

**THE CORPORATION OF THE
TOWNSHIP OF WELLINGTON NORTH**

BY-LAW NUMBER 098-2024

**BEING A BY-LAW TO REGULATE OPEN AIR BURN AND REPEAL
BY-LAW 057-2016**

WHEREAS Section 7.1 (1)(b) of the Fire Protection and Prevention Act, S.O. 1997, c. 4. As amended provides authority to the Council of a municipality to pass by-laws to regulate the setting of open-air fires, including establishing the times during which open-air fires may be set;

AND WHEREAS Section 7.1.(3). Of the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4, as amended, provides that a by-law under this section may deal with different areas of the municipality differently;

AND WHEREAS Article 2.4.4.4. of the Ontario Fire Code, O. Reg. 388/97, provides that open-air burning shall not be permitted unless approved, or unless such burning consists of a small confined fire, supervised at all times, and used to cook food on a grill or barbeque or in an appliance that is in compliance with the Technical Standards and Safety Act, 2000, for outdoor use and is installed in accordance with the manufacturer's instructions;

AND WHEREAS section 7.1.(4). Of the Fire Protection and Prevention Act, 1997, S.O. 1997 c. 4, as amended, provides that a municipality may appoint an officer to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether by-laws enacted in accordance with this section are being complied with;

AND WHEREAS Section 128 of the Municipal Act, S.O. 2001, c. 25 as amended, provides that a municipality may pass by-laws to prohibit and regulate public nuisances, including matters that, in the opinion of Council are or could become public nuisances;

AND WHEREAS in section 446 of the *Municipal Act, 2001* that if a municipality has authority under the Act or under a by-law under this or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

AND WHEREAS Council considers excessive smoke, odour, airborne sparks or embers, and airborne particles of burnt materials to be or become or cause public nuisance by creating negative health effects on neighbouring residents, increasing fire exposure hazards, infringing the enjoyment of the use of neighbouring properties and generating false fire alarms;

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

1. DEFINITIONS

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

“Burn Barrel” shall mean a metal barrel in sound condition no larger than a 205 L (45 gal) drum with a heavy-duty screen with a mesh size not greater than 2.5 cm by 2.5 cm (1 in by 1 in) over the top to prevent debris from flying out of the barrel.

“By-Law Enforcement Officer” shall mean a duly appointed Municipal By-Law Enforcement Officer for the Corporation of the Township of Wellington North.

“Fire Chief” shall mean the Director of Fire Services for Wellington North Fire Services of the Corporation of the Township of Wellington North or their designate.

“Firefighter” shall mean the Fire Chief and any other person employed in or appointed to Wellington North Fire Services and assigned to undertake fire protection services.

“Ground Cover” shall mean, but is not limited to, leaves, grasses, weeds, tree needles or wood chips on the ground.

“Incinerator” shall mean an apparatus for burning material at elevated temperatures until it is reduced to ash.

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

“Open Air Burning” shall mean a fire set in the Open Air.

“Outdoor Fireplace” shall mean a manufactured non-combustible enclosed container designed to hold a small fire for decorative purposes and may include but is not limited to chimineas.

“Owner” shall mean the registered owner and/or any person (over the age of

18), firm or corporation having control over, or possession, of any portion of a building or property under consideration and includes the persons in the building or property.

“Permit” shall mean a permit issued by the Township of Wellington North to set a fire in the open air for a specified time.

“Public Nuisance” as determined by the Fire Chief, designate, or By-Law Enforcement Officer, means excessive smoke, odour, airborne sparks or embers, and airborne particles of burnt materials that are likely to be a concern of others by, increasing fire exposure hazards, being adverse to public safety, and generating false alarms.

“Recreational Camp Fire” shall mean a small, confined fire, always supervised, and used to cook food or provide warmth.

"Sky Lanterns" shall mean a hot air balloon made of paper, with an opening at the bottom where a small fire is suspended.

“Smog Alert” shall mean an alert issued by the Ministry of the Environment with respect to air quality.

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

“Urban Area” means the lands in the Township of Wellington North that are not zoned as agricultural and are located within a built-up area.

