

**THE CORPORATION OF THE TOWNSHIP OF WILMOT
BY-LAW NO. 2004 - 42**

**BY-LAW TO REGULATE CONDITIONS UNDER WHICH FIRES MAY BE SET
IN THE OPEN AIR**

WHEREAS Section 7.1 (1) of the Fire Protection and Prevention Act, 1997 S.O. 1997, Chapter 4 provides that by-laws may be passed to regulate the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS Section 130 of the Municipal Act S.O. 2001, c. 25 as amended provides that municipalities may regulate matters for purposes related to the health, safety and well-being of the inhabitants of the municipality;

**THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP
OF WILMOT HEREBY ENACTS AS FOLLOWS:**

1. DEFINITIONS:

In this by-law:

“attended” means a responsible person, suited for the task in attendance at all times, with sufficient equipment (water, extinguishers, or other items) to control or extinguish the fire;

“barbeque” means a portable or fixed device designed and intended solely for the purpose of cooking food in the open air, but does not include outdoor fireplaces and campfires;

“building” means any structure used or intended for supporting or sheltering any use or occupancy;

“By-law Officer” means a person appointed by the Council of the Township of Wilmot as a Municipal Law Enforcement Officer to enforce the provision of it's by-laws;

“contained site” means a circle of stones, bricks, concrete, or truck or tire rim, of a maximum diameter of 60cm (24 inches), and includes manufactured non-combustible out-door fire containers, and shall also mean campfire or recreational fire;

“fire ban” means a period of time during which the Fire Chief or his designate declares a total ban on open-air fires;

“Fire Chief” means the Fire Chief of the Township of Wilmot, or authorized designates and includes a By-law Officer;

“firewood” means clean dry wood cut to length 60cm (24 inches) so as to be easily situated within an approved “contained site” ;

“FPPA” means the Fire Protection and Prevention Act, 1997, R.S.O. 1997, c.4, as amended, and the regulations enacted there under as amended from time to time, or any Act or Regulation enacted in substitution therefore;

“highway” means a common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway and, except as otherwise provided includes a portion of a highway;

“imported materials” means materials such as brush, construction or landscape materials brought into the township for the purpose of being disposed of by burning;

“multi-unit” shall mean all structures with more than one residential occupancy, but excluding semi-detached homes;

“open air fire” means any fire allowed by either a contained site permit, or an open burn permit;

“open burn” means any fire that is allowed outside of an approved “contained” site, and is not larger than 2.5m x 2.5m x1m high (8'x8'x3' high);

“owner” means the registered owner of the land;

“person” means any individual, association, firm, partnership, corporation, agent or trustee and the heirs, executors, or other legal representatives of a person to whom the context can apply according to law;

“set” means to light a fire and “setting” has a corresponding meaning;

“rural area(s)” means any lands zoned Zone 1 (Agriculture) by virtue of the Township of Wilmot Restricted Area By-law Number 83-38, as amended;

“urban area(s)” means all lands within the Township of Wilmot that are not a rural area as defined

2. INTERPRETATION

Sec. 2.6.3.4 of the Ontario Fire Code states, “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 a barbecue.”

- (1) It is interpreted that supervised at all times means that a person or persons capable of controlling the fire is in attendance.
- (2) It is interpreted that when the food is cooked, the fire must be completely extinguished.

3. PERMITS

- (1) Any person eighteen (18) years of age or older may make application for a burn permit to the Fire Chief prior to the date of the first open air fire.
- (2) The application/permit (see schedules 1 and 2) shall include:
 - (i) the name, address and phone number of the applicant;
 - (ii) the owner’s written consent to the open-air fire, if the applicant is not the owner of the property;
 - (iii) the municipal address of the location of the proposed open-air fire if it differs from the address of the applicant;
 - (iv) the applicable permit fee in place at the time;
 - (v) an indemnification in writing in accordance with the terms of Section 6, and
 - (vi) such other information as may be required by the Fire Chief.
- (3) A “Contained Site Permit” may be issued for a fire site that meets the guidelines and restrictions as set out in “Schedule A” of this by-law.
- (4) An “Open Burn Permit” may be issued for the burning of brush and other approved materials in rural areas as set out in “Schedule B” of this by-law

4. PROHIBITIONS

- (1) No person shall set or maintain or cause to be set or maintain any open-air fire in the Township of Wilmot without having obtained a burn permit.
- (2) No person shall leave a burn site unattended or unsupervised at any time.
- (3) No person shall start an open-air fire before sunrise.
- (4) No person shall start an open-air fire or continue burning after sunset.
- (5) No person shall burn materials that contain rubbish or create obnoxious odours to the neighbourhood, or violates the requirements of the Ministry of the Environment, or any other Provincial or Federal Legislation including materials such as tires, plastics, asphalt products, painted or stained wood, plywood and other laminates, pressure treated wood, or other hazardous substances.
- (6)
 - (a) No person shall fail to adhere to the requirements of this by-law, or any conditions set down by the Fire Chief at the time the permit is issued.
 - (b) No person shall at any time lose control of an approved fire.
- (7) No person shall undertake open burning in a rural area within 100’ of any structure.
- (8) No person shall use or cause to be used: gas or solid fuel burning barbeques or open burning of any kind on balconies of multi-unit residential buildings.
- (9) No person shall set a fire so as to cause any or all of the following.
 - (a) Smoke and/or odour nuisance to neighbouring residences or buildings
 - (b) A decrease in visibility on any highway or roadway.
 - (c) A rapid spread of fire through grass, brush or any wooded area.

