

TOWN OF NORTHEASTERN MANITOULIN AND THE ISLANDS

BY-LAW 2016-14

FIRE DEPARTMENT

BEING A BYLAW TO PROVIDE FOR THE REGULATION OF OPEN AIR BURNING AND PRECAUTIONS TO BE TAKEN WHILE BURNING

WHEREAS Section 7.1 of the Fire Prevention and Protection Act, S.O. 1997 as amended provides that the council may pass bylaws regulating the setting of open air fire, including establishing the times during which open air fires may be set; and

WHEREAS the Fire Prevention and Protection Act, S.O. 1997 provides that the Chief Fire Official is required to approve open air burning and appropriate fire safety provisions; and

WHEREAS Section 130 of the Municipal Act, S.O. 2001, provides that the Council may regulate matters related to the health, safety, and well-being of the inhabitants of the municipality; and

WHEREAS Section 129 of the Municipal Act, S.O. 2001, provides that Council can prohibit and regulate matters that it deems to be a public nuisance; and

WHEREAS Section 391 of the Municipal Act, S.O. 2001, provides that municipalities may pass bylaws imposing fee or charges on any class of persons for services or activities provided or done by or on behalf of it; and

WHEREAS Section 427 of the Municipal Act, S.O. 2001, provides that where a municipal council has the authority to direct or require by bylaw or otherwise that any matter or thing be done, the Council may by bylaw direct that, in default of its being done by the person directed or required to do it, such matter or thing shall be done at the person's expense and the corporation may recover the expense incurred in doing it by action or by adding the costs to the tax roll and collecting them in the same manner as taxes;

NOW THEREFORE the Council of the Corporation of the Town of Northeastern Manitoulin and the Islands hereby enacts as follows:

• **DEFINITIONS**

For the purpose of this bylaw the following definitions shall apply:

"Approved" means approved by the Chief Fire official or designate

"Balcony" means a platform projecting from a wall of a multiple level dwelling, surrounded by a railing or balustrade;

"Brush Fire" means a fire set for the purpose of burning brush, grass, vegetation or leaf type material only.

"Burn Barrel" means a steel container similar in construction to a 45 gallon drum and with a volume no greater than that of a 45 gallon drum.

"Burn Permit" means a burn permit which is issued in accordance with this Bylaw authorizing specific types of open air burning. (i.e.: brush and clean wood products)

"Bylaw Enforcement Officer" means a person duly appointed by the Council of the Town of Northeastern Manitoulin and the Islands to enforce Municipal Bylaws.

"Campfire" means a small fire approved by the Chief Fire Official, set for the purpose of cooking or warmth. Can best be described as a fire no greater than 66 centimetres in diameter and no more than a 1 metre high; does not include barbeques.

"Chief Fire Official" means the Fire Chief as defined in the Fire Protection and Prevention Act S.O 1997.

"Chiminea" means a non-combustible device made largely from pottery or metal used to hold a small fire with a substantially enclosed hearth, and with an outlet fitted with a spark

arrester or covered by a metal wire mesh with grid openings no larger than 5 millimetres (1/4").

"**Council**" means the Municipal Council of the Town of Northeastern Manitoulin and the Islands.

"**Deck**" means a combustible surface area attached to a structure.

"**Fire Ban**" means a complete ban of all open fires. A Fire Ban is enacted by the Chief Fire Official or Designate within the Municipality by the authority of the Fire Protection and Prevention Act S.O. 1997

"**Fire Department**" means the Town of Northeastern Manitoulin and the Islands Fire Department.

"**Fire Hazard, Low, Moderate, High or Extreme**" means a Low, Moderate, High or Extreme Fire Hazard as declared by the Chief Fire Official or Designate.

"**Fire Season**" means the period from the First day of April to the 31st day of October in each year or as determined by the Ministry of Natural Resources.

"**Municipality**" means the Corporation of the Town of Northeastern Manitoulin and the Islands.