2. ADMINISTRATION

- 2.1 The Fire Chief, their designate, or By-Law Enforcement Officer shall be responsible for the administration and enforcement of this by-law.
- 2.2 The Fire Chief, their designate or By-Law Enforcement Officer 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 judgment, there is a danger of such fire spreading and endangering life or property.
- 2.3 The Fire Chief or designate may issue a total ban on Open Air Burning if dry conditions or drought make burning dangerous.
- 2.4 Wellington North Fire Services shall be exempt from this by-law's provisions regarding open air fires for training, educating individuals in fire safety or for research purposes.

3. ENVIRONMENT

- 3.1 All open-air burning shall comply with the provisions of the Environmental Protection Act, R.S.O. 1990, c. E 19, as amended.
- 3.2 No open-air burning shall be permitted when a Smog Alert has been issued for the forecast area of the County of Wellington which includes the Township of Wellington North.

4. GENERAL PROVISIONS FOR ALL FIRES

- 4.1 No person shall release sky lanterns in the Township of Wellington North.
- 4.2 No person shall set or maintain an open-air burn larger than 1 m (3 ft) in diameter without a permit issued by the Township of Wellington North.
- 4.3 No person shall permit any individual under the age of 18 to be in care and control of a fire.
- 4.4 No person shall set or maintain a fire that causes discomfort, danger, irritation, and/or nuisance for other residents including smoke entering a neighboring residence or building or across a highway.
- 4.5 No Person shall burn garden waste or leaves in the boundaries of any urban area within the Township of Wellington North.
- 4.6 No person shall set or maintain a fire without a suitable means of extinguishment available while the fire is burning.
- 4.7 No person shall burn any of the following prohibited items:

paint, solvents, rubber, wire (including coating), plastics, asphalt, shingles, toxic chemicals, or any materials that violate the regulations of the Ministry of the Environment be burned, ignited, or added to the fire at any time.
- 4.8 No permit is required for a burn barrel (where permitted), recreational campfire, outdoor fireplace, cooking fire or barbeque.
- 4.9 Every person that sets or maintains a fire shall maintain a constant watch and control over the fire from the time it is started until the time it is completely extinguished.
- 4.10 No person shall set or maintain a fire during a declared burn ban as

issued by the Fire Chief or designate, except for use in a barbeque.

5. OPEN AIR BURNS

- 5.1 No person shall set or maintain a fire that is larger than 1 m (3 ft) in diameter before sunrise or after sunset.
- 5.2 No person shall set or maintain a fire that is closer than 45 m (150 ft) from any building, structure, property line, hedge, fence, roadway, overhead wire, or other combustible article.
- 5.3 No person shall set or maintain a fire if the wind velocity is greater than 10 km/hr.
- 5.4 No person shall set or maintain a fire within five m (16 ft) of any combustible ground cover.
- 5.5 No person shall set or maintain a fire that exceeds 3 m (10 ft) in diameter and/or 2 m (6 ft) in height without an inspection and approval from the Fire Chief or designate.
- 5.6 An application for a permit must be completed online through the Township of Wellington North or by contacting the Township of Wellington North Administration Office during regular business hours at (519) 848-3620 and providing the following information:

Name, address (a 911 number is required), phone number, material to be burned, date the burn will begin and the date the burn will end. It is recommended that the online route is the method to try first before calling.

6. CAMPFIRES

- 6.1 No person shall set or maintain a fire less than 3 m (10 ft) from any building, structure, property line, tree, hedge, fence, roadway, overhead wires, or other combustible article.
- 6.2 No person shall set or maintain a recreational campfire that is larger than 1 m (3 ft) in diameter or 1 m (3 ft) in height.
- 6.3 No person shall set or maintain a fire unless there is a portable fire extinguisher, an operable water hose, or other suitable means of extinguishment readily available.
- 6.4 Every person that sets or maintains a fire shall keep constant watch over

the fire from the time it is ignited until the time it is extinguished.

- 6.5 No person shall set or maintain a fire that causes discomfort, danger, irritation, and/or nuisance for other residents including smoke entering a neighboring residence or building or across a highway.

