

The Corporation of the Township of Guelph/Eramosa

By-law Number 39/2017

A by-law to regulate the setting of open air fires within the Township of Guelph/Eramosa.

WHEREAS by Section 11. (2) of the *Municipal Act, 2001, S.O. 2001, c.25*, council of a municipality may pass by-laws with respect to the economic, social and environmental well-being of the municipality and the health, safety and well-being of persons; and

WHEREAS by Section 7.1 (1) of the *Fire Prevention and Protection Act S.O. 1997, S.O. 1997, c.4*, council of a municipality may pass by-laws regulating the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS By-law No. 11/2009 and By-law 29/2009 are hereby repealed.

NOW THEREFORE the Council of the Corporation of the Township of Guelph/Eramosa hereby enacts as follows:

1. Definitions

For the purpose of this by-law, the following definitions shall apply:

“Agricultural Use” shall mean a use of land, buildings or structures for the growing of crops, including nursery, greenhouse, mushroom, and horticultural crops; raising of livestock and other animals for food, fur or fiber; aquaculture; apiaries; agro-forestry; maple syrup production; research and/or breeding station; riding/training stables, and associated on-farm buildings and structures (including for packing, treating and storing farm products, a farm related tourism business, and a farm product sales outlet), but does not include an abattoir, a kennel, or a rendering plant, and in accordance with the Zoning By-law.

“Barbeque” shall mean appliances including a hibachi, a structure designed and intended solely for the cooking of food in the open air, and other similar commercially manufactured devices designed and intended solely for the cooking of food in the open air, but does not include devices predominantly designed for personal warmth.

“Burn Barrel” shall mean a metal barrel in sound condition no larger than a 205 L (55 gallon) drum with a screen over the top to prevent debris from flying out of the barrel.

“By-law Enforcement Officer” shall mean a fire fighter, fire prevention officer, police officer or, any person appointed by Council as a by-law enforcement officer for the Township.

“Cooking Fire” shall mean a small confined fire, supervised at all times, and used to cook food. Contained by non-combustible material such as cement blocks, rocks, etc.

“Conservation Area” shall mean land owned by a conservation authority incorporated under the *Conservation Authorities Act*, R.S.O. 1990, c. C.27

“Council” shall mean the Council of the Township of Guelph/Eramosa.

“Extinguishing Agent” shall mean a material used with fixed, automatic, or portable fire extinguishing systems to suppress or put out fires and include water or fire extinguisher.

“Fire Chief” shall mean the Chief of the Fire Department of the Township of Guelph/Eramosa or his/her alternate/designate.

“Fire Pit” or “Fire Pit Area” shall mean an area of ground that has been completely cleared of combustible material and lined with a minimum thickness of 15 cm (6 inches) of sand or mineral soil that will extend a minimum of 30 cm (12 inches) beyond the use of Fuel and/or burning materials.

“Fuel” shall mean material, such as wood, that releases energy when it is burned, which can be used as a source of heat or power. This definition shall not mean gasoline, liquid fuels or accelerants.

“Open Air Burning” shall mean the ignition or incineration by fire of combustibles for the purpose of burning grass, clean wood, other combustibles in any open place, yard, field or construction area, which is not enclosed by a building or structure and includes fires in barrels and Fire Pits.

“Open Air Burning Device” shall mean any commercially manufactured device for the purpose of containing a recreational fire, including but not limited to a chimenea.

“Organic Materials” shall mean straw, sticks, tree brush and similar materials.

“Permit” shall mean a permit for Open Air Burning, for which an application can be obtained from the Township Office.

“Recreational Burning Device” shall mean any commercially manufactured device for the purpose of containing a recreational fire, including but not limited to a chimenea.

“Recreational Burning” shall mean burning with the use of a recreational burning device or pit.

“Residential Area” means any properties zoned for residential purposes in the Township Zoning By-law, as amended, that includes the following zones: Rural Residential (RR), Village Residential Low Density (R1), Village Residential Medium Density (R2), Residential First Density Zone (R1), Residential Second Density Zone (R2), Residential Multiple One (RM1) in addition to residential uses in mixed use zones that includes Hamlet Mixed Use (C3), Residential Mixed Use One (RMU1), Residential Mixed Use Two (RMU2) and Residential Mixed Use Three (RMU3), and in accordance with the Zoning By-law.

“Township” means the Corporation of the Township of Guelph/Eramosa.

“Township Office” shall mean the Township of Guelph/Eramosa Municipal Office located at 8348 Wellington Road 124, Rockwood, ON.

“Zoning By-law” shall mean Zoning By-law 40/2016, as amended.

