
CORPORATION OF THE TOWNSHIP OF WARWICK

BY-LAW NO. 57 OF 2011

A BY-LAW TO PROVIDE FOR THE REGULATION OF OPEN AIR BURNING IN THE CORPORATION OF THE TOWNSHIP OF WARWICK

WHEREAS the Council of the Corporation of the Township of Warwick (“Council”) is empowered under Section 7.1 of the *Fire Protection and Prevention Act, 1997*, as amended, to pass by-laws regulating fire prevention, including the prevention of the spreading of fires, and the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS Council is empowered under Section 128 of the Municipal Act, 2001, as amended, to prohibit and regulate public nuisances, including matters that, in the opinion of Council, are, or could become or cause public nuisances;

AND WHEREAS Council is empowered under Section 130 of the Municipal Act, 2001, as amended, to regulate matters relating to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS Council is empowered under Part XII of the Municipal Act, 2001, as amended, to pass a by-law imposing a fee or charge on any class of persons for services or activities provided or done by or on behalf of it;

AND WHEREAS Council is empowered under Section 427 of the Municipal Act, 2001, as amended, to direct or require by by-law or otherwise that any matter or thing be done, and the municipality may direct that, in default of it being done by the person directed or required to do it, such matter or thing shall be done at the person’s expense and the municipality may recover the expense, including interest, in doing it by action or by adding the costs to the tax roll and collecting them in the same manner as taxes, or Council may provide that the expense incurred by it, with interest, shall be payable by such person in annual installments not exceeding five (5) years;

AND WHEREAS Council considers excessive smoke, smell, airborne sparks or embers to be or could become or cause public nuisances 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;

AND WHEREAS Section 2.6.3.4 of the Ontario Fire Code provides for the prohibition of open air burning unless approved or unless such open air burning consists of the use of a barbecue to cook food, provided such devices contain a small contained fire which is supervised at all times;

AND WHEREAS section 6 of the *Farming and Food Production Protection Act, 1998*, S.O. 1998, c. 1 provides that no municipal by-law applies to restrict a normal farm practice carried on as part of an agricultural operation section 6. (1) & (2);

THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WARWICK ENACTS AS FOLLOWS:

PART 1
DEFINITIONS

1.1 Definitions

In this by-law:

"Barbecue" shall mean a portable or fixed device including a hibachi, a permanent structure designed and intended solely for the cooking of food in the open air and other similar devices designed and intended solely for the cooking of food in the open air, but does not include devices designed for personal warmth, fire pits or camp fires.

"Fire Chief" shall mean the Fire Chiefs for the Corporation of the Township of Warwick - Watford Fire Department and Warwick Fire Department and/or their delegate being the Deputy Fire Chief or Captain.

"Nuisance" shall mean excessive smoke, smell, air borne sparks or embers that is likely to disturb others.

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

"Open Air Burning" means a fire set in the open air.

"Permit Holder" shall mean the person, organization, company or group that has been granted by the Fire Chief a permit under section 2.6 for a special event to hold an open air burning or has been granted a permit under section 2.5 for recreational burning, based on the results of an on-site inspection that allows for open burning on residential properties that do not meet the regulations of this bylaw.

"Rural area" shall mean the lands that are designated under the Official Plan as Agricultural use in the Township of Warwick.

"Township" shall mean The Corporation of the Township of Warwick.

"Urban area" shall mean the lands that are designated under the Official Plan which includes Watford and hamlet of Warwick and any area that is considered a built-up area.

PART 2

GENERAL PROVISIONS

2.1 Open air burning - Regulations

No person shall conduct an open burn within the Township of Warwick unless the Fire Chief has given permission.

All Open Air Burning shall comply with the provisions of the *Environmental Protection Act*, R.S.O. 1990, as amended.

No Open Air Burning will be permitted at the discretion of the Fire Chief when a Smog Alert has been issued by the Ministry of the Environment for the region that includes the Township.

2.2 Permission - Recreational Burning

With respect to Section 2.1 above, the Fire Chief grants permission, without the requirement for a permit, for open air burnings that are contained within non combustible containers or pits specifically designed for open air burnings.

