

THE CORPORATION OF THE TOWNSHIP OF WELLINGTON NORTH

BY-LAW NUMBER 73-11

BEING A BY-LAW TO REGULATE THE SETTING OF OPEN AIR FIRES WITHIN THE TOWNSHIP OF WELLINGTON NORTH.

AUTHORITY: Municipal Act, 2001, S.O. 2001, c.25, as amended, Section 10(2).
Fire Prevention and Protection Act S.O. 1997, c 4, as amended, Section
7.1(1)

WHEREAS by Section 10 (2) of the *Municipal Act 2001, S.O. 2001, c.25*, council of a municipality may pass by-laws with respect to the economic, social and environmental well-being of the municipality and the health, safety and well-being of persons; and

WHEREAS by Section 7.1(1) of the *Fire Prevention and Protection Act S.O. 1997, c.4*, 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;

NOW THEREFORE the Council of the Corporation of the Township of Wellington North hereby enacts as follows:

1. **Definitions**

For the purpose of this by-law, the following definitions shall apply:

“Agricultural Use” shall mean means a use of land, buildings or structures for farming or agriculture and includes apiaries; aviaries; berry or bush crops; breeding, raising or training horses or cattle; greenhouses; farms devoted to the hatching, raising and marketing of chickens, turkeys, or other fowl or game birds, animals, fish or frogs; farms for grazing; flower gardening; muck farms; field crops; research and/or breeding station; mushroom farms; nurseries; orchards; riding stables; the raising of sheep or goats, the raising of swine; or the breeding, boarding or sale of domestic animals; tree crops; truck gardening; woodlots; and such uses or enterprises as are customarily carried on in the field of general agriculture, and may include accessory packing, treating, storing, and sale of produce produced on the premises but does not include an abattoir, a kennel, or a rendering plant. A farm includes a detached dwelling house accessory to the main farming or Agricultural Use.

“Barbeque” shall mean appliances including a hibachi, a structure designed and intended solely for the cooking of food in the open air, and other similar commercially manufactured devices designed and intended solely for the cooking of food in the open air, but does not include devices predominantly designed for personal warmth.

“Burn Barrel” shall mean a metal barrel in sound condition no larger than a 170 L (45 gallon) drum with a heavy duty screen with mesh size not greater than 7 mm (0.2 inches) over the top to prevent debris from flying out of the barrel.

“By-law Enforcement Officer” shall mean a fire fighter, fire prevention officer, police officer or, any person appointed by Council as a by-law enforcement officer for the Township.

“Cooking Fire” shall mean a small confined fire, supervised at all times, and used to cook food. Maximum size of 0.6 m x 0.6 m (2 feet x 2 feet) contained by non-combustible material such as cement blocks, rocks, etc.

“Conservation Area” shall mean land owned by a conservation authority incorporated under the *Conservation Authorities Act*, R.S.O. 1990, c. C.27

“Council” shall mean the Council of the Township of Wellington North.

“Extinguishing Agent” shall mean a material used with fixed, automatic, or portable fire extinguishing systems to suppress or put out fires and include water or fire extinguisher.

“Fire Chief” shall mean the Chief of the Fire Department of the Township of Wellington North or his/her alternate/designate.

“Fire Pit” or “Fire Pit Area” shall mean an area of ground that has been completely cleared of combustible material and lined with a minimum thickness of 15 cm (6 inches) of sand or mineral soil that will extend a minimum of 30 cm (12 inches) beyond the use of Fuel and/or burning materials.

“Fuel” shall mean material, such as wood, that releases energy when it is burned, which can be used as a source of heat or power. This definition shall not mean gasoline, liquid fuels or accelerants.

“Open Air Burning” shall mean the ignition or incineration by fire of combustibles for the purpose of burning grass, clean wood other combustibles in any open place, yard, field or construction area, which is not enclosed by a building or structure and includes fires in barrels and Fire Pits.

“Organic Materials” shall mean straw, sticks and tree brush.

“Permit” shall mean a permit for Open Air Burning, for which an application can be obtained from the Township Office.

