This By-law does not apply to barbeques used for the purpose of cooking food.

- 2.7 No person shall burn on any road allowance, unopened road allowance or in a location that would interfere with traffic.
- 2.8 No person shall leave the site of a fire set outdoors without fully extinguishing the said fire.
- 2.9 No person shall permit a fire to have an adverse effect.
- 2.10 No person shall burn household garbage.
- 2.11 Commercial, industrial or wrecking yard zoned properties are not permitted to have an open-air fire.

**Part 3
OPEN AIR FIRE PERMITS**

- 3.1 The permit holder (owner) is responsible to ensure that the conditions outlined in this by-law are adhered to at all times.
- 3.2 Except for recreational fires, fires in receptacles and fires in a burn barrel, no person shall, set, or permit to be set, a fire in the open air without first obtaining a fire permit as provided in this by-law.
- 3.3 No person shall be deemed to have been issued a permit until the Municipal Law Enforcement Officer, Fire Chief or designate has issued the permit. An application for a permit does not constitute a permit.
- 3.4 Every person shall meet all conditions of the permit.
- 3.5 An application for a Permit shall be completed on the forms provided in Schedule "A" as amended by the Corporation of the Township of North Stormont.
- 3.6 Any permit in effect during a dry period or burn ban as designated by the Fire Chief or the Ministry of Natural Resources, that permit will be voided for the remainder of the dry period or burn ban. No reimbursement of the permit will be permitted.
- 3.7 No permit holder shall:
 - a) fail or refuse to produce the permit upon demand;
 - b) fail to supervise fire continuously;
 - c) fail to comply with any conditions on the fire permit;
 - d) burn any material other than those for which a permit was issued.

**Part 4
AGRICULTURAL AND LAND CLEARING**

- 4.1 No person shall set, or permit to be set a fire in the open air without first obtaining a fire permit as provided in this By-law.
- 4.2
 - a) Agricultural Farming and Operations where the Municipal Law Enforcement Officer, the Fire chief or designate considers it safe to do so, a permit may be issued for burning in the open air for cut and piled brush, grass and other organic materials resulting from the clearing of land and for the destruction of agricultural waste material originating on that property provided that:
 - b) Every person who starts a fire under the provision of this subsection shall cause a watch to be kept on such fire until it is completely extinguished and shall provide sufficient personnel, appliances and equipment to prevent the fire from becoming dangerous to life or property.
- 4.3 Such burning shall not be carried out within 75 meters from any buildings, structures, standing timber or any other flammable or combustible material.
- 4.4 No pile of burning material shall exceed 10 meters in diameter or 10 meters in height. The maximum number of piles is 3.
- 4.5 Minimum distances between burn piles shall be 9 meters.
- 4.6 Windrows are not permitted for burning purposes.
- 4.7 A fire shall not be started within 200 meters adjacent to any residence not owned by the applicant.
- 4.8 No person shall be issued a permit unless the wood being burned has been cut and dried for a period not less than 365 days.

**Part 5
OPEN AIR FIRE**

- 5.1 No person shall set, or permit to be set a fire in the open air without first obtaining a fire permit as provided in this By-law.
- 5.2 Every person shall ensure that the fire is at a minimum of 50 meters from the nearest dwelling and 5 meters from the property line.
- 5.3 Every person shall ensure that the fire is at a minimum of 15 meters from a forest, woodland or building.
- 5.4 No person shall set, or permit to be set, a fire in the open air between one half hour before sunset and one half hour after sunrise.
- 5.5 No person shall burn materials other than brush.
- 5.6 No pile of burning materials shall exceed 2 meters' square and 2 meters in height.
- 5.7 Minimum distances between burn piles shall be 5 meters. The maximum number of piles is 3.

**Part 6
BURN BARREL AND RECEPTACLE**

- 6.1 Burning in a burn barrel or a receptacle (only one barrel or one receptacle is permitted) does not require obtaining a fire permit.
- 6.2 No person shall set, or permit to be set, a fire in a burn barrel or receptacle between one half hour before sunset and one half hour after sunrise.
- 6.3 No person shall burn materials other than brush, leaves or grass cuttings.
- 6.4 Every person shall ensure that the fire is at a minimum of 50 meters from the nearest dwelling and 5 meters from the property line, any structure, building, tree, hedge, fence, roadway, deck, overhead wire or any other combustible materials.

**Part 7
RECREATIONAL FIRES**

- 7.1 Recreational fires do not require obtaining a fire permit.
- 7.2 Every person who has a recreational fire must comply with all of the following requirements;
 - a) it is for the purpose of cooking, warmth or personal enjoyment;
 - b) it has a flame base of less than 1 square meter;
 - c) it is located not less than 5 meters from any structure, building, property line, tree, hedge, fence, roadway, deck, overhead wire or any other combustible material;
 - d) it does not create a nuisance to other properties;
 - e) it is located on a non-combustible surface beyond the unit to a dimension equal to the height of the unit;
 - f) any openings in the outdoor fireplace are completely covered by a spark guard with openings no larger than 12 millimeters in diameter; and
 - g) only dry clean wood or charcoal shall be burned.
- 7.3 Section 7.2 (f) is not applicable to recreational fires in rural or agricultural zoned areas.

