

By-Law No. 2019-046
Being a By-Law to regulate the setting of open air fires,
including the establishing the times during which open fires may occur.
(Open Air Burning By-Law)

Whereas Ontario Fire Code, Ontario Regulation 213/07, as amended, Division B, Part 2, Subsection 2.4.4. Open Flames, Article 2.4.4.4 (1), Open-air burning shall not take place unless:

- (a) It has be approved, or
- (b) The open-air burning consists of a small, confined fire that is
 - (i) used to cook food on a grill, barbecue or spit,
 - (ii) commensurate with the type of and quality of food being cooked, and
 - (iii) supervised at all times.

And Whereas Part II, subsection 7.1 of the Fire Prevention and Protection Act, 1997, S.O. 2001, c. 4, a Council of a municipality may pass by-laws:

- (a) Regulating fire prevention, including the prevention of the spreading of fires;
- (b) Regulating the setting of open fires, including establishing the times during which open air fires may be set.

And Whereas subsection 7.1 (3) of the Fire Prevention and Protection Act, 1997, S.O. 1997, c.4, as amended, provides that a municipality may deal with different areas of the municipality differently;

And Whereas subsection 7.1 (5) of the Fire Prevention and Protection Act, 1997, S.O. 1997, c.4, as amended, the exercise of powers by an officer appointed under this section shall be carried out in accordance with Part XIV of the Municipal Act, 2001, other than clause 431 (a) of the Act;

And Whereas sections 425 and 429 of the Municipal Act, 2001, S.O. 2001, authorize a municipality to create offences and to establish fines for offences under By-Laws;


And Whereas sections 435 and 436 of the Municipal Act, 2001, S.O. 2001, provide for conditions governing powers of entry on land and the conduct of inspections;

Now Therefore the Council of The Corporation of the Township of Oro-Medonte enacts as follows:

1. That Appendix "A" attached hereto form part of this By-Law.
2. That the setting of open air fires, including the establishing the times during which open fires may occur shall be governed by the provisions and regulations contained in this By-Law, including the attached Appendix.
3. That this By-Law may be cited as the "Open Air Burning By-Law".
4. This By-Law shall come into force and effect on the date of its final passing.

By-law read a First, Second and Third time, and Passed This 19th day of June, 2019.

The Corporation of the Township of Oro-Medonte



Mayor, H.S. Hughes



Clerk, Karen Way

**Appendix "A" to
By-Law No. 2019-046**

1. Definitions

For the purpose of this By-Law, the following definitions shall apply:

"Agricultural Waste": means any animal fecal deposits, manure or animal carcasses.

"Agricultural Burning": means burns on working farms, golf courses, resort properties, and for clearing land for development under an approved plan of subdivision.

"Barbecue": means a nationally recognized approved standard appliance or grill with grates intended for cooking with use an open air fire.

"Council": means the Council of The Corporation of the Township of Oro-Medonte.

"Domestic Waste": means kitchen waste, food scraps, cloths, rags, clothing, plastics and any other materials whose contents include any of the aforementioned.

"Dwelling": means a house.

"Extinguish": means to put out or quench a fire completely, no smoke, hot or glowing embers are to remain.

"Fire": means a campfire, a bonfire, or open air burning, and for the purposes of this By-Law, shall mean the burning of dry seasoned firewood, and shall include the embers, ashes, coals, etc.

"Fire Chief": means a person appointed by Council under the Fire Protection and Prevention Act or designate.

"Industrial Waste": means used vehicle bodies, tires, oil, grease, paint, cloth, rags, plastics, metals, or other material which contents include the aforementioned.

"Nuisance": means excessive smoke, smell, airborne sparks or embers that is likely to disturb others.

"Officer": means the Fire Chief or designate, or a Municipal Law Enforcement Officer.

"Open Air": means any open place, yard, field or construction area which is not enclosed by a building or structure.