7. BURN BARRELS

- 7.1 No person shall set or maintain a fire in a burn barrel on a property in an urban area in the Township of Wellington North except in the instances of a strike or lockout and are located on an industrial or commercial zoned property and is under constant supervision at the strike or lockout location.
- 7.2 A burn barrel shall be in sound condition with a heavy-duty screen that has a mesh size not greater than 2.5 cm x 2.5 cm (1 in x 1 in) over the top.
- 7.3 Vent holes shall be placed in the sides near the bottom of the barrel to allow for ventilation and drainage.
- 7.4 No person shall set or maintain a fire that is closer than 3 m (10 ft) from any building, structure, property line, hedge, fence, roadway, overhead wire, or other combustible article.

8. BARBEQUES

- 8.1 No person shall ignite, light, or start a fire in a barbeque or grill unless the fuel used is a commercially produced charcoal, wood pellet, or a flammable liquid commercially produced for the purpose of cooking (propane, natural gas).
- 8.2 No person shall light, ignite, start a fire, or permit a fire to be lighted, ignited or started in a grill or barbeque on or under a balcony of any building containing two (2) or more dwelling units.

9. INCINERATORS

- 9.1 All outdoor incinerators will be built and maintained as per NFPA (National Fire Protection Association) 82 Standard on Incinerators and Waste and Linen Handling Systems and Equipment where applicable. All Incinerators outside of this standard shall be approved by the Fire Chief or designate. All incinerators shall be inspected before they are commissioned, and an annual permit must be approved each year thereafter.

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- 9.2 All outdoor incinerators shall be maintained in good repair and in good working condition.
- 9.3 An outdoor incinerator must be located no closer than 15 m (50 ft) to any building, structure, property line, tree, hedge, fence, roadway, overhead wires, or other combustible article.
- 9.4 No person shall start or maintain a fire in an incinerator if the wind velocity is greater than 10 km/h.
- 9.5 An incinerator shall not be placed within 5 m (15 ft) of combustible ground cover.
- 9.6 An incinerator shall not create a public nuisance.

10. OFFENCE AND ENFORCEMENT

- 10.1 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.
- 10.2 A permit issued under this by-law may be revoked by the Fire Chief or designate if the permit holder fails to comply with the requirements of the permit and/or any other provisions of this by-law.
- 10.3 The Fire Chief or designate must be notified if there are any changes to the conditions in which the permit was issued.
- 10.4 If a contravention of this by-law results in fire suppression or fire prevention personnel and vehicles being dispatched to respond to the property, the person in control of the fire and/or the property owner may be charged at the discretion of the Fire Chief, for the cost of such response in accordance with the Fees and Charges By-Law. However, nothing in any schedule of rates shall be construed as limiting the rights of the Township of Wellington North to seek restitution for other direct or consequential damages or costs incurred beyond those listed.
- 10.5 The Township may recover the costs incurred as the result of fire suppression or fire prevention personnel and vehicles being dispatched to the property by invoicing the person that was in control of the fire and/or property owner and adding 2% interest per month until the invoice is paid in full, including interest.
- 10.6 If an invoice for a fire department response goes unpaid, the Township may add the costs, including interest, to the tax roll and collect these

costs in the same manner as property taxes.

10.7 The amount of the costs, including interest, constitutes a lien on the property upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date the payment is made. Upon receiving payment of all costs payable plus interest accrued to the date of payment, the Township shall register a discharge of the lien in the proper land registry office.

10.8 No person shall hinder or obstruct the Fire Chief, their designate or a By-law Enforcement Officer in the enforcement of this by-law.

10.9 The Fire Chief, their designate, or a By-Law Enforcement Officer may enter on the land at any reasonable time for the purpose of carrying out an inspection to determine whether the by-law is complied with.

11. VALIDITY

11.1 If a court of competent jurisdiction declares any provision or part of a provision of this by-law 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 full force and effect.

12. REPEAL


12.1 This By-Law repeals By-Law 057-2016

13. BY-LAW IN FORCE

13.1 This by-law shall come into force and take effect on January 1, 2025 of its final passing.

READ AND PASSED THIS 18TH DAY OF NOVEMBER 2024.



Signed by:

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ANDREW LENNOX, MAYOR

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KARREN WALLACE, CLERK