

## The Corporation of the Township of North Huron

### By-law No. 62-2021

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#### **Being a By-law to regulate open air burning including the prevention of the spreading of fires**

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WHEREAS Section 2.4.4.4 (1) of the 2015 Ontario Fire Code Ontario Regulation 213/07, prohibits open air burning unless approved or unless such open-air burning consists of a small contained fire which is supervised at all times, used to cook food on a grill, barbeque or spit and commensurate with the type and quantity of food being cooked;

AND WHEREAS Section 7.1 (1) of the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4, as amended, states 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 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 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 Section 7.1 are being complied with;

AND WHEREAS Section 19 (2) of the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4, provides an inspector may, without a warrant, enter and inspect land and premises for the purposes of assessing fire safety;

AND WHEREAS Section 128 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances;

AND WHEREAS Section 391 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorizes a municipality to impose fees or charges on persons, for services or activities provided or done by or on behalf of it; for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board;

AND WHEREAS Section 425 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, permits municipalities to pass by-laws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence;

AND WHEREAS Section 436 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, permits the municipality to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law of the municipality passed under this Act is being complied with;

AND WHEREAS Section 446 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, gives the municipality the authority under this or any other 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 Section 446 (3) of the Municipal Act, 2001, S.O. 2001, c. 25, authorizes the municipality to recover the costs of doing a matter or thing from the

person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS the Council of the Corporation of the Township of North Huron deems it desirable to enact a by-law to regulate open air burning;

NOW THEREFORE the Council of the Corporation of the Township of North Huron ENACTS as follows:

## 1.0 SHORT TITLE

1.1 This by-law may be referred to as the "Open Air Burning By-law".

## 2.0 DEFINITIONS

2.1 "Acceptable Burn Material" means commercially produced charcoal or briquettes, small amounts of white or brown paper or cardboard used to start a fire, dry seasoned wood that has been generated on the landowner's own property, dry wood by-products that have not been chemically treated, painted or stained, purchased fire logs or purchased firewood sold for the purpose of a "Small confined fire"

2.2 "Approved Installation" means a structure, including but not limited to, a barbecue, an outdoor enclosed masonry cooking area designed for solid fuels, gas fired outdoor fireplaces, but does not include a steel barrel.

2.3 "Burning" means any fire out doors in an open place, yard, field or construction area which is not enclosed by a building or structure, and/or solid fuel burning appliances installed either indoors or outdoors.

2.4 "Chiminea" means a device largely made from pottery or metal and which is equipped with a chimney and an enclosed Hearth in which a recreational fire may be set.

2.5 "Fire Chief/ Chief Fire Official" means the Chief Fire Official/Deputy Chief or their designate of the Township of North Huron.

2.6 "High Risk Period" means any period of time, when due to extreme dry, high wind or other conditions, there is a higher-than-normal risk of unwanted spread of fire, as determined by the Ontario Fire Marshal or the Fire Chief/ Chief Fire Official, and identified as a High-Risk Period.

2.7 "Municipality" shall mean The Township of North Huron.

2.8 "Nuisance" means the travel of the products of a fire, including but not limited to, smoke, odour, ash, and hot embers, which products in the opinion of the Fire Chief may cause unreasonable discomfort to persons, loss of enjoyment of normal use of property, interference with normal conduction of business, or damage to property.

2.9 "Officer" means those persons appointed from time to time by Council to enforce by-laws or an officer of the Ontario Provincial Police or the Fire Chief.

2.10 "Open Air Burning" means any fire set outdoors which burns Acceptable Burn Materials but does not meet the requirements of a "Recreational fire" under this by-law and a permit has been granted.

2.11 "Open Air Burn Permission" means a document applied for and executed by the Fire Chief or his/her designate to allow an open-air burn.

2.12 "Owner" means the person, firm or corporation having control over any portion of the building or property under consideration and includes the persons in building or property.