"Outdoor Solid Fuel Burning Appliance": means an appliance, portable or fixed in place, constructed of non-combustible material, that contains a chamber located within the firebox of the appliance used to contain a combustible flame, a stack to control the flow of air or combustion gases from the appliance, a spark arrestor located at the end of the stack to control disbursement of sparks, is enclosed on all sides, and has been approved and maintained to nationally recognized standard.

"Owner": means the registered owner of the land on which open air burning occurs, or the trustee acting on behalf of the registered owner, or the trustee acting on behalf of the estate of the registered owner, or a person with a leasehold interest in the land.

"Person": means an individual over the age of eighteen, who is capable of making sound decisions and shall be responsible for the fires that are set in accordance with the authorized Open Air Burn Permit.

"Permit": means a permit issued by Oro-Medonte Fire & Emergency Services authorizing an Open Air Burning.

"Recreational Burning": means a fire no larger than 2 square feet (60.96cm) in diameter, and 2 feet (60.96cm) in height burning clean, dry seasoned wood.

"Township": means The Corporation of the Township of Oro-Medonte.

“Yard Waste”: means but is not limited to leaves, brush, grass and vegetation clippings, pine needles, peat moss and other material which create nuisance smoke.

“Working Farm”: A farm whose agricultural zone land and buildings are in active use for crop production and/or the raising of livestock.

2.0 Requirements for an Open Air Burn Permit

2.1. No person shall set a fire, or permit a fire to burn without a permit issued by the Fire Chief.

2.2. Only the property owner or agent shall apply for an Open Air Burn Permit. The agent must have written permission from the property owner to apply for an Open Air Burn Permit.

2.3. Expiry Date

2.3.1 An Open Air Burn Permit obtained under this By-Law is valid from the time of issuance to December 31st of the same year.

3.0 Jurisdiction

3.1 This By-Law and its provisions are deemed to apply to everyone, including individuals engaged in farming and all lands within the municipality where farming is carried on.

3.1.1 Any fire on a working farm shall be extinguished by one hour prior to sunset.

3.2 Prior to issuance of the Open Air Burn Permit, the owner of the property or authorized agent shall:

3.2.1 When required, pay any applicable fee, as set out in the Fees and Charges By-Law; and

3.2.2 Submit a completed Open Air Burn Permit application as provided by the Fire Chief, for approval. Approval can take up to 2 business days for approval from the time it is submitted.

3.3 The Fire Chief shall, upon issuance of an Open Air Burn Permit, notify Fire Dispatch of the issuance of the Open Air Burn Permit.

3.4 Notwithstanding any other provision of this By-Law, the Fire Chief may permit Open Air Burning:

3.4.1 For the purpose of training or testing fire equipment;

3.4.2 By the Township or any of its officials, employees, contractors or agents or any other persons for whom the Township is liable at law who are carrying out any operations of the Township, operating, maintaining or installing municipally owned infrastructure and/or facilities; or

3.4.3 Under a Special Permit, upon receiving an approved application and conducting a satisfactory inspection, for burning where the restrictions of the By-Law may otherwise prevent burning; or

3.4.4 For any extraordinary reason as deemed expedient by the Fire Chief.

4.0 Information Required for Issuance of an Open Air Burn Permit

4.1 Any person may apply in writing to the Fire Chief for an Open Air Burn Permit to authorize the setting and burning of an open air fire within the Township, in accordance with the provisions of this By-Law.