The following regulations shall apply with respect to open air burnings for recreational purposes:

- (a) Open air burnings may be conducted between the hours of 4 PM and Midnight only.
- (b) No materials other than commercially produced charcoal, briquettes, or clean dry seasoned wood may be burned.
- (c) Open burnings shall be confined to non combustible containers or a pit no larger than two (2) feet (60 centimeters) by two (2) feet (60 centimeters) in size.
- (d) Open burning shall be conducted in such a manner as to preclude the escape from the fire of combustible solids such as sparks and ash.
- (e) The dimensions of the wood being burned shall not be greater than the size of the container or fire pit and shall be totally confined within the container or pit at all times.
- (f) An open air burn shall be confined to a location that provides for a minimum distance of 3 meters (10 feet) in all direction from adjacent properties.
- (g) Open air burnings shall be confined to an area that is a minimum of 3 meters (10 feet) from combustible structures or objects.
- (h) An effective extinguishing agent of sufficient size and with the capacity of extinguishing the fire shall be immediately available for use.
- (i) Open air burnings shall be attended, controlled and supervised at all times by the owner, occupier or permit holder, or designate, and shall be completely extinguished before the open burn site is vacated.
- (j) Open air burnings are not permitted when the wind speed exceeds 15 kilometers per hour or during rainy or foggy weather.
- (k) The owner, occupant or permit holder must take steps to ensure that adjacent properties are protected and that the byproducts of open air burnings do not have a

negative impact on persons, pets or the environment.

2.3 Exceptions

- (a) Despite Section 2.1 above, permission is not required from the Fire Chief for the use of a barbecue to cook food. Barbecues being used to cook food shall be attended controlled and supervised at all times by the owner, occupant, or his/her designate.
- (b) The Fire Departments shall be exempt from the provisions of this by-law with respect to open air burnings set for the purposes of educating and training individuals.
- (c) The St. Clair Region Conservation Authority – Warwick Park, shall be exempt from the provisions of this by-law with respect to open air burnings and fire pits, subject to the rules and regulations of the S.C.R.C.A. and the approval of the Fire Chief of the Warwick Fire Department.

2.4 Barbecues - approved fuels

The only approved fuels for use in barbecues are commercially produced charcoal, briquettes or other commercial fuels such as natural gas and propane gas that are produced specifically for the purpose of cooking.

2.5 Permit - approval - non-compliance recreational burning

An owner or occupant may make application to the Fire Chief for a variance with respect to 2.2(c), 2.2(f) or 2.2(g). Based on the results of an on-site inspection, the Fire Chief may issue a permit for recreational burning to allow for open burning on residential properties that do not meet the regulations as stated in 2.2(c), 2.2(f) or 2.2(g) of this by-law. Should the circumstances under which the approval was given change, the permit will no longer be valid. The Fire Chief may attach such conditions as deemed appropriate to any permit granted for such open air burning.

2.6 Permit - special events

All persons seeking permission to hold a special event involving an open air burning that is not a recreational burning as per section 2.2 and does not employ the use of a barbecue shall apply to the Fire Chief for a permit to have an open fire at such event. Application shall be made at least one week prior to the proposed date of the event on a form supplied by the Fire Chief.

The Fire Chief may issue a permit to allow a special event to reoccur over an extended period of time.

The Fire Chief may issue a permit for a special event to allow for open air burning from 10 A.M. to Midnight.

2.7 Permit - considerations

Prior to granting a permit to hold an open air burning for a special event, the Fire Chief will give consideration to the location of the proposed event, the size of the proposed fire, the safety measures proposed, the supervision arrangements proposed, the time of year, the time of day and the anticipated weather conditions.

2.8 Permit - conditions of Fire Chief

The Fire Chief may attach such conditions as deemed appropriate to any permit granted for an open air burning at a special event.

2.9 Permit - refusal for residential land

The Fire Chief shall not grant a permit to hold open air burnings at special events, which are proposed to take place on land that is zoned residential uses.

2.10 Permission - refused or revoked - past contravention

The Fire Chief may revoke or refuse to grant permission or issue a permit for an open air burning or a special event if the proposed open air burning or special event would be in contravention of this by-law; if the owner, occupant or permit holder has contravened the provisions of this by-law in the past or if the owner, occupant or permit holder has not complied with any conditions attached to a permit for an open air burning that may have been imposed by the Fire Chief on a previous occasion.

2.11 Permission - fuel - prohibit

The Fire Chief shall not give permission for open air burning of any non wood combustible material, pressure treated wood or creosote treated wood. Permissible fuels include clean dry seasoned wood, commercially produced charcoal, briquettes or other commercial fuels such as natural gas and propane gas that are produced specifically for the purpose of cooking.

