

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

BY-LAW # 24-2017

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;

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

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

"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;

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

"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 operations 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 noncombustible 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;
- 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

"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.

Part 2 GENERAL REQUIREMENTS

- 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.
- 2.1A 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.
- 2.2 No person shall set or permit to be set, a fire when the wind velocity is greater than 15 kilometers an hour.
- 2.3 All Open Air Fires must be monitored at all times by a Supervisor;
- 2.4 No person shall burn during dry periods as designated by the Fire Chief or the Ministry of Natural Resources.
- 2.5 No person shall burn noxious materials at any time.
- 2.6 The burning of buildings or machinery is prohibited.
- 2.7 This bylaw does not apply to barbeques used for the purpose of cooking food.
- 2.8 No person shall burn on any road allowance, unopened road allowance or in a location that would interfere with traffic.
- 2.9 All Open Air Fires must be completely extinguished before vacating the location of the Open Air Fire.
- 2.10 No person shall permit a fire to have an Adverse Effect.
- 2.11 No person shall burn household garbage.
- 2.12 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 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. The permit holder is responsible to ensure that the conditions outlined in this bylaw are adhered to at all times.
- 3.2 Every person shall meet all conditions of the permit.
- 3.3 No permit shall be issued for any period of time exceeding one (1) calendar year.
- 3.4 An application for a Permit shall be completed on the forms provided in Schedule "A" as may be amended by the Corporation of the Township of North Glengarry, accompanied by the appropriate fees as set out in Schedule "C".
- 3.5 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.
- 3.6 No permit holder shall:
 - a) fail or refuse to produce the permit upon demand;
 - b) fail to supervise a fire continuously;
 - c) fail to comply with any conditions of the fire permit;
 - d) burn any material other than those permitted in this bylaw.
- 3.7 The Fire Chief may refuse, revoke or suspend a permit at any time in his or her sole discretion.

Part 4
FARM AND AGRICULTURAL OPERATIONS

- 4.1** An Open Air Fire on any Farm property shall only be carried out in accordance with the following provisions:
- 4.2** a) It is the responsibility of the permit holder or supervisor to consider it safe before starting the Farm or Agricultural Operation for an Open Air Fire for cut and piled dry brush, grass and other organic materials resulting from the clearing of land and for the destruction of agricultural waste/vegetation material originating from the Farm on that property and is a Normal Farm Practice, provided that:
- b) Every person who starts a fire under the provision of this subsection shall ensure such Open Air Fire is supervised 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 6 meters in diameter or 6 meters in height.
- 4.5** Minimum distances between burn piles shall be 15 meters or greater.
- 4.6** Windrows are not permitted for burning purposes.
- 4.7** A fire shall not be started within 200 meters of any residence not owned by the applicant.
- 4.8** The open air fire must not create a nuisance to neighbors or traffic.
- 4.9** Supervisor shall ensure roadway or lane way access is available for fire department vehicles to safely gain access to the burn site. Lane should be at least 10 feet wide
- 4.10** Farm or Agricultural Operation shall be permitted to burn grass or grass cuttings.

Part 5
OPEN AIR FIRE (BRUSH 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 bylaw.
- 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, an open air fire- Brush Fire 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 material shall exceed 2 meters square and 2 meters in height.
- 5.7** No more than one burn pile is permitted.

Part 6
RECREATIONAL FIRES

- 6.1** 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) if an appliance is used it must be located on a non-combustible surface;

- f) only dry clean wood or charcoal shall be burned.

6.2 Spark guards with openings no larger than 12 mm in diameter are recommended for all recreational fires

Part 7 ADMINISTRATION AND ENFORCEMENT

- 7.1 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.]
- 7.2 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 8 ORDERS

- 8.1 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.
- 8.2 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 9 ENFORCEMENT

9.1 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.

9.2 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.

9.3 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 Division 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.

9.4 Remedial Costs and Recovery

(1) The Corporation of the Township of North Glengarry may recover the remedial action costs incurred under this Part by action, or by adding such costs to the tax roll and collecting them 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.

(2) Prior to recovering remedial costs under subsection (1), the Corporation of the Township of North Glengarry may invoice the owner requesting payment of the remedial costs.