- 4.2 Any person obtaining an Open Air Burn Permit shall provide the following information at the time of applying for the permit:
- 4.2.1 Name of property owner;
 - 4.2.2 Written permission from the property owner if the applicant is not the property owner;
 - 4.2.3 Where the fire is to be set, including the municipal address, emergency number or street name and house number;
 - 4.2.4 Telephone number for an immediate contact;
 - 4.2.5 Signature of applicant;
 - 4.2.6 Date Open Air Burn Permit is submitted;
 - 4.2.7 Written authentication of acknowledgement provided by the applicant (Owner) declaring the applicant has read, understood and will carry out the provisions outlined in permit requirements for fire and life safety to themselves, others, property, and environment; and assumes full responsibility.
 - 4.2.8 Date the Open Air Burn Permit is approved by the Fire Chief.
- 4.3 An Open Air Burn Permit shall:
- 4.3.1 An Open Air Burn Permit shall not be issued unless the emergency number or street number is posted and clearly visible from the road.
 - 4.3.2 An Open Air Burn Permit shall not be issued under a restricted fire zone order under extreme fire danger ratings.
 - 4.3.3 An Open Air Burn Permit shall not be issued if the Fire Chief or designate has not received and approved a Fire Safety Plan for properties zoned Private Recreation (includes: campgrounds, trailer parks).

5.0 Prohibitions

- 5.1 Recreational Burning - No person shall:
- 5.1.1 Burn any materials other than clean, dry seasoned wood;
 - 5.1.2 Burn any yard waste;
 - 5.1.3 Allow a fire to be larger than 2 square feet (60.96cm) in diameter, and 2 feet (60.96cm) in height from the non-combustible base of the fire. Burn any less than 20 feet (6.1 meters) from any dwelling; and a minimum of 20 feet (6.1 meters) from any structure, hedge, tree, fence, vehicular roadway or overhead wire; and a minimum of 20 feet (6.1 meters) away from any building structure, fence, and/or property line;
 - 5.1.4 Set a fire if he/she is not the owner of the land, does not have permission from the owner, or has not read the By-Law;
 - 5.1.5 Set more than one fire at any one time;
 - 5.1.6 Set a fire without the sufficient equipment and resources available at the burn site to extinguish the fire at any time;
 - 5.1.7 Set a fire under hazardous conditions of any kind;
 - 5.1.8 Leave the responsibility of a set fire to a person under the age of eighteen (18), leave the burn site at all times and until the fire is completely extinguished;

- 5.1.9 Set fire on any street, lane or public property;
 - 5.1.10 Set fire when rain or fog is present;
 - 5.1.11 Set fire when wind is in such a direction or of such velocity of no more than 16km/hour (10m/hour) as per the Environment Canada Website, so as to reduce the visibility on any roadway, cause danger to any person or structure or cause a nuisance;
 - 5.1.12 Burn industrial waste, agricultural waste, organic waste, domestic waste, petroleum products, rubber, painted lumber, mixed demolition debris, flying lanterns or anything else that will cause excessive smoke or fumes;
 - 5.1.13 Set fire when smog alerts have been issued for the Township of Oro-Medonte by Environment Canada;
 - 5.1.14 Set fire when fire danger rating is set at extreme and a full burning band is in effect within the Township, County of Simcoe or Province of Ontario;
 - 5.1.15 Set or maintain a fire when there is no air movement or when Environment Canada issues an air quality advisory for this area.
- 5.2 Agricultural Burning - No person shall:
- 5.2.1 Burn any materials other than clean, dry seasoned wood and brush;
 - 5.2.2 Burn any yard waste;
 - 5.2.3 Allow a fire to be larger than 19.68 feet (6 meters) in diameter;
 - 5.2.4 Burn any less than 82.02 feet (25 meters) from any dwelling; and a minimum of 32.80 feet (10 meters) from any structure, hedge, tree, fence, vehicular roadway or overhead wire; and a minimum of 82.02 feet (25 meters) away from any building structure, fence, and/or property line;
 - 5.2.5 Set more than one fire at any one time, or a maximum of amount for an Agricultural Burn;
 - 5.2.6 Set a fire if he/she is not the owner of the land, does not have permission from the owner, or has not read the By-Law;
 - 5.2.7 Set more than one fire at any one time;
 - 5.2.8 Set a fire without the sufficient equipment and resources available at the burn site to extinguish the fire at any time;
 - 5.2.9 Set a fire under hazardous conditions of any kind;
 - 5.2.10 Leave the responsibility of a set fire to a person under the age of eighteen (18), leave the burn site at all times and until the fire is completely extinguished;
 - 5.2.11 Set fire on any street, lane or public property;
 - 5.2.12 Set fire when rain or fog is present;
 - 5.2.13 Set fire when wind is in such a direction or of such velocity of no more than 16km/hour (10m/hour) as per the Environment Canada Website, so as to reduce the visibility on any roadway, cause danger to any person or structure or cause a nuisance;
 - 5.2.14 Burn industrial waste, agricultural waste, organic waste, domestic waste, petroleum products, rubber, painted lumber, mixed demolition debris or anything else that will cause excessive smoke or fumes;
 - 5.2.15 Set fire when smog alerts have been issued for Simcoe County;