- 2.13 "Poor Air Quality Day" means any period of time when a Poor Air Quality Advisory has been issued by Environment Canada or other recognized government health or meteorological agency.
- 2.14 "Prohibited Burn Materials" means any material other than as described under "Acceptable Burn Materials." Specifically prohibited under this by-law and not to be burned under any circumstances include household waste, human or animal excrement, leaves, grass, treated lumber, insulation, asphalt shingles or other construction materials, commercial by-products such as those generated from wood working, deck building or landscaping businesses, tires, rubber, plastic, Styrofoam, petroleum or other potentially toxic waste materials.
- 2.15 "Safe Location" means outdoors and not on a porch or balcony area that is roofed or otherwise covered or near dry vegetation, or in any other place conducive to unwanted development or spread of fire or explosion, or supported by combustible material. The Safe Location for recreational fires shall be a minimum of 5 metres from any structure and a minimum of 5 metres from adjacent property lines. The safe location for an Open-Air Burn shall be a minimum of 30 metres from any structure and a minimum of 30 metres from adjacent property lines. The property line setbacks for a safe location does not apply to campgrounds.
- 2.16 "Recreational Fire" means a small outdoor fire such as a campfire set within a confined area or device such as an outdoor fireplace or fire pit, situated in a "Safe Location" and measuring no more than 0.70 metres (27") in any dimension and supervised at all times and burning Acceptable Burn Material and used for cooking or recreation.

### 3.0 GENERAL PROVISIONS FOR ALL FIRES

- 3.1 Recreational fires are permitted in all areas within the Township of North Huron, open air burning is prohibited from all Settlement Areas as established in the current Township of North Huron Official Plan and shall comply with the following regulations:
- (a) No person shall set or maintain a fire unless between the hours of 8am and 11pm.
  - (b) No person shall set or maintain a fire unless it is in a safe location.
  - (c) No person shall set or maintain a fire unless set on the landowner's own property.
  - (d) No person shall set or maintain a fire unless burning acceptable burn material.
  - (e) No person shall set or maintain a fire unless it is under the supervision and control of a responsible person 18 years age or older.
  - (f) No person shall leave the property unless the fire is completely extinguished.
  - (g) No person shall set or maintain a fire without equipment and sufficient resources available at the burning site to extinguish the fire, in the event that the fire becomes out of control or is causing an adverse effect.
  - (h) No person shall set a fire where wind will cause fire, smoke, or ashes or odour to such an extent as to cause discomfort to persons, or a hazard to health, or cause loss of enjoyment of normal use of property in the immediate area.
  - (i) No person shall allow smoke to blow across a roadway and decrease visibility.
  - (j) No person shall set or maintain a fire during a fire ban declared by the Fire Chief or his/her designate.

- (k) No person shall set or maintain a fire during a high-risk period or a poor air quality day.
- (l) No person shall set or maintain a fire unless there is a space free and clear of combustible material and dry vegetation around the perimeter of fire for a radius of at least 5 metres.
- (m) No person shall fail to extinguish a fire when ordered to do so by the Fire Chief or his/her designate.
- (n) No person shall harass, obstruct or interfere with anyone authorized or delegated authority to enforce the by-law or extinguish fires.

#### 4.0 ADDITIONAL PROVISIONS FOR OPEN AIR BURN

4.1 Open Air Burning set to eliminate Acceptable Burn Materials within unrestricted areas requires a permit and every person shall comply with the following regulations:

- (a) Apply and be granted permission for an Open-Air Burn Permit prior to setting an open-air burn.
- (b) Contact the Fire Chief or his/her designate 90 minutes or greater prior to setting an Open-Air Burn.
- (c) Locate the Open-Air Burn at least 5 metres from any combustible ground cover.
- (d) A Permit shall only be valid for the date indicated on the Permit.
- (e) No person shall locate, permit or allow an Open-Air Burn to be located less than 30 metres from any building, structure, property line, tree, hedge, fence, roadway, overhead wire or any other combustible article.
- (f) A person may conduct an Open Air Burning if it is part of a normal farm practice carried on as part of an agricultural operation, as those terms are defined in the Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1, on lands zoned for agricultural use, and subject to the conditions set out in this by-law save and accept applying for a permit.

