

**THE CORPORATION
OF THE TOWNSHIP OF NORTH GLENGARRY**

BY-LAW No. 48-2019

BEING a by-law regulating the setting of fires and to institute precautions to be taken with 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) 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 fire prevention, including the prevention of the spreading of fires, and regulating the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS Section 11 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 wellbeing of persons and property;

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

SHORT TITLE

This By-law shall be known as the "*Open Air Burning By-law*"

**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 and includes:

- 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;

"Authorized Representative" means a person 18 years of age or older who is authorized to burn by the registered legal owner of the property and who's name appears on the burn permit.

"Brush" means natural woody debris collected from a property and includes branches, chopped-off tree limbs, trunks and leaves;

"Building" means any structure used or intended for supporting or sheltering any use or occupancy;

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

"Dwelling" a house, apartment, or other place of residence;

"Dry period" means a period of time during which the Fire Chief declares a total ban on open air fires;

"Farm or Agricultural Operations" means an agricultural operation as defined under the Farming and Food Production 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 Glengarry as defined in the Fire Protection and Prevention Act, 1997 and his or her designate;

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

"Fire Department Vehicle" means any vehicle owned by the Township of North Glengarry and Mutual Aid Fire Departments.

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

"Highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

"Municipal Law Enforcement Officer" means the Municipal Law Enforcement Officer appointed by the Council of the Corporation of the Township of North Glengarry.

"Normal Farm Practices" means a practice that:

- I. is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by a similar agricultural operation under similar circumstances; or
- II. 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, household garbage, 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, odour, airborne sparks or embers that is likely to cause an Adverse Effect, 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 Firefighter, including the Fire Chief and any member of the North Glengarry Fire Service Division;

"Open Air" means any area outside of a building or enclosed structure;

"Open Air Fire and 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 Fire Chief to set a fire in the Open Air for a specified time period;

"Person" includes an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and their heirs, executors, or legal representatives;

"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;

"Remedial Costs" means any cost incurred by the fire department or the township for inspecting, extinguishing, or responding to fires deemed, by fire chief or designate, to not be in accordance with this by-law.

"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;
- b) lands which have been designated in an official plan for development over the long-term planning; and
- c) land designated as settlement area in the municipal official plan

"Set" means to light an open air fire and "setting" has a corresponding meaning;

"Smog Alert" means an alert issued by the Ministry of Environment and Climate Change with respect to air quality;

“Supervisor” means:

(a) a Person eighteen (18) years of age or more who is a registered legal owner of the property upon which the Open Air Fire is to be burned;

(b) a Person eighteen (18) years of age or more who is the occupier of the property upon which the Open Air Fire is to be burned and who has been provided with permission by a registered legal owner of the property to burn an Open Air Fire; or

(c) a Person eighteen (18) years of age or more who is an authorized representative of the registered legal owner of the property upon which the Open Air Fire is to be burned.

"Township" means the geographic area of the Corporation of the Township of North Glengarry.

“Windrow” a long line of material heaped up by the wind or by a machine.

Part 2 GENERAL REQUIREMENTS FOR OPEN AIR BURNING PERMITS

- 2.1** No person shall start, set, maintain or permit to be started, set, or maintained an open air fire within the Township, except as permitted under this By-Law. Only Open air fires permitted under this By-Law shall be started, set or maintained.
- 2.2** A burning permit must be obtained as provided in this by-law before starting or setting a fire.
- 2.3** The North Glengarry Fire Service Division and North Glengarry Township Employees shall be exempt from the provisions of this by-law with respect to Open Air Fires and Open Air Burnings for the purposes of educating, training or any other purpose approved by the Fire Chief.
- 2.4** It is not permitted to set an Open Air Fire when the wind velocity is greater than 15 kilometers an hour.
- 2.5** All Open Air Fires must be monitored at all times by a Supervisor
- 2.6** It is not permitted to burn during dry period as designated by the Fire Chief or the Ministry of Natural Resources.
- 2.7** It is not permitted to burn noxious materials and/or household garbage.
- 2.8** It is not permitted to burn buildings or machinery.
- 2.9** Barbeques used according to the manufacture’s instructions for the purpose of cooking food shall be exempt from this By-Law.
- 2.10** It is not permitted to burn on any road allowance, unopened road allowance or in a location that would interfere with traffic.
- 2.11** All Open Air Fires must be completely extinguished before vacating the location of the Open Air Fire.
- 2.12** Fires that have an adverse affect or are a nuisance as determined by the Fire Chief or designate shall be extinguished immediately.
- 2.13** Commercial, industrial or wrecking yard zoned properties are not permitted to have an open air fire
- 2.14** The only person entitled to apply for an open air fire permit as set out in schedule "A" as amended from time to time is a Supervisor.
- 2.15** The Supervisor is responsible to ensure that the conditions outlined in this bylaw are adhered to at all times.

