



**THE CORPORATION OF THE TOWNSHIP OF AUGUSTA
BY-LAW NUMBER 3500-2020**

**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*, as amended, 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 Township of Augusta enacts as follows:

1. DEFINITIONS

1.1. In this by-law,

“Adverse Effect” means one or more of;

- a) damage to property,
- b) an adverse effect on the health of any person,
- c) impairment of the safety of any person, and
- d) loss of enjoyment of normal use of property

“Agricultural Fire” means an open air fire where the material to be burned does not exceed 125 cubic meters (4414 cubic ft) and that is set and maintained solely for the purposes of burning wood, tree limbs, yard waste and branches as part of normal farm practices for clearing agricultural land.

“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, campfires or any other open air burn.

“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 Augusta Township as a Municipal Law Enforcement Officer to enforce the provisions of the by-law;

“Brush Pile Fire” means an open air fire where the material to be burned does not exceed 3m (10ft) in width and length, and 5ft in height, and where the open air fire is set and maintained solely for the purposes of burning wood, tree limbs, yard waste and branches;

“Burn Drum” means an open air fire set and maintained in an open top steel barrel similar in size to the common 45 gallon (208 Liter) drum that has an approximate dimensions of 35 inches tall and 25 inches in diameter. The only open side must be facing up and must be totally covered by a heavy mesh screen with openings of not more than 7 mm (1/4 inch). There may be no more than 10 holes with a width of no more than 1 inch near the bottom of the incinerator for draft purposes and where the open air fire is set and maintained for the purposes of burning wood, tree limbs, branches, yard waste and non-compostable material limited to paper, cardboard, and sisal twine;

“Campfire” means an open air fire where the material to be burned does not exceed 0.9m (3ft) in height, width and length, that is set and maintained solely for the purposes of cooking food, providing warmth and recreational enjoyment;

“Campground” means an area of land owned and operated by a person that contains campsites for the purpose of overnight accommodations for tents, trailers, or motorhomes in exchange for monetary payment.

“Chief Fire Official” means the Chief or Deputy Chief of Fire Services of the Municipality

“Competent” means properly or sufficiently qualified or capable

“Dangerous condition” means any condition as determined by the Fire Chief that increases the risk of the spread of a fire or creates an adverse effect;

“Discharge” means to light, fire or set off firecrackers or fireworks

“Farm” means a farm as defined in Part I of the Ontario Fire Code

“Fire Ban” means a period of time during which the Chief Fire Official declares a partial or total ban on open air fires and fireworks

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

“Fireworks” means a pyrotechnic device producing quantities or effects of light, sound and or smoke by the combustion of explosive and or flammable composition and includes but not limited to devices commonly known as fireworks, fireworks showers, fountains, golden rain, lawn lights, pin wheels roman candles, sparklers, volcanoes, mines and firecrackers.

“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 therefor;

“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” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

“Incinerator” means an open air fire set and maintained in an closed container that does not exceed 1.5m(4.92ft) in Length, Width or Height. There may be one door for access on one side that securely latches closed while burning is taking place and has a chimney with a screen with openings of not more than 7 mm (1/4 inch) where the open air fire is set and maintained for the purposes of burning wood, tree limbs, branches, yard waste and non-compostable material limited to paper, cardboard and sisal twine;

“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 Corporation of the Township of Augusta or the geographic area of Augusta Township 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 pile fires, burn drums, incinerator, 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 1m (3.28ft) in any direction and includes, but is not limited, to a chimnea;

“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;

“Special Events Fire” means an open air fire that does not meet the definition of any of the other types of fires/permits set out in this by-law.

2. INTERPRETATION

- 2.1. In this by-law, a word interpreted in the singular number has a corresponding meaning when used in the plural.
- 2.2. This by-law includes the Schedules attached hereto and the Schedules are hereby declared to form part of this by-law.
- 2.3. 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.
- 2.4. In this by-law, the word “meter” shall be represented by the abbreviation “m”, and the word “centimeter” shall be represented by the abbreviation “cm”, and the words “foot” or “feet” shall be represented by the abbreviation “ft”.

3. PROHIBITIONS FOR ALL OPEN BURNS

- 3.1. No person shall set or maintain an open air fire without first having obtained the necessary permit in such a fashion as approved by the Chief Fire Official
- 3.2. No person shall set or maintain an open air fire or discharge fireworks on any municipally owned or operated property unless approved by the Chief Fire Official;
- 3.3. No person shall set or maintain an open air fire or discharge fireworks when a fire ban has been issued by the Chief Fire Official;
- 3.4. No person shall set or maintain an open air fire that uses prohibited materials;
- 3.5. No person shall set or maintain an open air fire to burn anything other than untreated wood and wood fiber products such as non-laminated paper and cardboard and boxboard, brush, tree branches / limbs, leaves, paper, and sisal twine;
- 3.6. Burn permits shall not be issued for windrows.