4.2 The Fire Chief may refuse to issue a Permit:

- (a) If the proposed Open-Air Burning would contravene this by-law or;
- (b) If the applicant has previously contravened any permit conditions or other provisions of this by-law.

#### 5.0 EXEMPTIONS

5.1 Open air burns for religious, civic or ceremonial purposes are allowed within urban areas as established in the current North Huron Official Plan and shall require an open-air permit issued by the Fire Chief/ Chief Fire Official or their designate, subject to any terms and conditions imposed by the Fire Chief/ Chief Fire Official.

5.2 Fire Department employees of the Township performing their duties for the Township under the direction of the Fire Chief(s) or designate for the Township of North Huron and may include supervised training activities.

5.3 Recreational fires for leisure and recreational use in an approved and licensed Recreational Campground provided no burn ban is in place.

5.4 Open air fires within a natural gas or propane appliance that conforms to the Technical Standards and Safety Act, is for outdoor use and is installed with the manufacturer's instructions.

## 6.0 FIRE BAN

6.1 The Fire Chief or their designate, should weather conditions or other circumstances require such action, may issue a Fire Ban and no person shall set a fire or allow a fire to burn.

## 7.0 ORDER TO EXTINGUISH FIRES

7.1 Despite any other provision of this by-law, if on reasonable grounds the Fire Chief has any concerns for safety or non-compliance with this by-law, the Fire Chief may at any time order or cause to be extinguished any fire until such time as the Fire Chief deems necessary.

## 8.0 RESPONSIBILITY FOR COSTS

8.1 Every person who sets a fire in contravention of this by-law in addition to any penalty provided for herein, be liable to the Township for all expenses incurred as per the current fees and charges by-law of the Township. All costs for the purpose of investigating, controlling and extinguishing any fire set or left to burn including vehicles, manpower and other firefighting costs, and such expenses may be recovered by court action or in a like manner as municipal taxes.

8.2 If the fire services are dispatched to the fire site and upon their arrival the fire is out of control and cannot be extinguished by the person who ignited it or caused it to be ignited and the fire services are required to extinguish the fire, the person who ignited the fire will be liable for the cost of the fire services at current M.T.O. rates.

8.3 If the fire services are dispatched via a 911 emergency call to an open burn without proper authorization to conduct an open burn, or the open burn is not within the guidelines of the open burn permit, the person who ignited the fire will be liable for the cost of the fire services at current M.T.O. rates.

## 9.0 ENFORCEMENT AUTHORITY

9.1 The Fire Chief or his/her designate or the Municipal Law Enforcement Officer servicing the Township are responsible for the enforcement of this by-law and are authorized to order any person to extinguish any fire when there is a breach of any requirement of this by-law or any regulations of the Ontario Fire Code or where in their opinion there is a danger of such fire spreading or otherwise endangering life or property.

9.2 The Fire Chief or his designate is hereby authorized to enter, at all reasonable times upon any property in the Township, in order to ascertain whether the provisions of this by-law are being obeyed. The Fire Chief or his designate is hereby further empowered to enforce or carry into effect the provisions of this by-law.

9.3 No person shall refuse to produce any documents or things required by the Fire Chief under this by-law, and every person shall assist any entry, inspection, examination or inquiry by the Fire Chief.

9.4 No person shall knowingly furnish false or misleading information to the Township of North Huron or to the Fire Chief with respect to this by-law.

## 10.0 OFFENCES AND ENFORCEMENT

10.1 A person is guilty of an offence if the person:

(a) furnishes false information in the application for a permit;

Or

(b) contravenes any provision of this by-law

10.2 Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act R.S.O., 1990, c. P. 33, as amended.

10.3 If any person fails to pay the fines set out in the Provincial Offences Act within thirty (30) days, the amount of the fine may be recovered by the Township as municipal taxes in accordance with the Municipal Act.