"**Open Air Fire**" means fires that are set outdoors and not contained in the confines of a cooking device; fires that are set for the purpose of disposing of clean wood debris and wood by-products. Open Air Fires shall not be more than 2 metres in diameter and not more than 2 metres high maximum; and Open Air Fire does not include a campfire set for the purpose of cooking.

"**Person**" includes an association, firm, partnership, or corporation.

"**Registered Owner**" means the person(s) whose name appears on the deed which owns the property or dwelling unit.

"**Structure**" means any combustible dwelling unit, or any out buildings.

2.0 GENERAL BURNING RESTRICTIONS

2.1 No person shall start a fire outdoors unless conditions will allow the fire to burn safely from ignition to extinguishment.

2.2 No person shall use a Burn Barrel for the purposes of an outdoor fire burning device in ward 2

2.3 No person in **Ward 2** (Town of Little Current) shall start an outdoor fire other than in a CSA approved device such as a Chiminea, or other device, approval of the Chief Fire Official as per Appendix "A" which forms part of this by-law.

2.4 No person shall set any fire outdoors in the Town except in the presence of a competent responsible adult person and a competent responsible adult person shall be constantly in attendance and in charge of any burning operation to prevent the same from spreading to or endangering property.

2.5 Any person who starts a fire outdoor or, if the person who started the fire is not present, a person in charge of a fire outdoors shall take all necessary steps to tend the fire, keep the fire under control, and extinguish the fire before leaving the site.

2.6 No person shall start any fire to burn, or shall burn outdoors, any household kitchen garbage or construction materials or other materials made of or containing rubber, plastic, paint, petroleum, tar, chemical wastes, pressure treated wood, synthetic or man-made materials or any other materials considered to create excessive smoke or smell; such items shall be taken to the landfill site for disposal.

2.7 No person shall start or tend any fire outdoors when the wind conditions are such that it may cause any of the following:

2.7.1 A decrease in visibility on any highway or road;

2.7.2 The rapid spread of fire through grass, brush, forested area or other property that was not intended to be burned;

2.7.3 An adverse impact on other people or property;

2.7.4 The contravention of any municipal law, provincial or federal legislation.

2.8 No person shall start or tend a fire outdoors during a period of High or Extreme Fire Hazard.

2.9 Notwithstanding any provisions herein, no person shall set or maintain a fire;

2.9.1 In contravention of this by-law, the Ontario Fire Code, the Environmental Protection Act, or any other statutory requirements of the Province of Ontario, or the Government of Canada;

2.9.2 On any highway, or municipal property within the Municipality;

2.9.3 On any asphalt surface;

2.9.4 In any park owned or operated by the Municipality without the written permission of the Municipality;

2.10 No person shall start or tend an Open Air Fire during a municipal Fire Ban or restricted fire zone, with the exception of Propane, Natural Gas, and Charcoal Barbeques.

2.11 The use of fireworks is prohibited during a Fire Ban or Fire Restriction. The Municipality may grant permission upon request under the conditions that a professionally licensed and insured person/company is responsible for the lighting of the fireworks. All authorizations will be under the guidance of the CAO and the Fire Chief. Anyone in violation of this section of the by-law may be charged an amount of \$1000 per incident.

3.0 CONDITIONS FOR OPEN AIR BURNING

3.1 Except as provided in Section 4.1 of this Bylaw, no person shall start or tend a fire outdoors unless all of the following conditions are met:

3.1.1 the person is burning clean wood, brush, leaves, or discarded wood by-products;

3.1.2 a responsible adult person is present to tend and supervise the fire until it is completely extinguished;

3.1.3 the material is burned in a single pile that is no more than 2 metres in diameter and no more than 2 metres high;(i.e.: brush or clean wood products) (6 feet by 6 feet)

3.1.4 the fire is extinguished at the time the fire will no longer be tended by the person in charge of tending the fire;