4. APPLICATION FOR AN OPEN AIR FIRE PERMIT

- 4.1. Any owner eighteen (18) years of age or older may apply for an open air fire permit to the Municipality prior to the proposed date of the first open air fire.
- 4.2. The permit shall include:
 - 4.2.a. the name, address, and phone number of the applicant;
 - 4.2.b. the municipal address of the location of the proposed open air fire if it differs from the address of the applicant. A farm may offer multiple locations to reflect their agricultural property and;
 - 4.2.c. the applicable open air fire permit fee in accordance with Schedule "A"
- 4.3. The Municipality shall issue an open air fire permit unless,
 - 4.3.a. the permit is incomplete;
 - 4.3.b. there are reasonable grounds to believe that the open air fire may cause adverse effects
 - 4.3.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 and;
 - 4.3.d. The owner has a history of not abiding by the open burn bylaw.

5. GENERAL CONDITIONS

- 5.1. No owner shall undertake to set or maintain any open air fire except in accordance with the conditions of the permit.
- 5.2. The owner shall comply at all times with the FPPA, and with all other applicable municipal by-laws and provincial and federal laws.
- 5.3. A permit issued under this by-law is valid on the date of issue and for the balance of the calendar year in which the permit is issued.
- 5.4. The holder of an un-revoked permit issued under this by-law may set or maintain an open air fire provided the following requirements and conditions are met:
 - 5.4.a. calls the Township's open burning hotline to verify if a burn ban has been declared, campgrounds must call daily
 - 5.4.b. produces his or her permit upon being so directed by the Fire Chief
 - 5.4.c. immediately extinguishes the fire upon being so ordered by the Fire Chief and;
 - 5.4.d. follows this bylaw in its entirety,
- 5.5. The Fire Chief may attach such additional conditions to a permit as he or she deems necessary to ensure public safety.
- 5.6. A permit for an open air fire is not transferable to another person or to a new location.

6. BRUSH PILE FIRES, INCINERATORS AND BURN DRUMS - Annual Open Air Fire Permit

- 6.1. No permit holder shall set or maintain a brush pile fire, incinerator or burn drum fire at a distance of less than 20 m (65 ft) from any building, overhead wiring, highway, or other combustible material;
- 6.2. No person shall set or maintain a brush pile fire, incinerator or burn drum fire when the wind is in such a direction or intensity to cause any or all of the following;
 - 6.2.a. the possible spread of the fire beyond the open burn site;
 - 6.2.b. a decreased in visibility on any highway
 - 6.2.c. an adverse effect for any person
- 6.3. No person shall set or maintain more than one brush pile fire, incinerator or burn drum fire at any time
- 6.4. No person shall begin a brush pile fire, incinerator or burn drum fire unless they ensure that a competent person or persons eighteen (18) years of age or older maintain 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;
- 6.5. No person shall begin a brush pile fire, incinerator or burn drum fire unless they are equipped with sufficient persons, equipment, and tools to control and/or extinguish the fire and must have a phone to immediately contact 911 in case of emergency.

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

- 7.1. No permit holder shall set or maintain a campfire or outdoor fireplace
 - 7.1.a. unless the campfire is located a distance of not less than 5m (16.5 ft) from any building, overhead wiring, highway, or other combustible material and
 - 7.1.b. that uses material other than dry firewood;
- 7.2. No person shall set or maintain a campfire or outdoor fireplace fire when the wind is in such a direction or intensity to cause any or all of the following;
 - 7.2.a. the possible spread of the fire beyond the open burn site;
 - 7.2.b. a decreased in visibility on any highway
 - 7.2.c. an adverse effect for any person
- 7.3. No person shall set or maintain more than one campfire or outdoor fireplace at any time
- 7.4. No person shall begin a campfire or outdoor fireplace unless they ensure that a competent person or persons eighteen (18) years of age or older maintain 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;
- 7.5. No person shall begin a campfire or outdoor fireplace unless they are equipped with sufficient persons, equipment, and tools to control and/or extinguish the fire and must have a phone to immediately contact 911 in case of emergency.