10.4 A permit may be revoked by the Chief Fire Official if the permit holder fails to comply with the requirements of the permit and/or any other provision of this by-law. The Open-Air Burning Permit fee will not be refunded for failure to comply with this by-law.

10.5 The Fire Chief Official or Officer may order a fire to be extinguished immediately if the fire is:

(a) Not set in compliance with this by-law;

Or

(b) Determined upon inspection by the Chief Fire Official or Officer to constitute a safety hazard or concern.

## 11.0 SEVERABILITY

11.1 If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

## 12.0 FIRE PERMITS/ PERMISSION

12.1 Open Air Burn Permission may be obtained for the North Huron Fire Area, in person or by phone at 226-523-9500 option 7 during business hours or online at [www.northhuron.ca](http://www.northhuron.ca).

## 13.0 REVOCATION, SUSPENSION

13.1 An Open-Air Burn Permit may be cancelled or suspended at any time by the Chief Fire Official immediately upon receiving notice of such cancellation or suspension the permit holder or person supervising the fire shall extinguish any fire stated pursuant to the permit. Any violation of the conditions of an open-air burning permit shall be deemed a violation of the "Open Air Burning By-law", Any violation of the by-law or the burning permit shall void the permit.

## 14.0 REPEAL OF FORMER BY-LAWS

14.1 The Corporation of the Township of North Huron by-law 42-2015, as amended, is repealed on the day this by-law comes into force and effect.

## 15.0 EFFECTIVE DATE

15.1 This by-law shall come into force and effect upon final passing thereof.

Read a first and second time this 9<sup>th</sup> day of August, 2021.

Read a third time and passed this 9<sup>th</sup> day of August, 2021.

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Bernie Bailey, Reeve

CORPORATE SEAL

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Carson Lamb, Clerk

**PART 1**  
**PROVINCIAL OFFENCES ACT**  
**The Corporation of the Township of North Huron**  
**By-law 62-2021 to Regulate Burning**

*Table 1: Provincial Offences Act Fines*

Item	Column 1 Short Form Wording	Column 2 Provision creating or defining offence	Column 3 Set Fine
1.	Set/maintain fire during prohibited time	Sec. 3.1 (a)	\$400.00
2.	Fail to have fire in safe location	Sec. 3.1 (b)	\$400.00
3.	Fail to have fire on own property	Sec. 3.1 (c)	\$400.00
4.	Burn unacceptable materials	Sec. 3.1 (d)	\$400.00
5.	Fire not supervised by responsible person	Sec. 3.1 (e)	\$400.00
6.	Fail to completely extinguish fire	Sec. 3.1 (f)	\$400.00
7.	Fail to have means to extinguish fire at burn site	Sec. 3.1 (g)	\$400.00
8.	Set fire -cause discomfort to people	Sec. 3.1 (h)	\$400.00
9.	Set fire - cause a hazard to health	Sec. 3.1 (h)	\$400.00
10.	Set fire - Cause loss of enjoyment of property	Sec. 3.1 (h)	\$400.00
11.	Allow smoke to blow across roadway impeding visibility	Sec. 3.1 (i)	\$400.00
12.	Set fire during fire ban	Sec. 3.1 (j)	\$500.00
13.	Set fire during high-risk period	Sec. 3.1 (k)	\$400.00
14.	Set fire during poor air quality day	Sec. 3.1 (k)	\$400.00
15.	Set fire closer than 5m from combustible material	Sec. 3.1 (l)	\$400.00
16.	Fail to extinguish fire when instructed	Sec. 3.1 (m)	\$400.00
17.	Harass, obstruct or interfere with enforcement authority	Sec. 3.1 (n)	\$400.00
18.	Fail to apply for open burn permission	Sec. 4.1 (a)	\$400.00
19.	Fail to contact prior to open burn	Sec. 4.1 (b)	\$400.00
20.	Fire closer than 5m from ground cover	Sec. 4.1 (c)	\$400.00

Penalty provisions for the offences indicated above is Section 10.2 of By-law 62-2021 a certified copy of which has been filed.