

THE CORPORATION OF THE VILLAGE OF MERRICKVILLE-
WOLFORD

BY-LAW NO. 13-17

*A By-Law to Prescribe the Precautions and Conditions
Under Which Fires May be Set in Open Air*

WHEREAS the *Fire Protection and Prevention Act, 1997*, authorizes the Council of a municipality to pass by-laws to prescribe times during which fires may be set in the open air and the precautions to be observed by persons setting out fires;

AND WHEREAS the *Municipal Act, 2001*, as amended, authorizes Council to recover the expense incurred in doing any such matter or thing as required by by-law, in default of its being done by the person directed or required to do it, by action, or in like manner as municipal taxes;

AND WHEREAS the *Municipal Act, 2001*, as amended, authorizes appointed officers to ascertain whether the by-law is obeyed, and to enforce or carry into effect the by-law;

AND WHEREAS the *Municipal Act 2001*, as amended, authorizes the Council of a municipality to pass by-laws to make such other regulations for preventing fire and the spread of fires as the Council considers necessary.

NOW THEREFORE the Council of the Corporation of the Village of Merrickville-Wolford enacts as follows:

1. DEFINITIONS

In this by-law,

“**Adverse Effect**” means;

- a) Impairment of the safety of any person;
- b) Damage to property;
- c) Loss of enjoyment of normal use of property;
- d) Adverse effect on the health of any person.

“**barbecue**” means a portable or fixed device designed and intended solely for the cooking of 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 Village of Merrickville-Wolford as a Municipal Law Enforcement Officer to enforce the provisions of the by-law;

“**brush fire**” means an open air fire where the material to be burned does not exceed 3 m (9.84 ft) in height, width and length and where the open air fire is set and maintained solely for the purposes of burning wood, tree limbs and branches;

“**burn barrel**” means an open air fire set and maintained in an open top steel barrel that does not exceed 1.5 m (5 ft) in diameter and 1.5 m (5 ft) in height and where the open air fire is set and maintained for the purposes of burning wood, tree limbs, and branches;

“**campfire**” means an open air fire where the material to be burned does not exceed 60 cm (24 inches) in width and 60 cm (24 inches) in height, that is set and maintained solely for the purposes of cooking food, providing warmth and recreational enjoyment;

“**dangerous condition**” means any condition as determined by the Fire Chief that increases the risk of the spread of a fire or is adverse to public safety;

“**farming business**” means a farming business as defined in the Farm Registration and *Farm Organizations Funding Act, 1993*, as amended;

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

“**firebreak**” means open space that surrounds an open air fire and serves as a non-combustible obstacle to the spread of fire;

“**Fire Chief**” means the Chief of Fire Services of the Municipality or authorized designates and includes a By-Law Officer;

“**FPPA**” means the *Fire Protection and Prevention Act, 1997*, as amended, and the regulations enacted thereunder as amended from time to time, or any Act or Regulation enacted in substitution thereof;

“**household waste**” means combustible material such as plastics, polyethylene terephthalate, paints, oils, solvents, rubber, insulation, batteries, acids, polystyrenes (Styrofoam), pressure treated or painted lumber, tires, upholstered furniture, synthetic fabrics, diapers and hazardous waste as defined in the *Environmental Protection Act* and all other similar and like materials but shall not include untreated wood and wood fiber products such as non-laminated paper and cardboard and boxboard, brush, tree branches / limbs and leaves;

“**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;

“**maintain**” means to allow an open air fire to continue to burn and “**maintained**” and “**maintaining**” have a corresponding meaning;

“**material to be burned**” means the total volume of the materials contained in the fire;

“**Municipality**” means the Village of Merrickville-Wolford or the geographic area of the Village of Merrickville-Wolford as the context requires;

“**normal farm practice**” means a practice that,
(a) is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances, or
(b) makes use of innovative technology in a manner consistent with proper advanced farm management practices;

“**open air fire**” means the burning of material such as untreated wood and wood fiber products like non-laminated paper and cardboard and boxboard, brush, tree branches/ limbs and leaves where the flame is not wholly contained and includes campfires, brush fires, burn barrels, windrows and outdoor fireplaces, but does not include barbecues;