3.1.5 the fire is at least 8 metres from any combustible Structures or objects; (26 feet)

3.1.6 the person tending the fire has tools and water adequate to contain the fire within the fire site;

3.1.7 the Chief Fire Official has declared that there is a low to moderate fire hazard during the fire season;

3.1.8 Open Air Fires are not permitted if the Chief Fire Official has declared a high or extreme fire hazard during the fire season;

3.1.9 the person responsible for the fire shall complete an application for a burning permit at the municipal office and shall be approved by Chief Fire Official;

3.1.10 Section 2.7 of this bylaw also applies to this Section;

3.1.11 Open Air Fires are not permitted in heavily populated areas of the Town of Northeastern Manitoulin and the Islands;

3.2 No person shall start or tend a fire outdoors in the Town of Northeastern Manitoulin and the Islands, for the purpose of burning grass or leaf litter in the area of **Ward 2**. (Town of Little Current) refer to Appendix A which forms a part of this by-law

3.3 In wards 1.3 and 4, The Chief Fire Official may, in extenuating circumstances for major projects or ceremonial activity not previously considered, authorize in writing a person to burn under conditions other than those permitted in Section 3.1 and 3.2 of this Bylaw.

4.0 CAMPFIRES FOR COOKING OR WARMTH

4.1 No person shall start or tend a campfire outdoors for the purpose of cooking or warmth unless all of the following conditions are met:

4.1.1 the fire does not exceed 66 centimetres in diameter (26") and 1 metre (3 ')in height;

4.1.2 a responsible adult person is present to tend the fire until the fire is extinguished;

4.1.3 the person tending the fire has tools and water adequate to contain the fire within the fire site;

4.1.4 the fire shall be surrounded by at least 1 metre (3 feet)of any non-combustible material;

4.1.5 the fire shall be at least 6 metres (19.5') from any combustible material and/or structure;

4.1.6 a municipal fire ban or restricted fire zone is not in effect;

4.1.7 it does not cause an adverse impact on other people or property;

4.1.8 the fire is extinguished at the time it will no longer be tended by the person in charge.

5.0 FIRE IN A CHIMINEA

5.1 No person shall set a fire in a Chiminea or other approved device bearing a CSA/ULC certification unless he or she ensures all of the following conditions are met;

5.1.1 the burning device;

a) is not located on a balcony;

b) is not located on any combustible surface;

c) is in good working order;

d) is located at least 3 metres from any structure, forest, or woodland;

5.1.2 all openings in the Chiminea are completely covered by metal wire mesh with grid openings no larger than 12 millimetres (1/4") in diameter;

5.1.3 the fire is confined to the Chiminea or approved device;

5.1.4 the person burns only clean dry wood or charcoal in the Chiminea; and

5.1.5 the person sets and maintains the fire in the Chiminea or approved device and extinguishes the fire at the time it will no longer be tended by the person(S) in charge of the fire, or has prior written consent of the Chief Fire Official or Designate to set or maintain the fire in the Chiminea or approved device during any other time.

6.0 FIRE DEPARTMENT EXEMPT

6.1 Any fires under the direct and constant supervision and control of the Town of Northeastern Manitoulin and the Islands Fire Department for training or demonstration purposes are exempt from the provisions of this Bylaw.

7.0 APPLICATION AND ISSUING OF BURN PERMITS

7.1 Only the Chief Fire Official or Designate is authorized to issue Burn Permits.

7.2 Any person in the Town of Northeastern Manitoulin and the Islands who wishes to obtain a Burn Permit shall apply in person to the Municipal Office to fill out an Application for the Burn Permit, it is preferred that the applicant provide up to 3 days notice for approval.

7.3 Any person in the Town of Northeastern Manitoulin and the Islands who wishes to obtain a Burn Permit shall apply in person to the Municipal Office to fill out an Application for the Burn Permit during normal business hours of the Municipal Office.