“Recreational Burning” shall mean burning with the use of a recreational burning device.

“Recreational Burning Device” shall mean any commercially manufactured device for the purpose of containing a recreational fire, including but not limited to a chimenea.

“Residential Area” means any properties zoned for residential purposes in the Township Zoning By-law that includes the following zones: Rural Residential (RR), Village Residential Low Density (R1), Village Residential Medium Density (R2), Residential First Density Zone (R1), Residential Second Density Zone (R2), Residential Multiple One (RM1) in addition to residential uses in mixed use zones that includes Hamlet Mixed Use (C3), Residential Mixed Use One (RMU1), Residential Mixed Use Town (RMU2) and Residential Mixed Use Three (RMU3).

“Township” means the Corporation of the Township of Wellington North.

“Township Office” shall mean the Township of Wellington North Municipal Office located at 7940 Sideroad 7 West, KENILWORTH, ON.

2. Administration

2.1 This by-law shall be administered and enforced by the “By-law Enforcement Officer” as defined in this by-law.

2.2 A By-law Enforcement Officer under this By-Law has the power upon producing identification to enter upon and examine any yards or buildings, other than a dwelling, at any reasonable time or times and may be accompanied by such other person or persons, as they deem necessary to properly carry out their duties under this by-law.

- 2.3 Open Air Burning, with the exception of Barbeques, Cooking Fires and the use of recreational burning devices, shall not be permitted within the Residential Areas of the Township of Wellington North, as per the definition of Residential Area outlined in this by-law.
- 2.4 Any person wishing to engage in Open Air Burning outside of a Conservation Area and outside of a Residential Area for any purpose whatsoever, shall fill out the required **Application for a Permit for Setting Open Air Fires** (outlined in Schedule B of this by-law), obtained from the Township, prior to the setting of such fire, save and except when such burning meets the definition of a Cooking Fire, Barbeque or the use of a Recreational Burning Device. Permits are valid for 6 months from the date of application submission, which is the time period in which applicants are permitted to burn.

3. Open Air Burning

Any person who has obtained a Permit for Open Air Burning shall observe the following precautions and times during which fires may be set:

- 3.1 The fire must be under constant supervision and control of one adult from the time of lighting until it is completely extinguished.
- 3.2 Children under the age of 18 years are prohibited from lighting or igniting fires.
- 3.3 Fires shall only be lit or ignited after 7:00 a.m. (0700 hours) and shall be extinguished by 9:00 p.m. (2100 hours), unless an exemption is approved by the Fire Chief. In order to seek an exemption to this provision, persons must provide written request to the Fire Chief for his/her approval.
- 3.4 The fire shall not be planned, lit or ignited closer than 30 m (100 ft) from any building, structure, hedge, fence, road or overhead wire or obstruction of any nature, unless an exemption is approved by the Fire Chief. In order to seek an exemption to this provision, persons must provide written request to the Fire Chief for his/her approval.
- 3.5 There must be a space free and clear of combustible material and trees, shrubs and hedges around the perimeter of such fire of a radius of at least 7 m (25 ft).

- 3.6 The Fire Pit or Fire Pit Area will not exceed an area of 3 m x 3 m (10 ft x 10 ft).
- 3.7 The stacked height of materials to be made available to be burned will not exceed 2 m (6 ft) at any time.
- 3.8 Appropriate Extinguishing Agents will be on-hand at all times during the preparation of the fire, while the fire is underway, and until the fire is fully and completely extinguished.
- 3.9 Only the following materials may be burned: wood, organic materials and paper products. Under no circumstances are paint, solvent, rubber (e.g. tires), wire (including coating), plastics, asphalt, shingles, toxic chemicals (e.g. pesticides), or materials that violate the regulations of the Ministry of the Environment to be burned, ignited or added to the fire at any time.
- 3.10 The fire must not in any way cause discomfort, danger, irritation and/or nuisance for other residents. This shall include allowing smoke to enter into a neighboring residence or building.
- 3.11 Fires shall not be burned during periods of dry conditions or drought, as shall be specified from time to time by the Township's Fire Department.