“**outdoor fireplace**” means a manufactured, non-combustible, enclosed container designed to hold a small fire for decorative purposes and the size of which does not exceed 1 m (3.28 ft) in any direction and includes, but is not limited, to a chiminea;

“**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;

“**Prohibited Materials**” includes household waste, rubber or rubber products, plastic or plastic products, and waste petroleum products and any material or materials which are prohibited by the *Environmental Protection Act*, as amended;

“**set**” means to light an open air fire and “**setting**” has a corresponding meaning;

“**windrow/wood pile**” means an open air fire where the material to be burned does not exceed 50 m (164 ft) in length, 5 m (16 ft) in width and 3 m (10 ft) in height and that is set and maintained solely for the purposes of burning wood, tree limbs and branches as part of normal farm practices for clearing agricultural land. To facilitate a clean burn windrows may be stacked as wood piles up to 9 meters in height prior to combustion.

2. INTERPRETATION

- (1) In this by-law, a word interpreted in the singular number has a corresponding meaning when used in the plural.
- (2) This by-law includes the Schedules attached hereto and the Schedules are hereby declared to form part of this by-law.
- (3) It is declared that if any section, subsection or part or parts thereof be declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection or part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.
- (4) In this by-law, the word “metre” shall be represented by the abbreviation “m”, and the word “centimetre” shall be represented by the abbreviation “cm”, the words foot and feet shall be represented by the abbreviation “ft”.

3. PROHIBITIONS

- (1) No person shall set or maintain an open air fire without first having obtained the necessary permit from the Municipal Office or online at the Burn Permit website.
- (2) No person shall set or maintain an open air fire when a fire ban on open air fires has been issued by the Fire Chief.

(3) No person shall set or maintain an open air fire when the wind is in such a direction or intensity to cause any or all of the following;

- (a) the possible spread of the fire beyond the approved burn site;
- (b) a decreased in visibility on any highway;
- (c) excessive smoke.

(4) No person shall set or maintain a brush fire or burn barrel in rural residential areas, hamlets, and areas of concentrated development. (Eastons Corners, Jasper, Merrickville Ward)

4. APPLICATION FOR AN OPEN AIR FIRE PERMIT

(1) Any person eighteen (18) years of age or older shall fill out an application form for an open air fire permit prior to the proposed date of the first open air fire. Applications for fire permits may be obtained annually online or from the municipal office.

(2) The permit at a minimum shall include:

- (a) the name, address and phone number of the applicant;
- (b) the owner's written consent to the open air fire, if the applicant is not the owner of the property;
- (c) the municipal address of the location of the proposed open air fire if it differs from the address of the applicant. A farming business may offer multiply locations to reflect their agricultural property;
- (d) an indemnification in writing or electronically in accordance with the terms of Section 11; and
- (e) such other information as may be required by the Fire Chief.

(3) Subject to subsections (1) and (2), a person who operates a farming business may apply for an annual agricultural open air fire permit that includes permission to set and maintain a windrow/wood pile as well as brush fire / burn barrel and campfire/ outdoor fireplace.

(4) The Fire Chief shall issue an open air fire permit unless,

- (a) the application is incomplete;
- (b) there are reasonable grounds to believe that the open air fire may cause adverse effects;
- (c) there are reasonable grounds to believe that the open air fire will result in a breach of this by-law, the FPPA, or any other provincial or federal statute.

5. CONDITIONS FOR PERMIT ISSUANCE

(1) No permit holder shall undertake to set or maintain any open air fire except in accordance with the conditions of the permit.

(2) The permit holder shall comply at all times with the FPPA, and with all other applicable municipal by-laws and provincial and federal laws.