- 2.16 An application for a Permit shall be completed on the forms provided in Schedule "A".
- 2.17 Recreational and Brush permits expire Dec 31st at midnight on the year it was issued.
- 2.18 Farm and Agricultural permits expire at midnight on the last day of the two week period as set out in the permit in Schedule "A".
- 2.19 Any permit in effect during a dry period as designated by the Fire Chief or the Ministry of Natural Resources will be voided for the remainder of the dry period. No reimbursement and no extension of the permit will be permitted.
- 2.20 Supervisor shall produce the permit upon request by the Fire Chief or designate.
- 2.21 The Fire Chief or designate may refuse, revoke or suspend a permit at any time at his or her sole discretion. The Supervisor or the Authorized Representative must:
- a. have a copy of the permit with them at all times while burning
 - b. must identify himself/ herself upon request by the fire chief or designate.
 - c. Not give false or incorrect information to the fire chief or designate
- 2.22 Types of Burning permits available are, as set out in Schedule A:
- a. Recreational Fire Permit
 - b. Brush Fire Permit
 - c. Farm or Agricultural Operation Fire Permit

Part 3 RECREATIONAL FIRES

- 3.1 In addition to conditions set out in Part 2 Recreational Fires shall:
- a. be for the purpose of cooking, warmth or personal enjoyment;
 - b. have a flame of no more than 1 cubic meter;
 - c. be located at least 5 meters from any structure, building, property line, tree, hedge, fence, highway, deck, overhead wire or any other combustible material;
 - d. be located on a non combustible surface if an appliance is used
 - e. have, as a fuel, clean wood or charcoal.
- 3.2 Spark guards with openings no larger than 12 mm in diameter are recommended for all recreational fires

Part 4 BRUSH FIRES

- 4.1 In addition to conditions set out in Part 2 Brush Fires shall:
- a. be at least 50 meters from the nearest dwelling.
 - b. be at least 5 meters from the property line
 - c. be at least 15 meters from forest, woodland, or buildings
 - d. consist of brush and yard waste (except grass)
 - e. consist of material which have been adequately dried prior to burning to ensure low moisture content and avoid excessive smoke.
 - f. not exceed 2 cubic meters
 - g. be burned one pile at a time.
 - h. petroleum products, plastics, rubber, painted lumber, pressure treated, or creosote treated lumber, domestic, industrial & agricultural waste, animal carcasses or any other materials that will cause excessive smoke or noxious fumes must not be mixed with or contaminate the wood or brush that may be burned

- i. have the resources to adequately control the fire and to prevent it from becoming dangerous to life or property.

Part 5 FARM AND AGRICULTURAL FIRES

- 5.1** In addition to the conditions set out in Part 2 the following conditions apply to farm and agricultural fire only and will be used to regulate the burning of large piles (greater than 2 cubic metres),
- 5.2** Permits only will be issue for two (2) consecutive weeks as indicated in the Schedule “A” of this By-Law. Additional two (2) week permits may be issued at the discretion of the Fire Chief or designate.
- 5.3** Burning shall not be permitted between June 1st and November 1st.
- 5.4** No person holding a valid burning permit, shall set or maintain a fire unless they ensure all of the following conditions are met:
 - a. the fire is set and maintained at no less than 75 meters from any building, structure, standing timber, hedge, fence, highway, overhead wires, flammable or combustible material;
 - b. no less than 200 meters from any dwelling not owned by the Supervisor.
 - c. material to be burned must be placed in piles in a tilled or bare field free of vegetation and combustible materials;
 - d. consist of burn piles of no more than 6 cubic meters;
 - e. no more than four (4) piles can be burned at a single time;
 - f. a minimum distance of 15m must be maintained between piles;
 - g. not consist of windrow;
 - h. material to be burned shall have been adequately dried prior to burning to ensure low moisture content and avoid excessive smoke.
 - i. petroleum products, plastics, rubber, painted lumber, pressure treated, or creosote treated lumber, domestic, industrial & agricultural waste, animal carcasses or any other materials that will cause excessive smoke or noxious fumes must not be mixed with or contaminate the wood or brush that may be burned
- 5.5** Supervisor in charge shall be equipped with sufficient personnel and mechanical equipment to control and/or extinguish the fire to prevent it from becoming dangerous to life or property and must have a means of contacting the North Glengarry Fire Service in case of emergency. Equipment must be on site while burning is carried out. (i.e. front loader, backhoe, shovel)
- 5.6** Supervisor must ensure that the North Glengarry Fire Department vehicles can safely have full access at all times to the land upon which the burn is conducted, during the period of the permit. Access must be at least 10 feet wide
- 5.7** Supervisor must comply with all additional conditions and restriction imposed as a result of a fire prevention inspection conducted by the Fire Chief or designate.