4. Cooking Fires

Cooking Fires are permitted within Residential Areas in the Township and a Permit for Open Air Burning is not required for a Cooking Fire, provided that the following regulations are complied with:

- 4.1 The Cooking Fire must be under constant supervision and control of one adult from the time of lighting until it is completely extinguished.
- 4.2 Children under the age of 18 years are prohibited from lighting or igniting Cooking Fires.
- 4.3 A Cooking Fire shall only be lit or ignited after 7:00 a.m. (0700 hours) and shall be extinguished by 11:00 p.m. (2300 hours).

- 4.4 A Cooking Fire shall be a minimum of 3 m (10 ft) from any opening or combustible material.
- 4.5 There must be a space free and clear of combustible material and trees, shrubs and hedges around the perimeter of such Cooking Fire of a radius of at least 7 m (25 ft).
- 4.6 The stacked height of materials to be made available to be burned in a Cooking Fire will not exceed 2 m (6 ft) at any time.
- 4.7 Appropriate Extinguishing Agents will be on-hand at all times during the preparation of the Cooking Fire, while the fire is underway, and until the fire is fully and completely extinguished.
- 4.8 Only the following materials may be burned: wood, organic materials and paper products. Under no circumstances are paint, solvent, rubber (e.g. tires) wire (including coating), plastics, asphalt, shingles, toxic chemicals (e.g. pesticides) or materials that violate the regulations of the Ministry of the Environment to be burned, ignited or added to the fire at any time.
- 4.9 The Cooking Fire must not in any way cause discomfort, danger, irritation and/or nuisance for other residents.
- 4.10 Cooking Fires shall not be burned during periods of dry conditions or drought, as shall be specified from time to time by the Township's Fire Department.

5. Barbeques

Barbeques are permitted within Residential Areas in the Township and a Permit for Open Air Burning is not required for a Barbeque, provided that the following regulations are complied with:

- 5.1 The Barbeque shall be supervised at all times and should be placed on non-flammable material.
- 5.2 The fuel used is a commercially produced charcoal or briquette, or a flammable liquid commercially produced for the purpose of cooking, such as natural gas or propane gas.

6. Recreational Burning Device – Recreational Burning

- 6.1 A Permit is not required for Recreational Burning with the use of a Recreational Burning Device within Residential Areas in the Township or pits specifically designed for Recreational Burning, provided that each of the following regulations are complied with:
- a) Recreational Burning may only be conducted between the hours of 10:00 a.m. and 11:00 p.m.; unless an exemption is approved by the Fire Chief. In order to seek an exemption to this provision, persons must provide written request to the Fire Chief for his/her approval.
 - b) Recreational Burning shall be confined to Recreational Burning Devices. When in use, the Recreational Burning Device shall be covered with a grill or a metal screen having a mesh size no larger than 2.5 cm (1 inch), which is positioned in such a manner as to prevent the escape of combustible materials including ash;
 - c) No more than 21 cm (8 inches) of the containment area shall be above grade with a maximum depth of 42 cm (16 inches);
 - d) No materials other than commercially produced charcoal, briquettes or clean, dry seasoned wood, not including pressure treated wood or creosote treated wood, may be burned;
 - e) The dimensions of the wood being burned shall not be greater than the size of the Recreational Burning Device and shall be totally confined within the Recreational Burning Device at all times;
 - f) Recreational Burning Devices shall be confined to a location that provides for a minimum distance of 3 m (10 ft) in all directions from adjacent properties;
 - g) Recreational Burning Devices shall be confined to an area that is a minimum of 3 m (10 ft) from combustible structures or objects;
 - h) An Appropriate Extinguishing Agent shall be immediately available for use;
 - i) Recreational Burning within Recreational Burning Devices shall be attended, controlled and supervised at all times and shall be completely extinguished before the Recreational Burning site is vacated;

- j) Recreational Burning Devices are not permitted for use when the wind speed exceeds 10 km per hours, or during rainy or foggy weather, or at times when a smog alert has been issued by the Ministry of the Environment for Ontario;
- k) Any other steps shall be taken as may be reasonably necessary to prevent the fire from getting beyond control or causing damage or becoming danger to life and/or property;
- l) Should the Fire Department be dispatched to a complaint regarding public safety due to fire hazard, the Fire Department will have the discretion to determine compliance with this section of the by-law and this discretion shall be final.