8. CAMPGROUNDS – Annual Open Air Fire Permit

- 8.1. A campground fire permit transfers the responsibilities for control and extinguishment of a campfire from the campground campers to the campground property owner.
 - 8.1.a. As such the campground owner is responsible for any and all violations of this bylaw and is liable for recovery of any fees for response and or extinguishment of any open burn or any fires caused by any open burn.
- 8.2. The campground must have a means of extinguishment to control and or extinguish a fire that can be taken to any campsite within 10 minutes.
- 8.3. The campground must have staff available at all times that are trained to respond with and use the equipment noted in 8.2
- 8.4. Each and every campground staff must have a cell phone to call 911 should a fire escape containment.
- 8.5. If the campground is unable to comply with 8.4. Then the campground must have at least one staff member working at all times with a cell phone and a two-way Radio. All other staff members must also have a two way radio so they may contact the staff member with the cell phone to call 911 should the fire escape containment.
- 8.6. A map of such campground must be supplied to the Fire Chief which includes roadways, routes, lanes, water sources, and structures.
- 8.7. All campfires at campgrounds must meet all of Section 7 except for 7.5 as they pertain to campfires.

8.8. Campfires are the only fire permitted in Campgrounds and must meet the regulations in Section 7 of this bylaw.

9. AGRICULTURAL - Annual Open Air Fire Permit

- 9.1. A Person may conduct an Agricultural fire on a farm for Normal Farm Practices if it is part of a normal farm practice, and subject to the conditions set out in this bylaw
- 9.2. The Agricultural fire must be located at least 61 metres (approximately 200 feet) away from any building, structure, hydro or telephone wires, and highway).
- 9.3. No person shall set or maintain an Agricultural fire when the wind is in such a direction or intensity to cause any or all of the following;
 - 9.3.a. the possible spread of the fire beyond the open burn site;
 - 9.3.b. a decrease in visibility on any highway
 - 9.3.c. a medical emergency to any person
- 9.4. Only competent persons eighteen (18) years of age or older may set an agricultural burn

10. SPECIAL EVENTS - Specific Dates

- 10.1. All persons seeking permission to hold a special event / large development land clearing involving an open air burning shall apply for a permit.
- 10.2. Application shall be made at least two weeks prior to the proposed date of the event on a form supplied at the Municipal Office and such application should be accompanied by the applicable fee.
- 10.3. The Fire Chief may issue permits to allow the event to reoccur over an extended period of time.
- 10.4. Prior to granting a permit to hold an open air burning for the event, the Fire Chief may arrange for a site visit and shall give consideration to the type of event, proposed location of the event, size of the fire, safety measures, supervision arrangements, the time of year, the time of day, and the anticipated weather conditions.
- 10.5. Distances from any building, overhead wiring, highway, or other combustible material will be determined by the Fire Chief and shall be noted on the permit
- 10.6. Burn Pile size will be determined by the Fire Chief and shall be noted on the permit
- 10.7. No person shall set or maintain a special event / large development land clearing fire when the wind is in such a direction or intensity to cause any or all of the following;
 - 10.7.a. the possible spread of the fire beyond the open burn site;
 - 10.7.b. a decreased in visibility on any highway
 - 10.7.c. an adverse effect for any person
- 10.8. No person shall set or maintain more than one special event / large development land clearing fire at any time
- 10.9. No person shall begin a special event / large development land clearing fire unless they ensure that a competent person or persons eighteen (18) years of age or older maintain 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;
- 10.10. No person shall begin a special event / large development land clearing fire unless they are equipped with sufficient persons, equipment, and tools to control and/or extinguish the fire and must have a phone to immediately contact 911 in case of emergency.
- 10.11. Any other rules or regulations deemed necessary by the Fire Chief and shall be noted on the permit.

11. INDEMNIFICATION

- 11.1. By signing the permit, the owner shall indemnify and save harmless Augusta Township 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

- 12.1. Permits issued to an owner under this by-law may be revoked by the Fire Chief if, in the opinion of the Fire Chief, an adverse effect or dangerous condition exists in or near the site of the open air fire.
- 12.2. Permits issued to an owner 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

- 13.1. The Augusta 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.
- 13.2. 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 or education

14. OFFENCES AND PENALTIES

- 14.1. Every person who sets a fire or discharges a firework in contravention of this by-law or who fails to extinguish a fire once ordered to do so by the Fire Chief is guilty of an offence and may receive a penalty of \$410.00 for each and every offence.
- 14.2. Every person who sets an open burn, with or without a permit, or causes an open burn by discharging fireworks that requires the Fire Department to extinguish the burn, 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.
- 14.3. 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.
- 14.4. 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 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.

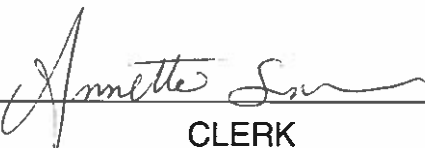
15. EFFECTIVE DATE

- 15.1. This by-law shall come into full force and effect upon the final reading thereof and may be referred to as the Open Air Burn By-Law.
- 15.2. That all by-laws inconsistent with this by-law are hereby repealed.

Read a first and second time this 14 day of December 2020.

Read a third time and passed this 14 day of December 2020.


MAYOR


CLERK