2. **Administration**

- 2.1 This by-law shall be administered and enforced by the By-law Enforcement Officer.
- 2.2 A By-law Enforcement Officer under this By-Law has the power upon producing identification to enter upon and examine any yards or buildings, other than a dwelling, at any reasonable time or times and may be accompanied by such other person or persons, as they deem necessary to properly carry out their duties under this by-law.
- 2.3 Open Air Burning that utilizes propane or natural gas as fuel supply shall be permitted without a Permit in all areas of the Township, except apartment building balconies.
- 2.4 Open Air Burning, with the exception of Barbeques, Cooking Fires and the use of a Recreational Burning Devices shall not be permitted within the Residential Areas of the Township of Guelph/Eramosa, as per the definition of Residential Area outlined in this by-law.
- 2.5 Any person wishing to engage in Open Air Burning outside of a Conservation Area and outside of a Residential Area for any purpose whatsoever, shall fill out the required **Application for a Permit for Setting Open Air Fires**, obtained from the Township, prior to the setting of such fire, save and except when such burning meets the requirements for a Cooking Fire, Barbeque or Recreational Burning. The applicant shall also pay the application fee as established by the Fees and Charges By-law, as amended, prior to approval. Permits are valid for 365 days (one year) from the date of application submission and payment, which is the time period in which applicants are permitted to burn.
- 2.6 Notwithstanding Section 2.4 and 2.5, where a property located within a Residential Area is of a lot area to comply with the set-back distances prescribed by Section 4.1 of the By-law, Open Air Burning shall be permitted subject to the obtaining of a Permit for Setting Open Air Fires as set out in Section 2.5.
- 2.7 The person referenced in Section 2.5 shall be the property owner or have the written consent of the property owner for a Application to be received by the Township.
- 2.8 Where the person referenced in Section 2.5 owns or has the written consent of the owner for a Application to be received by the Township, a single fee for a Permit for Setting Open Air Fires shall be applied to a Permit for any number of Agricultural Use properties.

3. **General Provisions**

- 3.1 Should the Fire Department be dispatched to a complaint regarding public safety due to a fire hazard, the Fire Department will have the discretion to determine compliance with this by-law and this discretion shall be final.

- 3.2 Approval shall be obtained from the Fire Chief for any other Open Air Burning not addressed in or from exemption from this By-law, including but not limited to the burning of buildings, fence materials etc. A fee is required and in accordance with a general Ontario Fire Code inspection as per the Fees and Charges By-law, as amended. Any request for approval shall be made in writing to the Fire Chief.
- 3.3 Any person who carries out a Cooking Fire, Recreational Burning or Open Air Burning shall observe the following precautions during when fires are set:
- 3.4 The fire must be under constant supervision and control of one adult from the time of lighting until it is completely extinguished.
- 3.5 Children under the age of 18 years are prohibited from lighting or igniting fires without the supervision of an adult.
- 3.6 Appropriate Extinguishing Agents will be on-hand at all times during the preparation of the fire, while the fire is underway, and until the fire is fully and completely extinguished.
- 3.7 Only the following materials may be burned: wood, organic materials and paper products. Under no circumstances are paint, solvent, rubber (e.g. tires), wire (including coating), plastics, asphalt, shingles, toxic chemicals (e.g. pesticides), or materials that violate the regulations of the Ministry of the Environment and Climate Change to be burned, ignited or added to the fire at any time.
- 3.8 The fire must not in any way cause discomfort, danger, irritation and/or nuisance for other residents. This shall include allowing smoke to enter into a neighboring residence or building.
- 3.9 Open air burning is not permitted when the wind is in such a direction or such intensity so as to reduce the visibility on any roadway or cause danger to any person or structure, or during rainy or foggy weather, or at times when a smog alert has been issued by the Ministry of the Environment and Climate Change for Ontario..
- 3.10 Fires shall not be burned during periods of dry conditions or drought, as shall be specified from time to time by the Township's Fire Department.

4. Open Air Burning

Any person who has obtained a Permit for Open Air Burning shall observe the following precautions and times during which fires may be set:

- 4.1 The fire shall not be planned, lit or ignited closer than 7 m (22.9 ft) from any building, structure, hedge, fence, road, overhead wire, trees, hedges or obstruction of any kind.
- 4.2 The Fire Pit or Fire Pit Area will not exceed an area of 3 m x 3 m (10 ft x 10 ft).
- 4.3 Fires shall be lit or ignited after 7:00 a.m. (0700 hours) and shall be extinguished by 9:00 p.m. (2100 hours).

5. Cooking Fires

Cooking Fires are permitted within all areas in the Township and a Permit for Open Air Burning is not required for a Cooking Fire, provided that the following regulations are complied with:

- 5.1 A Cooking Fire shall be confined to a location that provides for a minimum distance of 3 m (10 ft) from any building, structure, hedge, fence, road, overhead wire, trees, hedges or obstruction of any kind.
- 5.2 When in use, the Cooking Fire shall be covered with a grill or a metal screen having a mesh, which is positioned in such a manner as to prevent the escape of combustible materials including ash.
- 5.3 The Cooking Fire shall not exceed a 1 m (3.28 ft) diameter area.