- (3) A permit issued under this section is valid on the date of issue and for the balance of the calendar year in which the permit is issued.
- (4) No holder of a permit issued under this by-law shall set or maintain an open air fire unless the permit holder,
- (a) ascertains there is no burn ban in effect by calling 613-706-2330;
 - (b) notifies the Fire Chief (Merrickville Fire Department) on the day of each proposed brush or windrow fire by calling 613-706-2330 and leaving a message which includes name, address, date of burn and permit number;
 - (c) ensures that a person eighteen (18) years of age or older maintains constant watch and control over the open air fire at all times from the time of the setting of the fire until the fire is totally extinguished;
 - (d) produces his or her permit upon being so directed by the Fire Chief;
 - (e) immediately extinguishes the fire upon being so ordered by the Fire Chief;
 - (f) complies at all times with the requirements of Section 6 and, where applicable, Sections 6, 7, 8 or 9; and
 - (g) has equipment capable of extinguishing the fire such as rakes, shovels, or water immediately available for use at the site of the open air fire.
- (5) The Fire Chief may attach such additional conditions to a permit as he or she deems necessary to ensure public safety.
- (6) A permit for an open air fire is not transferable to another person or to a new location.

GENERAL REQUIREMENTS FOR OPEN AIR FIRES

6. BRUSH FIRES AND BURN BARRELS - Annual Open Air Fire Permit

Where the material to be burned in an open air fire is 3 m (9.84 ft) or less in length, width and height or is in a burn barrel, no permit holder shall set or maintain a brush fire or burn barrel,

- (a) at a distance of less than 25 m (82.02 ft) from any building, hedge, fence, overhead wiring, highway, or other combustible material;
- (b) where the size of the open air fire will exceed the limits set by this by-law;
- (c) that is set or maintained with the aid of flammable or combustible liquids of any kind;
- (d) that uses fuel other than untreated wood, brush, and tree branches / limbs;
- (e) that uses prohibited materials, which includes household waste, rubber or rubber products, plastic or plastic products, and waste petroleum products and any material or materials which are prohibited by the *Environmental Protection Act*, as amended;

- (f) before sunrise and after sunset on any day; or
- (g) unless the additional conditions specified on the permit deemed necessary by the Fire Chief have been met.

7. CAMPFIRES AND OUTDOOR FIREPLACES - Annual Open Air Fire Permit

No permit holder shall set or maintain a campfire or outdoor fireplace,

- (a) where the material to be burned in a campfire exceeds 60 cm (24 inches) in length, width, and height;
- (b) where the outdoor fireplace exceeds 1m (3.28 ft) in any direction and unless the outdoor fireplace has a spark arrester;
- (c) that uses material other than dry firewood;
- (d) unless the additional conditions (if applicable) specified on the permit deemed necessary by the Fire Chief have been met;
- (e) unless the campfire or outdoor fireplace is surrounded by non-combustible material;
- (f) unless the campfire is located a distance of not less than 5 m (16.40 ft) from any building, hedge, fence, overhead wiring or other combustible material or a highway.

8. AGRICULTURAL WINDROWS/WOOD PILES - Annual Agricultural Open Air Fire Permit

No permit holder shall set or maintain an open air fire that is a windrow/woodpile unless,

- (a) the windrow/woodpile does not exceed the size limits set out in this by-law;
- (b) the windrow/woodpile is located a distance of not less than 90 m (295.28 ft) from a building, overhead wiring or highway;
- (c) the windrow/woodpile is located a distance of not less than 60 m (196.85 ft) from a wooden fence rail, hedge or standing timber;
- (d) subject to clauses (b) and (c), the windrow/woodpile is located a distance of not less than 30 m (98.43 ft) from any other combustible material;
- (e) a firebreak of 5 m (16.40 ft) in width surrounds the windrow/woodpile until the open air fire is extinguished;
- (f) the windrow is constructed at right angles to the prevailing wind direction;
- (g) the windrow/woodpile is constructed on soil other than peat soil types;
- (h) there is a separation distance of at least 15 m (49.21 ft) between the ends of the windrows and at least 25 m (82.02 ft) between parallel windrows, if more than one windrow is set and maintained at the same time at the same location;
- (i) the windrow is set first at its centre;
- (j) the permit holder notifies the Fire Chief (Merrickville Fire Dept.) at 613-706-2330 each

- day that the windrow/woodpile is set and maintained until the windrow/woodpile is extinguished;
- (k) the permit holder ceases to add material to the windrow/woodpile if a fire ban comes into effect;
 - (l) the permit holder uses best efforts to aerate and separate any soil from wood, tree limbs and branches in the windrow;
 - (m) the permit holder ensures that a person eighteen (18) years of age or older monitors watch and control over the windrow/woodpile from the time of the setting of the fire until there is no visible open flame; and
 - (n) the permit holder complies with conditions of clauses (c) to (e) inclusive and clause (g) of subsection 6(1).