- 5.2.16 Set fire when fire danger rating is set at extreme and a full burning ban is in effect;
- 5.2.17 Set or maintain a fire when there is no air movement or when Environment Canada issues an air quality advisory for the Township of Oro-Medonte.

6.0 Refusal of Open Air Burn Permit

- 6.1 The Fire Chief may refuse to issue an Open Air Burn Permit to any Applicant who, in the Fire Chief's opinion, should not be permitted an Open Air Burn Permit, due to:
 - 6.1.1 Past non-compliance with the requirements of this By-Law; or
 - 6.1.2 Failure to comply with the requirements of this By-Law, or
 - 6.1.3 Failure to comply with other applicable By-Law(s) of the Township or of any local board thereof, or
 - 6.1.4 Failure to comply with any statute, order-in-council, or regulation of the Provincial Legislature or the Parliament of Canada or of any Agency, or Board of Commission thereof, or
 - 6.1.5 In the opinion of the Fire Chief, it is not in the interest of public safety to issue an Open Air Burn Permit.
- 6.2 In the event that an Open Air Burn Permit application is refused, the Fire Chief shall give Notice in writing to the Applicant or personal delivery. Such Notice shall set out the grounds upon which the Fire Chief made this decision.
- 6.3 In the event that the Applicant is not the Property Owner, a copy of the Notice shall also be served on the Property Owner by mail or personal delivery.
- 6.4. Fire Chief's decision in shall be final and not subject to further review.

7.0 Revocation or Suspension

- 7.1 The Fire Chief may suspend or revoke an Open Air Burn Permit of any property owner who, in the Fire Chief's opinion:
 - 7.1.1 Has failed to comply with the requirements of this By-Law, or
 - 7.1.2 Has failed to comply with other applicable By-Laws of the Township or of any local board thereof, or
 - 7.1.3 Has failed to comply with any statute, order-in-council, or regulation of the Provincial Legislature or the Parliament of Canada or of any Agency, or Board of Commission thereof.
- 7.2 Prior to the suspension or revocation of the Open Air Burn Permit, the Fire Chief shall give Notice in writing to the property owner by mail or personal delivery.
- 7.3 Upon suspension or revocation of an Open Air Burn Permit, the property owner shall:
 - 7.3.1 Return any Open Air Burn Permit issued, and
 - 7.3.2 Permit the Fire Chief or an Officer to enter the premises, or other property of the owner, for the purpose of taking the Open Air Burn Permit, and
 - 7.3.3 In no way hinder, prevent or obstruct the Fire Chief or Officer from carrying out his/her duties.