**Part 8
ADMINISTRATION AND ENFORCEMENT**

- 8.1 The Municipal Law Enforcement Officer, Fire chief or designate are authorized to:
 - a) issue permits as provided in this By-law;
 - b) sign all permits on behalf of the Corporation;
 - c) limit the time for which a permit is issued;
 - d) undertake any technical investigation or inspection for the purpose of administering this By-law.

- 8.2** The Municipal Law Enforcement Officer, Fire Chief or designate may:
- a) demand the fire permit for inspection from any permit holder;
 - b) inspect any premises for which a fire permit has been issued;
 - c) enter at any time onto land to determine whether the provisions of this By-law are obeyed and to enforce or carry into effect this By-law.

**Part 9
ORDERS**

- 9.1** Despite any other provisions of this By-law, if upon inspection of a fire, the Municipal Law Enforcement Officer, the Fire chief or designate is satisfied the fire poses a danger to the health or safety of any person or property, the Municipal Law Enforcement Officer, Fire Chief or designate shall cancel or suspend the fire permit and order the fire extinguished.
- 9.2** The area of burning must be restricted in order to enable the permit holder to extinguish the fire immediately if necessary due to a change in weather or other conditions or if so ordered by the Municipal Law Enforcement Officer, Fire Chief or designate.

**Part 10
ENFORCEMENT**

10.1 Obstruction

No person shall:

- a) hinder or obstruct, or attempt to hinder or obstruct a Municipal Law Enforcement Officer or Fire Chief or designate in the lawful performance of his duties;
- b) fail to comply with an order to extinguish;
- c) fail to identify themselves to the officer or designate upon request;
- d) give false or incorrect information for the purposes of obtaining a fire permit.

**Part 11
CONTREVENTION OF BY-LAW**

11.1. Penalties

- a) every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33.
- b) every person who contravenes any provision of this By-law including an order issued under this By-law, is guilty of an offence.
- c) every person who is guilty of an offence under the By-law may, if permitted under the *Province Offences Act*, pay a set fine, and the Chief Judge of the Ontario Court, Provincial Division, shall be requested to establish set fine as set out in Schedule "B" to this By-law.
- d) each day that such offence is committed, or permitted to continue, shall constitute a separate offence and may be punishable as such.

**Part 12
COST RECOVERY**

- 12.1** Should a person default in complying with an Order, the Fire may be extinguished at the person's expense.
- 12.2** The Township may enter on land at any reasonable time for the purpose of extinguishing a fire under Part 9.
- 12.3** The power of entry under this Part shall be exercised by the Fire Chief, Firefighter, or a Municipal Law Enforcement Officer. The person exercising the power of entry must on request display or produce proper identification. The person exercising the power of entry may be accompanied by a person under his or her direction.
- 12.4** The Corporation of the Township of North Stormont may recover the costs of extinguishing the fire from the person having started the fire by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes. The costs include interest calculated at a rate of fifteen percent (15%), calculated for the period commencing on the day the municipality incurs the costs and ending on the day the costs, including interest are paid in full. The amount of the costs, including interest, constitutes a lien on the land upon the registration of a notice of lien in the Land Registry Office.

12.5 The costs recovered shall be in accordance with Schedule "D"

**Part 13
VALIDITY & SEVERABILITY**

13.1 Notwithstanding any section, subsections, clause, paragraph or provision of the By-law, this By-law or parts thereof may be declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or beyond the powers 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 therefrom and enacted as such as a whole. Same shall not affect the validity or enforceability of any other provisions of this By-law or of the By-law as a whole.

13.2 Any reference to a statute, regulation, by-law or other legislation in this By-law shall include such statute, regulation, By-law or other legislation or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor legislation thereto.

13.3 Where there is any conflict between the provisions of this By-law and any other By-law or legislation, the provisions of the By-law shall prevail to the extent of the conflict.

**Part 14
PERMIT FEES**

14.1 Upon submitting an application for a Permit, the owner shall pay the fee as set out in the Township of North Stormont's Fees Schedule. "C".

THAT By-Law No. 28-2007 be repealed and any other by-laws inconsistent herewith are hereby repealed

THAT the Clerk of the Township of North Stormont is hereby authorized to make minor modifications or corrections of a grammatical or typographical nature to the By-Law and schedule, after the passage of this By-Law, where such modifications or corrections do not alter the intent of the By-law or its associated schedule.

READ A THIRD, time and finally passed, signed and sealed this 27, day of June 2017.