7.4 The applicant for a Burn Permit shall submit an application in the form established by the Chief Fire Official, and signed by the applicant.

7.5 The applicant for a Burn Permit shall provide in full at the time the application is submitted, all of the information and such documentation or materials as may be requested on the application form.

7.6 The Chief Fire Official or Designate shall review the application for a Burn Permit and the documentation or materials filed with the application, and shall;

7.6.1 approve the application and issue the Burn Permit to the applicant;

7.6.2 conditionally approve the application subject to such restrictions, regulations or conditions as the Chief Fire Official in his sole discretion considers advisable; or

7.6.3 refuse to approve the application.

7.7 Where the Chief Fire Official refuses an application for a Burn Permit, he/she shall advise the applicant in writing that the application has been refused..

7.8 Before issuing a Burn Permit, the Chief Fire Official or Designate shall insure the following information is on the burn permit.

7.8.1 the name of the applicant authorized to set the fire;

7.8.2 the expiry date of the Burn Permit;

7.8.3 any restrictions on the hours during which the fire may be set or maintained;

7.8.4 the municipal address of the property at which the fire may be set and if there is no municipal address for the property, a description for the purposed of identifying the property at which the fire may be set;

7.8.5 a description of what types of materials to be burned.

7.8.6 the restrictions, regulations or conditions to which that Burn Permit is subject; and

7.8.7 a statement that the permit is conditional upon compliance with the terms set out in the Burn Permit, this Bylaw, and applicable legislation.

7.9 The Chief Fire Official or Designate shall issue a Burn Permit by signing it and releasing it to the applicant.

8.0 BURN PERMIT

8.1 Burn permits are required the first day of January to the last day of December each year in Wards 1, 3, 4

8.2 Any burn permit issued under this by-law is personal to the permit holder, and shall not be transferred or assigned to any other person unless authorized by the Chief Fire Official or designate.

8.3 No person shall enjoy a vested right in the continuance of any burn permit

8.4 A Burn Permit remains the property of the Town of Northeastern Manitoulin and the Islands at all times

8.5 A Burn Permit shall be valid only for the period of time for which it was issued and shall expire on the date or in the manner specified in the Burn Permit.

8.6 No person holding a Burn Permit shall set or maintain a fire under the authority of the Burn Permit, except in accordance with the terms and conditions of Burn Permit and this Bylaw.

8.7 The holder of a Burn Permit shall keep the Burn Permit at the site of the fire authorized by the Burn Permit.

8.8 The holder of the Burn Permit shall produce the Burn Permit for the examination upon request by the Chief Fire Official, Designate or a Bylaw Enforcement Officer.

9.0 REVOCATION OF BURN PERMIT

9.1 The Chief Fire Official or Designate may at any time, at his or her sole discretion, revoke any Burn Permit if he or she reasonably believes that;

9.1.1 any of the information in the application or supporting documentation or materials is not accurate;

9.1.2 a term or condition of the Burn Permit is not being observed;

9.1.3 the fire will not be or is not being conducted in a fashion which observes all reasonable safety precautions or is otherwise a risk to person or property; or

9.1.4 there are any other grounds to terminate the Burn Permit which the Chief Fire Official or Designate in his or her sole discretion considers sufficient in the circumstances.

9.2 Every Burn Permit shall be automatically revoked without further action by the Chief Fire Official or Designate in the event that:

9.2.1 a restricted fire zone is declared under the Forest Fire Prevention Act, R.S.O. 1990, c. F.24, which affects the Township of Northeastern Manitoulin and the Islands; or

9.2.2 the Chief Fire Official or Designate declare a fire ban in the Town of Northeastern Manitoulin and the Islands or a part within to which the Burn Permit applies, pursuant to the Fire Protection and Prevention Act, 1997, S.O. 1997 c. 4.