7. Burn Barrels

- 7.1 The use of Burn Barrels shall not be permitted within Residential Areas of the Township.
- 7.2 Burn Barrels shall only be permitted for use in the instances of a strike or lock-out.
- 7.3 Properties zoned for Agricultural Uses, or farmland, shall be exempt from the provisions of Section 7.2 of this by-law.
- 7.4 A Permit for Open Air Burning shall not be required for Burn Barrels, provided that each of the following conditions are complied with:
 - a) A Burn Barrel must be a metal barrel in sound condition no larger than a 170 L (45 gallon) drum with a heavy duty screen with mesh size not greater than 7 mm (0.2 inches x 0.2 inches) over the top to prevent debris from flying out of the barrel;
 - b) Vent holes must be punched in the side for ventilation, and drainage holes in the bottom with the adequate clearance from surrounding vegetation or structures;
 - c) Wood used within fire barrels shall be no longer than .46 m (18 inches);
 - d) Flames from fires barrels may not extend over the top of the barrel.

8. Offence

- 8.1 Any person who lights or ignites a fire in the open air, or allows or causes a fire to be lit in the open air is in violation of this by-law, or fails to comply with an order given under Section 8.3 herein, shall, in addition to any applicable fine, pay the fee for the emergency service in accordance with the Township's Tariff of Fees for Fire Department Services and Rescue Operations, as established by by-law from time to time.
- 8.2 Every person who contravenes any provision of this 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*.
- 8.3 The "By-law Enforcement Officer" as defined in this by-law is authorized to order any person to extinguish any fire when there is a breach of any of the provisions of this By-law or where, in their opinion, there is a danger of such fire spreading or otherwise endangering life or property.

9. Exceptions/Exemptions

- 9.1 The Fire Department shall be exempt from the provisions of this by-law for the purposes of educating and training.
- 9.2 In order to seek an exemption to provisions within this by-law, persons must provide written request to the Fire Chief for his/her approval.

10. Prohibitions

- 10.1 The Fire Chief may, in its absolute discretion, declare a complete prohibition against outdoor burning when the atmospheric conditions or local circumstances make such fires hazardous, which shall apply to Open Air Burning, Cooking Fires and Open Air Burning Devices. This prohibition shall not apply to Barbeques.

11. General Provisions

- 11.1 This by-law shall come into force upon the date of its passing and will thereupon repeal Township of Wellington North By-law Number 56-2000.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED
THIS 3RD DAY OF OCTOBER , 2011.**

**RAYMOND TOUT,
MAYOR**

**LORRAINE HEINBUCH
CHIEF ADMINISTRATIVE OFFICER/CLERK**

Schedule A of By-law Number 73-11

Township of Wellington North

PART I Provincial Offences Act

By-law No. 73-11

a by-law to regulate the setting of open air fires.

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision	COLUMN 3 Set Fine (includes cost)
1	Set fire without permission.	Section 2.4	\$130.00
2	Fail to maintain constant supervision of fire.	Section 3.1	\$130.00
3	Burn fire within 30 m (100 ft) of structure.	Section 3.4	\$130.00
4	Allow combustible material within 7 m (25 ft) of fire.	Section 3.5	\$130.00
5	Fail to keep Extinguishing agents on hand at all times during a fire.	Section 3.8	\$130.00
6	Burn paint, rubber, wire, plastics, asphalt, shingles or other materials.	Section 3.9	\$230.00
7	Burn fire which causes discomfort, danger, irritation or nuisance to residents.	Section 3.10	\$130.00
8	Burn fire in dry or drought conditions.	Section 3.11	\$230.00
9	Fail to maintain constant supervision of Cooking Fire.	Section 4.1	\$130.00
10	Permit Cooking Fire outside of permitted times.	Section 4.3	\$130.00
11	Permit Cooking Fire within 3 m (10 ft) of an opening or combustible material.	Section 4.4	\$130.00
12	Permit a Cooking Fire within 7 m (25 ft) of trees, shrubs or hedges.	Section 4.5	\$130.00
13	Fail to keep Extinguishing agents on hand at all times during a Cooking Fire.	Section 4.7	\$130.00
14	Burn Cooking Fire in dry or drought conditions.	Section 4.10	\$130.00