6. Barbeques

Barbeques are permitted within all areas in the Township and a Permit for Open Air Burning is not required for a Barbeque, provided that the following regulations are complied with:

- 6.1 The fuel used is a commercially produced charcoal or briquette, or a flammable liquid commercially produced for the purpose of cooking, such as natural gas or propane gas.

7. Air Burning Device – Recreational Burning

7.1 A Permit is not required for Recreational Burning with the use of a Recreational Burning Device within all areas in the Township or for pits specifically designed for Recreational Burning, provided that each of the following regulations are complied with:

- a) Recreational Burning shall be confined to Recreational Burning Devices. When in use, the Recreational Burning Device shall be covered with a grill or a metal screen having a mesh which is positioned in such a manner as to prevent the escape of combustible materials including ash;
- b) No more than 21 cm (8 inches) of the containment area shall be above grade with a maximum depth of 42 cm (16 inches);
- c) The dimensions of the wood being burned shall not be greater than the size of the Recreational Burning Device and shall be totally confined within the Recreational Burning Device at all times;
- d) Recreational Burning Devices shall be confined to a location that provides for a minimum distance of 3 m (10 ft) from any building, structure, hedge, fence, road, overhead wire, trees, hedges or obstruction of any kind;
- e) Pits used for Recreational Burning shall not exceed a 1 m (3.28 ft) diameter area.

8. Burn Barrels

- 8.1 The use of Burn Barrels shall not be permitted within Residential Areas of the Township.
- 8.2 Burn Barrels shall only be permitted for use in the instances of a strike or lock-out.

- 8.3 Properties zoned for Agricultural Uses, or farmland, shall be exempt from the provisions of Section 8.2 of this by-law.
- 8.4 A Permit for Open Air Burning shall not be required for Burn Barrels, provided that each of the following conditions are complied with:
- a) A Burn Barrel must be a metal barrel in sound condition no larger than a 205 L (55 gallon) drum with a heavy duty screen with mesh over the top to prevent debris from flying out of the barrel;
 - b) Vent holes must be punched in the side for ventilation, and drainage holes in the bottom with the adequate clearance from surrounding vegetation or structures;
 - c) Flames from fires barrels may not extend over the top of the barrel.
- 8.5 The use of Burn Barrels shall be confined to a location that provides for a minimum distance of 3 m (10 ft) from any building, structure, hedge, fence, road, overhead wire, trees, hedges or obstruction of any kind

9. Offence

- 9.1 Any person who lights or ignites a fire in the open air, or allows or causes a fire to be lit in the open air is in violation of this by-law, or fails to comply with an order given under Section 9.3 herein, shall, in addition to any applicable fine, pay the fee for the emergency service in accordance with the Township's Fees and Charges By-law, as amended.
- 9.2 Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act, R.S.O. 1990, c.P. 33*.
- 9.3 The By-law Enforcement Officer is authorized to order any person to extinguish any fire when there is a breach of any of the provisions of this By-law or where, in their opinion, there is a danger of such fire spreading or otherwise endangering life or property.

10. Exceptions

- 10.1 The Fire Department shall be exempt from the provisions of this by-law for the purposes of public education and training.
- 10.2 In order to seek an exemption to provisions within this by-law, persons must provide written request to the Fire Chief for his/her approval.

11. Prohibitions

- 11.1 The Fire Chief may, in its absolute discretion, declare a complete prohibition against outdoor burning when the atmospheric conditions or local circumstances make such fires hazardous, which shall apply to Open Air Burning, Cooking Fires and Open Air Burning Devices. This prohibition shall not apply to Barbeques.

12. **By-law having Authority**

12.1 This by-law shall come into force upon the date of its passing.

READ three times and finally passed
this **15th** day of **May, 2017**.

Chris White, Mayor

Amanda Knight, Deputy Clerk

Township of Guelph/Eramosa

PART I Provincial Offences Act

By-law /2016

a by-law to regulate the setting of open air fires.

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision	COLUMN 3 Set Fine (includes cost)
1	Set fire without permission.	Section 2.5	\$130.00
2	Fail to maintain constant supervision of fire.	Section 3.4	\$130.00
3	Fail to keep Extinguishing agents on hand at all times during a fire.	Section 3.6	\$130.00
4	Burn paint, rubber, wire, plastics, asphalt, shingles or other materials.	Section 3.7	\$230.00
5	Burn fire which causes discomfort, danger, irritation or nuisance to residents.	Section 3.8	\$130.00
6	Burn fire in dry or drought conditions.	Section 3.10	\$230.00
7	Burn fire within 7 m (22.9 ft) of structure.	Section 4.1	\$130.00
8	Permit Cooking Fire within 3 m (10 ft) of combustible object.	Section 5.1	\$130.00
9	Permit Open Air Burning Device within 3 m (9.8') of adjacent property.	Section 7.1 (d)	\$130.00
10	Permit Burn Barrel to be used in residential area.	Section 8.1	\$130.00

NOTE: the general penalty provision for the offences listed above is section 61 of the *Provincial Offences Act, R.S.O. 1990, c.P.33*