- (10) Notwithstanding Sections 4. (3) and 4. (4) campfires in contained sites will be allowed before sunrise and after sundown.
- (11) No person shall burn materials "imported" to the Township of Wilmot for the sole purpose of disposing of this material by burning.

5. GENERAL

- (1) Every person who sets a fire in contravention of this by-law or who fails to extinguish a fire once ordered to do so by the Fire Chief shall, in addition to any penalty provided for herein, be liable to the Township of Wilmot for all expenses incurred for the purpose of investigating, controlling and extinguishing any fire set or left to burn, and such expenses may be recovered by court action or in a like manner as municipal taxes.
- (2) Any person who sets a fire in the open air without permission or with a burn permit that is not adhered to and requires the attendance of the Fire Department, shall be responsible for the cost of bringing the said fire under control. This will include vehicle, manpower and other fire fighting costs that may occur.
- (3) The Fire Chief or his designate is hereby authorized to enter, at all reasonable times and upon any property in the Township of Wilmot, 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. In this connection, the provisions of Section 427 of the Municipal Act shall apply.
- (4) The Fire Chief or his designate may issue a complete ban on open burning if in his/her opinion drought conditions are occurring that increase the potential fire hazard.
- (5) Burn Permit fees are non refundable.
- (6) Open Burn Permits are not issued in areas of the Township of Wilmot, described as "urban" areas under the definitions section of this By-law.
- (7) Commercially operated campgrounds are exempt from the provisions of this by-law with respect to permits for recreational fires only. All other provisions contained herein shall apply.
- (8) The Fire Chief or his designate may approve any other intended burning for other than the purposes mentioned.
- (9) Schedules "A through C" form part of this by-law.

6. INDEMNIFICATION

All permit holders shall indemnify and save harmless the Township of Wilmot from any and all claims, demands, causes of action, losses, costs or damages that the Township of Wilmot may suffer, incur or be liable for resulting from the issuance of fire permits as set out in this by-law or its predecessor, whether with or without negligence on the part of the applicant, the applicant's employees, directors, contractors and agents.

7. REVOCATION

- (1) Permits issued to a permit holder under this by-law may be revoked by the Fire Chief if, in the opinion of the Fire Chief, a dangerous condition exists in or near the site of the open-air fire.
- (2) Permits issued to a permit holder under this by-law may be revoked by the Fire Chief if the permit holder fails to comply with the requirements of the permit or permits and any other provisions of this by-law.

8. PENALTIES

- (1) Every person who contravenes any of the provisions of this By-Law:
 - (i) is guilty of an offence, and;

- (ii) upon conviction therefore is liable to a fine or penalty of not more than Five Thousand (\$5,000) Dollars for each such offence and every such penalty should be recoverable under the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

9. REPEAL

This by-law comes into force and effect and By-law No. 99-53 and By-law No. 2000-05 are rescinded upon final approval of the Set Fine Schedule by the Ministry of the Attorney General.

READ a first and second time this day of _____, 2004.

READ a third time and finally passed this day of _____, 2004.

Mayor

Clerk

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**TITLE: BY-LAW TO REGULATE CONDITIONS UNDER WHICH
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SCHEDULE "A"

CONTAINED SITE FIRES

Persons shall adhere to the following requirements for approved "Contained Site Fires"

1. Original sites set up for "Contained Site Fires" shall be inspected by the Fire Chief or his designate at an appropriate fee that is in place at the time. The "Owner" is responsible to call for an inspection if the original site is changed
2. No burning is allowed on windy days.
3. Burn sites may consist of a circle of stones, bricks, concrete, tire rims, or other suitable containment materials, and may include manufactured devices such as Chimineyas.
Note: See Appendix "A" for some examples of acceptable containers.
4. No burning shall take place on days when there is an air quality advisory in effect, or on days when atmospheric conditions such as fog may cause smoke to remain close to ground level.
5. Permit holders are to refer to the "Guidelines for Contained Site Fires" for additional information on how to burn responsibly.
6. "Contained Sites" are to be located a minimum of 25 ft. from combustible structures, including decks and fences, and property lines. Those existing prior to the date of passage of this by-law are deemed to be in compliance. If for any reason a new permit is required, the said property shall meet the requirements of this by-law before a permit can be issued.
7. "Contained Sites" are for burning clean dry wood only. Refuse, vegetation or debris are not to be burned in a contained site.