15	Permit Open Air Burning outside of permitted times.	Section 6.1 (a)	\$130.00
16	Permit Open Air Burning Device within 3 m (9.8') of adjacent property.	Section 6.1 (f)	\$130.00
17	Permit Open Air Burning Device within 3 m (9.8 ft) of a structure.	Section 6.1 (g)	\$130.00
18	Fail to maintain constant supervision of Open Air Burning Device.	Section 6.1 (i)	\$130.00
19	Permit Burn Barrel to be used in residential area.	Section 7.1	\$130.00

NOTE: the general penalty provision for the offences listed above is section 61 of the *Provincial Offences Act, R.S.O. 1990, c.P.33*

Schedule B of By-law Number 73-11



Township of Wellington North

APPLICATION FOR A PERMIT FOR SETTING OPEN AIR FIRES

Name of Applicant: _____

Address of Applicant: _____

Phone Number: _____ Email: _____

EXACT LOCATION WHERE BURNING WILL TAKE PLACE (Green Sign #):

DATES IN WHICH BURNING WILL TAKE PLACE:

NOTE:

An approved applicant is valid for six months

The applicant must be the registered owner of the property or agent authorized in writing.

Applicants are required to fill out one application form per property.

Approval is subject to prohibition against outdoor burning when the atmospheric conditions or local circumstances make such fires hazardous.

I, the undersigned, as an applicant for setting open air fires in the Township of Wellington North, agree to the following terms, set out in By-law Number 73-11:

- The fire must be under constant supervision and control of one adult from the time of lighting until it is completely extinguished.
- Children under the age of 18 years are prohibited from lighting or igniting fires.
- Fires shall only be lit or ignited after 7:00 a.m. (0700 hours) and shall be extinguished by 9:00 p.m. (2100 hours).
- The fire must not be planned, lit or ignited closer than 30m (100 ft) from any building, structure, hedge, fence, road or overhead wire or obstruction of any nature.

- There must be a space free and clear of combustible material and trees, shrubs and hedges around the perimeter of such fire of a radius of at least 7 m (25 ft).
- The Fire Pit or Fire Pit Area will not exceed an area of 3 m x 3 m (10 ft x 10 ft)
- The stacked height of materials to be made available to be burned will not exceed 2 m (6 ft) at any time.
- Appropriate Extinguishing Agents will be on-hand at all times during the preparation of the fire, while the fire is underway, and until the fire is fully and completely extinguished.
- Only the following materials may be burned: wood, organic materials and paper products. Under no circumstances are paint, solvent, rubber (e.g. tires) wire (including coating), plastics, asphalt, shingles, toxic chemicals (e.g. pesticides) or materials that violate the regulations of the Ministry of the Environment to be burned, ignited or added to the fire at any time.
- The fire must not in any way cause discomfort, danger, irritation and/or nuisance for other residents.
- Fires shall not be burned during periods of dry conditions or drought, as shall be specified from time to time by the Township's Fire Chiefs.

By signing below, I am hereby indicating that I have read the terms of the Application for Setting Open Air Fires, as set out in By-law 73-11 (attached to this application) and I agree to these terms:

Signature of Applicant

Date

<p>OFFICE USE ONLY</p> <p>Application Received by: _____</p> <p>Date Received: _____</p> <p><input type="checkbox"/> Copy of Application Faxed to Arthur Fire Station at: (519) 848-6656</p> <p><input type="checkbox"/> Copy of Application Faxed to Mount Forest Fire Station at: (519) 323-0412</p>
<p>NOTES:</p> <p>_____</p> <p>_____</p>