Part 6 ADMINISTRATION AND ENFORCEMENT

- 6.1** 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.

- 6.2** 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 7 ORDERS

- 7.1** 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.
- 7.2** 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 8 ENFORCEMENT

8.1 Authority to Enforce

- (1) Any enforcement Officer is authorized to enforce this By-Law pursuant to the provisions hereof, the *Municipal Act, 2001*, the *Provincial Offences Act*, RSO 1990, c. P.33, and the *Fire Protection and Prevention Act, 1997*.
- (2) No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this By-Law.

8.2 Right of Entry

- (1) An enforcement Officer shall be permitted to enter upon any land at any reasonable time for the purpose of enforcing this By-Law.
- (2) A person exercising a power of entry on behalf of the Corporation of the Township of North Glengarry under this By-Law shall, on request, display or produce proper identification.

8.3 Order to Extinguish / Comply

- (1) An enforcement Officer may at his or her sole discretion, order a fire extinguished or brought into compliance with this By-Law and this order shall be final.
- (2) Every person who is ordered by an enforcement Officer to extinguish a fire or otherwise bring a fire into compliance with this By-Law shall comply immediately.
- (3) In the event that an order of an enforcement Officer under subsection (1) is not complied with, the enforcement Officer may take action to have the fire extinguished or otherwise brought into compliance with this By-Law.
- (4) Every person who fails to comply with an order of an enforcement Officer under this By-Law shall be liable for any costs incurred by the North Glengarry Fire Service to extinguish the fire or bring it into compliance. Where applicable, such costs shall be calculated in accordance with the current Ministry of Transportation rate for Emergency Response Services.

8.4 Remedial Costs and Recovery

- (1) The Corporation of the Township of North Glengarry may recover the remedial action costs incurred by the Fire Department or Township for attending fires which are deemed to be not in accordance with this by-law. These costs will be invoiced or added to the tax roll and collected in the same manner as taxes in accordance with section 446 of the *Municipal Act, 2001*. The remedial costs may 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.

Part 9
CONTRAVENTION OF BY-LAW – OFFENCES AND PENALTY

9.1 Offences

- (1) Every person who contravenes any provision of this By-Law is guilty of an offence.
- (2) Where a corporation is convicted of an offence under this By-Law, every director or officer of a corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence is guilty of an offence, unless he or she satisfies the court that he or she took all reasonable care to prevent the commission of the offence.
- (3) Every person who contravenes an Order issued by a court pursuant to this By-Law is guilty of an offence.

9.2 Penalty

- (1) Every person who is found guilty of an offence under this By-Law is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33 with a fine as set out in Schedule "B".
- (2) Upon registering a conviction of any provision of the By-Law, the Ontario Court, Provincial Division, may in addition to any penalty imposed by the By-Law make an order prohibiting the continuation or repetition of the offence by the person convicted.
- (3) Every day or part of a day on which the offence occurs or continues shall constitute a separate offence and is punishable as such.
- (4) If any provision of this By-Law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this By-Law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.
- (5) Any fine imposed under this Part shall be payable in addition to any fees, charges and costs payable under this By-Law.
- (6) Schedule "B" shall come into force and take effect when it is approved and filed by Regional Senior Justice, pursuant to the *Provincial Offences Act* Part 1

Part 10
VALIDITY

- 10.1** If a court of competent jurisdiction declares any provision or a part of a provision of this bylaw to be invalid or to be of no force and effect, it is the intention of Council that the remainder of the by-law shall continue to be in force.
- 10.2** This by-law is not constructed at any time in such a fashion as to hold the Corporation or its Officers liable for failing to ensure that persons comply with the provisions of this by-law.

Part 11

REPEAL OF EXISTING BYLAWS

11.1 Upon this bylaw coming into force, bylaw 04-2019 shall be rescinded.

READ a first, second, third time and enacted in Open Council, this 25 day of November 2019.

CAO/Clerk

Mayor / Deputy Mayor

I hereby certify this to be a true copy of by-law No. 48-2019 and that such by-law is in full force and effect.

Date Certified

Clerk / Deputy Clerk

SCHEDULE "A"

This is schedule "A" to by-Law No. 48-2019 respecting application form to obtain a fire permit.