9.3 Any person who holds a Burn Permit which has been revoked shall surrender the same to the Chief Fire Official, Designate or a Bylaw Officer upon request.

10.0 ENFORCEMENT, PENALTY AND RECOVERY OF COSTS

10.1 The Chief Fire Official, Deputy Fire Chief and Bylaw Enforcement Officer are hereby authorized to enforce the provisions of this Bylaw pursuant to the Provincial Offences Act.

10.2 Pursuant to Section 7.4 (4) of the Fire Protection and Prevention Act, the Chief Fire Official or Designate may enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether this Bylaw is being complied with.

10.3 Every person who contravenes or fails to comply with any of the provisions of this Bylaw is guilty of an offence and on conviction is liable to the fines and other penalties prescribed by the Provincial Offences Act.

10.4 The Chief Fire Official or Designate may at their discretion, issue a first time warning if the person or persons setting out the fire agrees to immediately extinguish the fire.

10.5 The Municipality may invoice the person or persons responsible for setting the fire to recover the costs associated with the extinguishment of an Open Air fire, which has been lit in contravention of this Bylaw, at the municipality fee for service rates. These costs are above any set fines.

11.0 ADMINISTRATION

11.1 This Bylaw applies to the entire geographic area of the Municipality.

11.2 This Bylaw shall come into effect upon final passing.

11.3 This Bylaw repeals any previous Open Air Bylaw in the Town of Northeastern Manitoulin and the Islands.

Read a first, second and third time and passed in Council on the 5th day of April 2016.

Mayor Al McNevin

Clerk Pam Cress

TOWN OF NORTH EASTERN MANITOULIN AND THE ISLANDS

OPEN AIR BURNING PERMIT

APPENDIX "B"

BY-law # 2016-14, as amended

NEMI FIRE DEPARTMENT
PO BOX 608
LITTLE CURRENT, ONTARIO
POP 1K0
705-368-3335

BURNING PERMIT FOR OPEN AIR FIRES	PERMIT:	PERMIT #
Permission is hereby granted to:		
Name: _____		
Address: _____ _____		
Telephone : Home _____ Work _____ Cell _____		
For the purpose of having an open fire:		
Date:		
Time:		
Location:		
Material to be burned:		
Extinguishment method:		
The applicant agrees to comply with the provisions of By-law 2016-14 as amended, and also agrees to assume all responsibility for any damages occurring from the fire for which this permit is issued.		
Date: _____	Applicant Signature: _____	
Date: _____	Signature of Issuer Office: _____	

All persons setting an open air fire in the Municipality shall first obtain a fire permit from the fire department pursuant to this section. The material to be burned shall be limited to wood or by-products of wood. A person who has obtained a fire permit pursuant to this section shall:
ensure that the means of extinguishing the fire designated in the permit form is available at the site at all times during the fire;
The said permit shall be in accordance with the application for burn permit.

TOWN OF NORTHEASTER MANITOULIN AND THE ISLANDS
BURNING PERMIT APPLICATION

DATE OF APPLICATION: _____

APPLICANT'S NAME: _____

EMAIL: _____

PHONE: _____

HOME _____ WORK _____ CELL _____

911 ADDRESS OF BURN SITE: _____

APPLICANTS MAILING ADDRESS:

PO BOX _____ TOWN _____ POSTAL CODE _____

DESCRIPTION OF MATERIALS TO BE
BURNED: _____

APPROXIMATE SIZE OF PROPOSED BURN AREA

DESCRIPTION OF AVAILABLE MAN POWER AND SURPRESSION EQUIPMENT TO
CONTROL AND PREVENT THE SPEAD OF
FIRE: _____

PROPOSED DATE OF BURN: _____

APPLICANT MUST ABID BY THE FOLLOWING RULES

- 1: Fires in excess of 2 meters wide and 2 meters high may be required by the Fire Chief to be separated and burned in smaller piles.
- 2: Household kitchen garbage or construction materials, or any other materials containing rubber, plastic, paint, petroleum, tar, chemical waste, and pressure treated wood, synthetic or man made materials are not permitted, and should be taken to the land fill site.
- 3: All fires shall be constantly attended by person holding the burning permit or their designate and shall have adequate tools and water on site to control the fire.
- 4: No fires are permitted which may cause an inconvenience or irritation to others.
- 5: All fires must be fully extinguished before a person may leave the site.
- 6: No burning is permitted within the "No Burning" area as per Appendix "A" of this By-Law.
- 7: A person within the no burning area ward two (Little Current) may burn in a enclosed wood burning devise i.e. a chiminea, or approved device as approved by the Chief Fire Official or designate. Only clean dry wood or charcoal yielding little smoke may be used in these devises.
- 8: ANY PERSON WHO CONTAVENES ANY PROVISION OF THIS BY-LAW IS GUILTY OF AN OFFENCE UNDER THE PROVINCIAL OFFENCES ACT, AND MAY BE BILLED BY THE MUNICIPALITY FOR RECOVERY OF COST OF EXTINGUISHMENT AS PER MUNICIPAL FEE FOR SERVICE RATES.

I do hereby acknowledge that I have read the above rules and will abide by the restrictions of By-Law No. 2016-14.

Signature of Applicant

Signature of Town Representative

Town of Northeastern Manitoulin and the Islands
Part 1 Provincial Offences Act
Bylaw 2016-14
Open Air Burning
Appendix 'C'

Item	Short form wording	Provision creating or defining offence	Set fine
1	Burning during unsafe conditions	Section 2.1	\$ 250
2	Use of Burn Barrel	Section 2.2	\$ 250
3	Burning in unapproved device	Section 2.3	\$ 250
4	Fail to have a competent responsible adult in attendance	Section 2.4	\$ 250
5	Fail to supervise, control or extinguish fire	Section 2.5	\$ 250
6	Burn prohibited materials	Section 2.6	\$ 250
7	Burn during municipal Fire Ban	Section 2.10	\$ 700
8	Burning when wind creates unsafe or adverse effects	Section 2.7	\$250
9	Burn on highway, municipal property, asphalt, Municipal park without permission	Section 2.9	\$ 250
10	Fail to have a competent responsible adult present to supervise and extinguish	Section 3.1.2	\$ 250
11	Burn pile in excess of 2m in diameter, and or 2m in height	Section 3.1.3	\$ 250
12	Burn pile in not with proper distance from combustible structures or objects	Section 3.1.5	\$ 250
13	Fail to supply tools and water adequate to contain fire and extinguish	Section 3.1.6	\$ 250
14	Fail to obtain burn permit	Section 3.1.9	\$ 250
15	Campfire in excess of 66 centimetres in diameter and 1 meter in height	Section 4.1.1	\$ 250
16	Fails to have competent responsible adult to attend to camp fire	Section 4.1.2	\$ 250
17	Fails to have fire surrounded by 1 meter of non-combustible material	Section 4.1.4	\$ 250
18	Camp fire is not proper distance from combustible materials and or structure	Section 4.1.5	\$ 250
19	Camp fire causing impact on other people and property	Section 4.1.7	\$ 250
20	Camp fire left unattended	Section 4.1.8	\$ 250
21	Burning device in unsafe location and or not in good working condition	Section 5.1.1	\$ 250
22	Fire is not confined to approved burning device	Section 5.1.3	\$ 250
23	Fail to obtain additional burn permit for continuance	Section 8.3	\$ 250
24	Fail to keep burn permit at the site of the burn	Section 8.7,	\$ 250
25	Failure to produce a Burn Permit upon request	Section 8.8	\$250

Note: In addition to the set fine the total cost of fire suppression services may be charged to violators of the by-law 2016-14

Note: the general penalty provision for the offences listed above is section 10.3 of by-law 2016-14, a certified copy of which has been filed