2.12 Permission - withdrawal

The Fire Chief may withdraw a special event permit and/or stop an open air burning if, in the Fire Chief's opinion, the fire is causing a negative impact on the occupants of adjacent land, smoke produced by the fire is causing visibility concerns on roads in the area of the burn, the weather has deteriorated and has become unfavourable for an open air burn, conditions attached to the granting of permission are not being adhered to or if this by-law is being contravened.

2.13 Permission - withdrawal - extinguish fire

Upon notification by the Fire Chief to extinguish an open air burning, the land owner,

occupant or permit holder shall immediately extinguish the fire.

2.14 Failure to extinguish - liable for costs

Should the land owner, occupant or permit holder fail to immediately extinguish the fire upon notification from the Fire Chief, the land owner, occupant or permit holder may be held liable for any and all costs incurred by a Fire Department in its efforts to extinguish the fire.

2.15 Order to extinguish unapproved fires

When made aware of an unapproved open air burning, the Fire Chief shall order the land owner or occupant to immediately extinguish the fire.

2.16 Order-owner-occupant-extinguish fire

The owner or occupant of land on which an unapproved open air burning is located, shall immediately extinguish the fire upon being ordered to do so by the Fire Chief.

2.17 Failure to extinguish unapproved fires - liable for cost

Should any land owner or occupant fail to extinguish an unapproved fire when ordered to do so by the Fire Chief, the Fire Chief may take action to have the fire extinguished, and the person who owns or occupies the land on which the open burning is located shall be responsible for any and all costs incurred by a Fire Department in its efforts to extinguish the fire.

PART 3

SPECIAL REGULATIONS FOR RURAL AREA

3.1 Permission - brush burning - telephone

Notwithstanding Part 2 of this by-law, all persons proposing to conduct an open air burning of brush and dry seasoned wood in the rural area as defined by this by-law, shall notify the Fire Chief or his/her designate, in person or by telephone before commencing such open air burning. The Chief or his/her designate shall notify the Central Area Communication Centre (CACC) of said permission.

3.2 Notification at conclusion of burning - rural area

All persons, who have given notification pursuant to section 3.1 above, shall notify the

Central Area Communication Centre at the conclusion of the burning.

3.3 Regulations re: open air burning - Rural Area

Open air burning may be conducted between the hours of 7:00 A.M. and 7:00 P.M. only

- (a) No materials other than dry brush and dry seasoned wood may be burned.
- (b) Open air burnings shall be attended, controlled and supervised at all times and shall be completely extinguished before the burn site is vacated.
- (c) Open air burnings are not permitted during rainy or foggy weather.
- (d) An open air burning shall be confined to an area which is at least 45 meters (150 feet) from any building, highway, road, wooded area, or property line.
- (e) Steps must be taken to ensure that smoke caused by an open air burn does not have a negative impact on the visibility of motorists using roads in the vicinity of the burn.
- (f) The Fire Chief, at his/her discretion, may set out special conditions, to be noted on the Permit.

3.4 Notification to extinguish

All persons conducting an open air burn in the rural area shall immediately extinguish the fire upon notification that in the Fire Chief's opinion, the said fire is having a negative impact on persons using a road or highway adjacent to the burn site or the regulations of this by-law are being contravened.

3.5 Failure to extinguish - liable for costs

Section 2.14 of this bylaw shall apply should any person fail to comply with the request of the Fire Chief in section 3.4 above.

PART 4

ADMINISTRATION AND ENFORCEMENT

4.1 Administration and Enforcement

This by-law shall be administered and enforced by the Fire Chiefs– Watford Fire Department and/or Warwick Fire Department.

Upon receipt of a complaint, under this by-law, the said complaint shall be investigated by the Fire Chief.

Notwithstanding Part 2 of this by-law, the Fire Chief may revoke any or all Permits; or refuse to issue Permits where, in the opinion of the Chief Fire, the ability to control the fire is hampered by the existence in or near the proposed site of a Dangerous Condition.

4.2 Regulation – offence

No person shall fail to comply with regulations as set out in this by-law.

4.3 Contravention – fine

If any person, firm or Corporation who deliberately sets a fire without a permit, in the open air, to any grass, leaves or refuse within the limits of the municipality, which fire gets out of control and/or complained about, and to which fire the Township Fire Department(s) is called to extinguish, shall be assessed a penalty of :

- a) **Five Hundred Dollars (\$500.00) for the first Offence**
- b) **One thousand Dollars (\$1,000.00) for the second Offence**
- c) **Two thousand Dollars (\$2,000.00) for the third or more Offence (s).**

This penalty, if not paid voluntarily, shall be assessed as a penalty for an infraction of this By-law and added to the taxes owing against that property and collected in the same manner as Municipal Taxes.