Part 10

CONTRAVENTION OF BY-LAW – OFFENCES AND PENALTY

10.1 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.

10.2 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) Every day or part of a day on which the offence occurs or continues shall constitute a separate offence and is punishable as such.

(3) 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.

(4) Any fine imposed under this Part shall be payable in addition to any fees, charges and costs payable under this By-Law.

(5) 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 11 VALIDITY

11.1 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.

11.2 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 12 REPEAL OF EXISTING BYLAWS

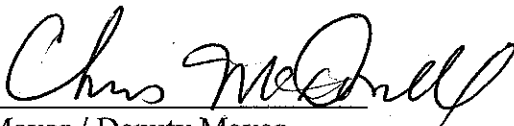
12.1 Upon this bylaw coming into force, bylaw # 02-2016 shall be repealed.

12.2 This bylaw shall come into force and take effect upon approval of the set fine amounts by the Regional Senior Justice.

READ a first, second, third time and enacted in Open Council, this 17th day of July 2017.



CAO/Clerk



Mayor / Deputy Mayor

I hereby certify this to be a true copy of by-law No. 24-2017, 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 # 24-2017 respecting application form to obtain a fire permit.

OPEN AIR BURNING PERMIT APPLICATION # _____

APPLICANT NAME: _____

TELEPHONE RESIDENCE _____ CELL _____

EMAIL ADDRESS: _____

LOCATION OF PROPOSED OPEN AIR FIRE:

CIVIC ADDRESS: _____

LOT: _____ CONCESSION: _____

CITY: _____ PROVINCE: _____ POSTAL CODE: _____

WHAT TYPE OF FIRE?

- _____ RECREATIONAL FIRE – FREE
- _____ BRUSH FIRE - \$25.00
- _____ FARM OR AGRICULTURAL OPERATION - \$50.00

_____ OWNER
 _____ WRITTEN PERMISSION GIVEN: OWNER'S NAME _____

Open Air Burn Permit – Farm or Agricultural Operation ONLY
 List the other properties you own or have written permission from the owner to burn at

You are required to advise the neighbouring property owners that may be affected by the open air fire.

I, hereby certify that I have read and understood the requirements and regulations governing OPEN AIR FIRES described in the Township By-law No. 24-2017, 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 _____

Permission is granted to the holder of the permit to kindle and maintain an *OPEN AIR FIRE* in accordance with this application.

Dated at the Municipal Office this: _____

Signature: _____

Please be advised that the current by-law is posted on the municipal website at: www.northglengarry.ca or contact the municipal office at 613-525-1110.

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: _____

SCHEDULE "B"

Township of North Glengarry Part 1 Provincial Offences Act Bylaw 24-2017: 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 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	2.3	400.00
4.	Burning or permit to burn petroleum products, plastics, rubber or any other material that causes excessive smoke or noxious fumes	2.4	400.00
5.	Burning or permit to burn buildings or machinery	2.6	400.00
6.	Burning or permit to burn on any type of road allowance or where it interferes with traffic	2.8	400.00
7.	Leaving a fire without fully extinguishing it	2.9	250.00
8.	Permit a fire to have an adverse affect	2.10	350.00
9.	Burning or permit to burn household garbage	2.11	350.00
10.	Having an open air fire in a commercial, industrial or wrecking yard zoned properties	2.12	500.00
11.	Failing to comply with the conditions of the permit	3.5	300.00
12.	Fail or refuse to produce permit	3.9(a)	150.00
13.	Fail to supervise fire continuously	3.9(b)	150.00
14.	Fail to comply with the conditions on the permit	3.9(c)	150.00
15.	Burning or permit to burn other material than those for which a permit was issued	3.9(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	4.4	400.00
19.	Failing to have 6 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 meter square	5.6	300.00
28.	Failing to have 5 metres between piles.	5.7	300.00
29.	Burning or permit to burn during prohibited hours for an open air brush fire.	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: the general penalty provision for the offences listed above is section 11.1 of bylaw 24-2017, 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	\$ 25
Open Air Burn Permit – Farm or Agricultural Operation	\$ 50

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 |