7.4. No person shall engage in, or continue to conduct, or permit any person to engage in or continue to conduct, open air burning where:

7.4.1 An Open Air Burn Permit is required under this By-Law; or

7.4.2 While such Open Air Burn Permit is suspended or revoked under the provisions of this By-Law.

7.5. A suspended or revoked Open Air Burn Permit results in the surrender of all fees.

8.0 Exemptions

8.1 No Open Air Burn Permit shall be required for, and the provisions of this By-Law shall not apply to:

8.1.1 A fire wholly contained in a Barbeque used for the preparation of food for human consumption; or

8.1.2 An Outdoor Solid Fuel Burning Appliance.

9.0 Enforcement

9.1. This By-Law shall be enforced by the Fire Chief, By-Law Officer, Police Officer and all such persons shall be considered inspectors under the terms of this By-Law;

9.2 This By-Law shall be administered by the Fire Chief of the Township;

9.3 A permit may be revoked by the Fire Chief if the permit holder fails to comply with the requirements of the permit and any other provision of this By-Law;

9.4 The Fire Chief may, at any reasonable time, enter and inspect any land or premises to determine whether the provisions of this By-Law or any direction or order made there under is being complied with;

9.5 An owner shall permit an Officer to inspect any land, property or premises for the purposes of determining compliance with this By-Law;

9.6 The Fire Chief may be accompanied by a person under his/her direction;

9.7 The Fire Chief may order a fire to be extinguished immediately if the fire:

9.7.1 Is not set in compliance with this By-Law; or

9.7.2 Is determined upon inspection by the Chief Fire Official or designates to constitute a safety hazard or concern.

10.0 Entry and Inspection

10.1 The Fire Protection and Prevention Act, 1997 O.Reg 213/07, as amended Part V 13. (1) A firefighter or such persons authorized by the Fire Chief, the Fire Marshal or an assistant to the Fire Marshal may, without warrant, enter land or premises:

10.1.1 That are adjacent to the land or premises on which a fire or emergency has occurred or is occurring, for the purpose of fighting the fire or providing rescue or emergency services: or

10.1.2 That are adjacent to the lands or premises on which there is a serious threat to the health and safety of any person or the quality of the environment, for the purpose of removing or reducing the threat.

10.2 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-Law.

10.3 Any person who has been alleged to have contravened any of the provisions of this By-Law, shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of his duties.

10.4 A copy of the Open Air Burn Permit shall be presented by the property owner upon the request of the Fire Chief, Officer or Police Officer.

11.0 Offences

11.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law. Any person who is alleged to have contravened any of the provisions of this By-Law shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of their duties.

11.2 Every person who contravenes any Provision of this By-Law is guilty of an offence and shall be liable to a fine in the amount to be determined pursuant to the Provincial Offences Act, R.S.O. 1990, c. P.33, and every such fine is recoverable under the Provincial Offences Act.

11.3 The conviction of an offender upon the breach of any provisions of this By-Law shall not operate as a bar to a prosecution against the same offender upon any continued or subsequent breach of any provisions of the Municipal Act, 2001, S.O. 2001, c.25, Section 442, as amended, shall further apply to any continued or repeated breach of this By-law.

11.4 If any court of competent jurisdiction finds that any of the provisions of this By-Law are ultra vires the jurisdiction of Council, or are invalid for a reason, such provision shall be deemed to be severable and shall not invalidate any of the other provisions of the By-law which shall remain in full force and effect.

12.0 Severability

12.1 If any court of competent jurisdiction finds that any of the provisions of this By-Law are ultra vires the jurisdiction of Council, or are invalid for any reason, such provisions shall be deemed to be severable and shall not invalidate any of the other provisions of the By-Law which shall remain in full force and effect.

13.0 Applicable Legislation

13.1 If any provisions of this By-Law are inconsistent with the Fire Protection and Prevention Act, Ontario Fire Code, the Forest Fire Prevention Act, Environmental Act or any other Federal or Provincial Act or regulation, the provisions of the applicable Act shall apply.

14.0 Title and Scope

14.1 This By-Law may be cited as the "Open Air Burning By-Law".

15.0 Application

15.1 This By-Law shall apply to all land within the geographical limits of the Township of Oro-Medonte and the setting of fires in the open air on any such land.

16.0 Force and Effect

16.1. That this By-Law shall take force and effect upon final passage thereof.