4.4 Default – collection of costs

The Township has the right to collect any unpaid costs associated with sections 3.1.9, 3.1.13 and 4.1.5 of this By-law by action, in a like manner as municipal taxes, or the Municipality may provide that the expense incurred, with interest, shall be payable in annual installments not exceeding one (1) year.

4.5 Schedule “A”

Schedule “A” – Application for Open Air Burning – attached hereto forms part of this by-law and may be redesigned with the same content for the purposed of printing.

PART 5 VALIDITY

If a court of competent jurisdiction declares any provision or a part of a provision of this By-law to be invalid or to be of no force and effect, it is the intention of Township that the remainder of this By-law shall continue to be in force.

PART 6 EXEMPTION

The Township shall be exempt from the provisions of this By-law with respect to open air burnings set for the purposes of educating and training individuals.

PART 7

SHORT TITLE

This By-law shall be known as the “Open Air Burning Regulations By-law”.

READ A FIRST AND SECOND TIME THIS 26TH DAY OF OCTOBER, 2011.

READ A THIRD TIME AND FINALLY PASSED THIS 26TH DAY OF OCTOBER, 2011.

Mayor – Todd Case

Clerk – Frances Woods

APPLICATION FOR OPEN AIR BURNING



Fire Department: _____

Permit # _____

Note to Applicant:

1. **Open Air Burning** is regulated by Division B, Sentence 2.6.3.4.(1) of R.S.O. 1997, Reg. 213/07.c.4., as amended by the Ontario Fire Code.
2. **Read and complete all particulars of the application including a sketch. Sign and return to the respective Fire Dept. Confirmation will be given to you by the Fire Official prior to burning.**
3. **Allow 7 (seven) days for processing.**

PART # 1

1. Applicant's Name: _____
Name of Responsible Party: _____
2. 911 Municipal Address: _____

3. Phone and/or Fax Numbers: _____
4. Describe location of proposed fire (**must also provide sketch**):

5. Fire Location 911 Address if different from #2 herein: _____
6. Describe proximity of proposed fire in feet or meters: _____
- Buildings _____
 - Vegetation _____
 - Overhead wires _____
 - Other combustibles _____
7. Describe material to be burned: _____

8. Estimate volume of material to be burned in cubic yards or cubic meters: _____
 Largest Pile size in meters: _____
9. Date and time of proposed fire: _____

I have read and understand the conditions in Part 2 overleaf:

Applicants signature: _____ **Date:** _____

Request approved with Expiry Date: _____ **Denied** _____

Fire Official's Signature: _____

Fire Official's Special Conditions and/or Comments _____

*****It is the responsibility of the applicant to contact the Fire Chief with both the permit # and the time of fire, prior to commencing burning and after the fire is extinguished!**

PART #2

Conditions and Recommendations

Pursuant to Division B, Sentence 2.6.3.4.(1) of Ontario Regulation 213/07, conditions of approval for Open Air Burning are as follows:

- Burn only as outlined in this by-law.
- Burn only dry materials. Petroleum products, plastics, rubber, painted/treated lumber or anything else that will cause excessive smoke or fumes must not be burned.
- Mixed demolition or construction debris is not suitable for Open Air Burning.
- Stay with the fire at all times until it is completely extinguished.
- The person(s) controlling the fire is to have a cell phone or other device on person in order to call 911 and/or Fire Chief in case of emergency.
- Adequate equipment and resources must be available at the burning site to extinguish the fire, in the event the fire gets out of control or is causing an adverse effect.
- Open Burning **MUST NOT** be conducted under the following weather conditions:
 - ✓ during rain or fog (smoke cannot disperse properly)
 - ✓ when wind speeds are higher than 30 kph or wind direction changes frequently (fire may spread rapidly)
 - ✓ during extremely dry or adverse conditions

NOTE:

The above Conditions and Recommendations are recommended by Ministry of Environment &

Energy and the Township of Warwick Fire Departments.

SKETCH :

Show buildings, utility poles, trees and/or wooded areas as well as any structural or combustible items.
Record dimensions of items and distance from fire area
Record dimensions of Fire area
Indicate measurements in **feet** or **meters**