OPEN AIR BURNING PERMIT APPLICATION # _____

APPLICANT:

LAST NAME: _____ FIRST NAME: _____

DATE OF BIRTH: _____

TELEPHONE RESIDENCE: _____ CELL: _____

EMAIL ADDRESS: _____

LOCATION OF PROPOSED OPEN AIR FIRE:

CIVIC ADDRESS: _____

LOT: _____ CONCESSION: _____

CITY: _____ PROVINCE: _____ POSTAL CODE: _____

WHAT TYPE OF OPEN AIR BURNING PERMIT?

- RECREATIONAL FIRE – FREE
- BRUSH FIRE - FREE
- FARM OR AGRICULTURAL OPERATION FIRE - \$50.00
PROPOSED TWO (2) WEEK PERIOD
FROM: _____ TO: _____
- OWNER
- WRITTEN PERMISSION GIVEN
OWNER'S NAME: _____

List Authorized Representative (s) **An Authorized Representative is a person 18 years of age or older who is authorized to burn by the registered legal owner of the property.**

- I understand that I have 30 days to pay the amount owing as per Schedule "C" of this permit. Failing to do so will result in all future application being denied and an invoice shall follow.

Invoice mailing address: _____

- The applicant has reviewed the Open Air Burning By-Law and agreed to:
1. Comply with all the provisions of this by-law.
 2. Assume all responsibility for any damages and /or service fees resulting from the Open Air Burning for which this permit is issued.

Dated: _____

Signature: _____

SCHEDULE “B”

**Township of North Glengarry
Part 1 Provincial Offences Act
Bylaw 04-2019: Open Air Burning By-Law**

Item	Column 1 Short Form Wording	Column 2 Provision creating or defining offence	Column 3 Set Fines
1.	Burning or permit to burn with wind velocity greater than 15km/h	2.4	250.00
2.	Burning or permit to burn during a dry period	2.6	400.00
3.	Burning or permit to burn petroleum products, plastics, rubber or any other material that causes excessive smoke or noxious fumes	2.7	400.00
4.	Burning or permit to burn buildings or machinery	2.8	400.00
5.	Burning or permit to burn on any type of road allowance or where it interferes with traffic	2.10	400.00
6.	Leaving a fire without fully extinguishing it	2.11	250.00
7.	Permit a fire to have an adverse affect	2.12	350.00
8.	Burning or permit to burn household garbage	2.7	350.00
9.	Having an open air fire in a commercial, industrial or wrecking yard zoned properties	2.13	500.00
10.	Failing to comply with the conditions of the permit	8.3	300.00
11.	Fail or refuse to produce permit	2.19	150.00
12.	Fail to supervise fire continuously	2.5	150.00
13.	Burning or permit to burn other material than those for which a permit was issued	3.1 e 4.1 d 5.1 f	150.00
14.	Burning or permit to burn without a permit	2.2	450.00
15.	Burning or permit to burn within 75 meters of any building, structures, standing timber or any flammable or combustible material	5.1 a	350.00
16.	Burning or permit to burn a pile exceeding 6 cubic meters.	5.1c	400.00
17.	Failing to have 15 meters between burn piles	5.1d	400.00
18.	Burning or permit to burn windrows	5.1e	400.00
19.	Burning or permit to burn a fire within 200 meters adjacent to a residence	5.1b	400.00
20.	Burning or permit to burn within 50 meters of a dwelling or 5 meters within a property line	4.1 a &b	300.00
21.	Burning or permit to burn within 15 meters from a forest, woodland or building	4.1c	300.00

22.	Burning or permit to burn during a prohibited time.	2.18	300.00
23.	Burning or permit to burn a pile exceeding 2 cubic meters	4.1 e	300.00
24.	Failing to burn one pile at a time	4.1 f	300.00
25.	Failing to comply with the conditions for recreational open air burning	Part 3	250.00
26.	Obstruct an officer	8.1	\$500.00
27.	Fail to comply with an order to extinguish	8.3	\$500.00
28.	Fail to identify upon request	2.21 b	\$500.00
29.	Give false or incorrect information	2.21 c	\$250.00

Note: the general penalty provision for the offences listed above is section 9 of bylaw -2018, a certified copy of which has been filed and section 61 of the Provincial Offences Act, R.S.O. 1990,c.P.33.

SCHEDULE “C” - FEES

PERMIT	FEES
Open Air Burn Permit – Recreation Fire	NIL
Open Air Burn Permit – Brush Fire	NIL
Open Air Burn Permit – Farm or Agricultural Operation	\$ 50

SCHEDULE “D” Costs for Emergency Response

The cost for emergency fire department vehicles responding to a fire that is not in accordance with this By-Law shall be current MTO rates.