Original Signed

Dennis Fife
Mayor

Original Signed

Marc Chénier
Chief Administrative Officer/Clerk



TOWNSHIP OF NORTH STORMONT

SCHEDULE "A"

BY-LAW NO. 44-2017

Open Air Fire Permit No. _____

Applicant (owner) Name: _____

Mailing Address: _____

_____ Email: _____

Telephone Residence _____ Cell _____

Location of Proposed Outdoor Fire:

Civic Address: _____

Lot: _____ Concession: _____

Date: Start: _____ End: _____ Duration: _____ day(s)

Agricultural Fires (only): _____ # of days since wood was cut and dried
(minimum 365 days)

Duration: _____ day(s)

I, hereby certify that I have read and understood the requirements and regulations governing **OPEN AIR FIRES** described in the Township By-Law No. 44-2017, and that I will comply with all such regulations. I understand that any person setting a fire shall be liable for all costs and/or damages arising from as a result of a fire.

Applicant Signature: _____

ISSUED BY: _____ (enclosed is a copy By-law No. 44-2017)

Dated at the Municipal Office this: _____

Note: All fires must be extinguished by dusk.

Please be advised that the current By-Law is posted on the municipal website at:
www.northstormont.ca or contact the municipal office at 613-984-2821.

FIRE DEPARTMENT EMERGENCY NUMBER: 9-1-1

SCHEDULE "B" BY-LAW NO. 44-2017

Township of North Stormont Part 1 Provincial Offences Act By-Law No. 44-2017

Item	Column 1 Short Form Wording	Column 2 Provision Creating or defining offence	Column 3 Set Fines
1.	Burning or permit to set a fire within the settlement area	2.1	250.00
2.	Burning or permit to burn with wind velocity greater than 15km/h	2.2	250.00
3.	Burning or permit to burn during a dry period and burn ban	2.3	400.00
4.	Burning or permit to burn petroleum products, plastics, rubber or any other noxious material that causes excessive smoke or noxious fumes	2.4	400.00
5.	Burning or permit to burn buildings or machinery	2.5	400.00
6.	Burning or permit to burn on a any type of road allowance or where it interferes with traffic	2.7	400.00
7.	Leaving a fire without fully extinguishing it	2.8	250.00
8.	Permit a fire to have an adverse effect	2.9	350.00
9.	Burning or permit to burn household garbage	2.10	350.00
10.	Having an open air fire in an commercial, industrial or wrecking yard zoned properties	2.11	500.00
11.	Failing to comply with the conditions of the permit	3.5	300.00
12.	Fail or refuse to produce permit	3.7(a)	150.00
13.	Fail to supervise fire continuously	3.7(b)	150.00
14.	Fail to comply with the conditions on the permit	3.7(c)	150.00
15.	Burning or permit to burn other material than those for which a permit was issued	3.7(d)	150.00
16.	Burning or permit to burn without a permit	4.1	450.00
17.	Burning or permit to burn within 75 meters of any building, structures, standing timber or any flammable or combustible material	4.3	350.00
18.	Burning or permit to burn a pile exceeding 10 meters in diameter or in height, maximum of 3 piles	4.4	400.00
19.	Failing to have 9 meters between burn piles	4.5	400.00
20.	Burning or permit to burn windrows	4.6	400.00
21.	Burning or permit to burn a fire within 200 meters adjacent to a residence	4.7	400.00
22.	Burning or permit to burn without a permit	5.1	300.00

23.	Burning or permit to burn within 50 meters of a dwelling or 5 meters within a property line	5.2	300.00
24.	Burning or permit to burn within 15 meters from a forest, woodland or building	5.3	300.00
25.	Burning or permit to burn during prohibited hours	5.4	300.00
26.	Burning or permit to burn other materials than brush	5.5	300.00
27.	Burning or permit to burn a pile exceeding 2 meters square	5.6	300.00
28.	Failing to have 5 meters between piles.	5.7	300.00
29.	Burning or permit to burn during prohibited hours	6.2	300.00
30.	Burning or permit to burn other than brush, leaves or grass cuttings	6.3	300.00
31.	Burning or permit to burn within 50 meters of a dwelling or 5 meters within a property line	6.4	300.00
32.	Failing to comply with the conditions for recreational open air burning	7.2	250.00
33.	Obstruct an officer	10.1(a)	\$500.00
34.	Fail to comply with an order to extinguish	10.1(b)	\$500.00
35.	Fail to identify upon request	10.1(c)	\$500.00
36.	Give false or incorrect information	10.1(d)	\$250.00

Note: Every person who contravenes any provision of the By-Law is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act R.S.O. 1990, c. P. 33*.

Note: The general penalty provision for the offences listed above is Part 11 of By-Law No. 44-2017, a certified copy of which has been filed.

SCHEDULE "C"
BY-LAW NO. 44-2017
Fees

This is schedule "C" to By-Law No. 44-2017 respecting fees for open air fire permits.

Permits	Fee
Fire Permit for fires to be set during the months of January, February and March	Free
Fire Permit for Eligible Farmers	\$20.00
Fire Permit	\$30.00
"Eligible Farmers" means farmers who are members in good standing of the Ontario Federation of Agriculture, the National Farmers' Union, the Christian Farmers' Association	

SCHEDULE "D"
Costs for Emergency Response

Cost for emergency fire department response to a fire is the following:

- a) First hour per piece of equipment or responding vehicle: \$ 300.00
- b) Each additional half hour or part thereof: \$ 120.00