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SCHEDULE “B”

“OPEN AIR BURN PERMITS”

In rural areas “ Open Air Burn Permits” may be issued and permit holders shall adhere to the following requirements for conducting open air burning.

1. Open-air burn sites shall be inspected by the Fire Chief or his designate.
2. Open burning is permitted only during daylight hours.
3. Fire Dispatch must be called before starting to burn, and when burning is completed.
4. There shall be no burning on windy days.
5. No burning shall take place on days when there is an air quality advisory in effect, or on days when atmospheric conditions such as fog may cause smoke to remain close to ground level.
6. No burning is allowed if wind conditions are such that smoke is directed across any highway thus obstructing the visibility of motorists.
7. No burning is allowed if it contains rubber and/or plastics or material that contains obnoxious odours to the surrounding neighbourhood or violates the requirements of the Ministry of the Environment, Air Quality Branch or any other Provincial or Federal Legislation.
8. No material shall be burned that can be recycled.
9. No burning is allowed if smoke conflicts with any neighbours.
10. Burn piles must be no larger than 2.5m x 2.5m x 1m high (8' x 8' x 3').

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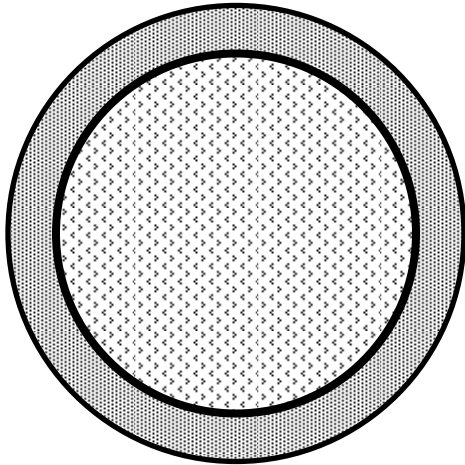
Schedule "C" - Fines

COLUMN 1 DESCRIPTION OF OFFENCE Short Form Wording		COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE	COLUMN 3 SET FINE (Includes Costs)
1	Burning without a permit	Section 4. (1)	\$ 85.00
2	Failing to supervise fire	Section 4. (2)	\$ 85.00
3	Burning before sunrise	Section 4. (3)	\$ 85.00
4	Burning after sunset	Section 4. (4)	\$ 85.00
5	Burning rubbish, obnoxious materials	Section 4. (5)	\$ 85.00
6	Failing to adhere to permit requirements	Section 4. (6)(a)	\$200.00
7	Lost control of an approved fire	Section 4. (6)(b)	\$200.00
8	Burning within 100' of a building	Section 4.(7)	\$ 85.00
9	Burning on balconies	Section 4. (8)	\$150.00
10	Burning "imported" materials	Section 4. (11)	\$ 85.00
			The general penalty provision for the offences listed above is Section 8 of By-law 2004-42 a certified copy of which has been filed

Appendix "A"

EXAMPLES OF CONTAINERS FOR CONTAINED SITE FIRES, CAMPFIRES OR RECREATIONAL FIRES

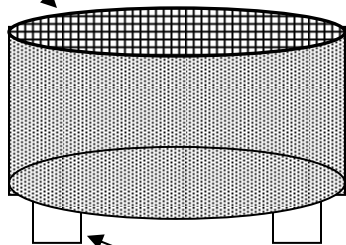
STONE CIRCLE / CEMENT RING



A circle of stones or a cement ring style of burn pit may be used. The area around the circle of approximately 25cm or 10 inches (indicated by the dotted area in the diagram) should be clear of dry or dead grass or other combustible materials that may be ignited by heat radiated through the stones or cement. The size of the circle should be the approximate size of a tire rim. (About 60cm (24 inches) in diameter).

TRUCK OR CAR TIRE RIM

Screen for top (recommended)



The example at left is of a tire rim, set on bricks or stones to allow room for air to enter at the bottom aiding in combustion. This aids in preventing fires from burning with little oxygen, which normally results in smoky fires. It is acceptable for the rims to be dug into the ground. If this is done it is advisable to drill a number of holes into the sides of the rim to allow for air to flow to the fire. A screen should be fitted for the top to aid in suppression of sparks or embers that may be produced by the fire.

Brick or stone used to raise tire rims for increased airflow.

It is recommended that when selecting the location for your fires that you place the site on your property in a manner that doesn't conflict with walkways, or areas that may be used as play areas by children or other that could accidentally trip over the site, or fall into the site while running or playing games. The site must be out from under low hanging trees, and twenty-five feet from combustible structures including fences and decks, and twenty-five feet from property lines.

A new permit is required if you move or alter your burn site.

Permit fees cover the cost of inspecting the site, and are not refundable.