9. SPECIFIC EVENT - Specific Event Open Air Fire Permit

- (1) A community not-for-profit organization, school or a religious institution may apply in writing to the Fire Chief for an open air fire permit to conduct campfires or open air fires in an outdoor fireplace for cultural, religious or recreational specific events.

10. DELEGATION OF AUTHORITY - UPDATING MAP(S) (SCHEDULES) APPLICATION FORMS AND PERMITS

- (1) The Fire Chief is authorized to approve amendments to the Schedules to this by-law being the "Open Air Fire By-Law", to amend the boundaries of areas in which open air fires may be set or maintained provided that the amendment is a result of a change in one (1) or more of the following factors:
 - (i) population density;
 - (ii) building density;
 - (iii) risk management issues, including but not limited to incidence of false alarms and proximity to forested areas.
- (2) The Fire Chief is given the Authority to create and amend the application and permit form.

11. INDEMNIFICATION

The applicant shall indemnify and save harmless the Village of Merrickville-Wolford from any and all claims, demands, causes of action, losses, costs or damages that the Municipality may suffer, incur or be liable for resulting from the open air fires as set out in the by-law whether with or without negligence on the part of the applicant, the applicant's employees, directors, contractors and agents.

12. 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, an adverse effect 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.

13. EXEMPTIONS

- (1) The Merrickville Fire Department shall be exempt from the provisions of this by-law with respect to open air fires for the purposes of training, educating individuals in fire safety or for research purposes.
- (2) Professional fire prevention trainers shall be exempt from the provisions of this by-law with respect to open air fires set for the purposes of fire safety training pursuant to Section 2.8.2.1 of the Fire Code.
- (3) The Municipality shall be exempt from the provisions of this by-law with respect to open air fires related to municipal works.

14. OFFENCES AND PENALTIES

- (1) Every person who contravenes any of the provisions of this by-law is guilty of an offence.
- (2) Every person who is convicted of an offence under this by-law is liable to a fine as provided for in the *Provincial Offences Act*.
- (3) Where a person has been convicted of an offence under this by-law,
 - (a) the Ontario Court of Justice, or
 - (b) any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed towards the continuation or repetition of the offence.

15. COST RECOVERY

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 Municipality for all expenses incurred for the purpose of investigating, controlling and extinguishing any fire set or left to burn as approved by Municipal Council – Schedule A. Any costs chargeable to any person pursuant to this section shall be invoiced to the person and paid to the Municipality within sixty (60) days of the date of such invoice, failing which the costs may be deemed to be municipal taxes and added by the Clerk of the Municipality to the Collector's Roll and collected in the same manner and with the same priority as municipal taxes.

16. SHORT TITLE

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

17. EFFECTIVE DATE

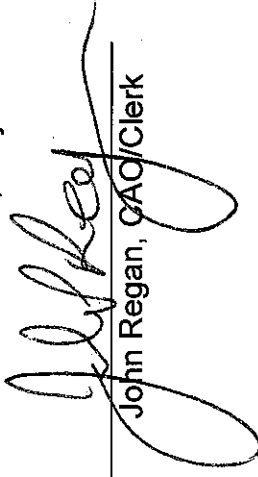
This by-law shall come into force on the date of passing.

READ a first and second time this 27th day of February, 2017

READ a third and final time and passed this 27th day of February, 2017



David Nash, Mayor



John Regan, CAO/Clerk

**THE CORPORATION OF THE VILLAGE OF MERRICKVILLE-
WOLFORD**

SCHEDULE "A" – Cost Recovery Schedule

Description	Amount of Fee
15.	The cost recovery fee will be based on the Ministry of Transportation rate for fire department responses on Provincial Highways
14.	Investigation with by-law contraventions (by Fire Chief or designate) \$125.00