

CORPORATION OF THE TOWNSHIP OF MCKELLAR

BY-LAW NO. 2005-26

**as amended by By-law No. 2011-20 and By-law No. 2012 -15
(Office Consolidation)**

**Being a By-law to provide for the regulation of Open Air
Burning and precautions to be taken by persons setting fires.**

WHEREAS Section 7.1 (1) of the Fire Prevention and Protection Act, S.O. 1997 as amended, provides that the Council 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 the Fire Prevention and Protection Act, S.O. 1997 provides that the Chief Fire Official is required to approve open air burning, appropriate fire safety provisions contained in a by-law may be used as conditions of approval; 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 by-laws imposing fees 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 by-law or otherwise that any matter or thing be done, the council may by by-law 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 Township of McKellar hereby enacts as follows:

1. DEFINITIONS:

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

- 1.01 **“Campfire”** means a small fire set for the purpose of cooking and/or warmth. Can best be described as a fire no greater than 1 metre by 1 metre by 1 metre high;
- 1.02 **“Chief Fire Official”** means the Fire Chief as defined in the Fire Protection and Prevention Act or Designate;
- 1.03 **“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.
- 1.04 **“Fire Department”** means the McKellar Township Fire Department;
- 1.05 **“Fire Season”** means **April 1 to October 31** of each year;
- 1.06 **“Fire Hazzard, Low, Moderate, High or Extreme”** mans a Low, Moderate, High or Extreme Fire Hazzard as declared by the Chief Fire Official or designate.
- 1.07 **“Municipality”** means the Corporation of the Township of McKellar.
- 1.08 **“Municipal Employee”** means an officer, servant, or other employee of the municipality,

including a volunteer fire fighter;

- 1.09 **“Open Air Fire”** means fires that are set outdoors and are not contained in the confines of a cooking device; fires that are set for the purpose of disposing of clean wood debris, including fires set in outside incinerators; Open fires cannot be more than 2 metres in diameter by 2 metres high; an Open Air Fire does not include a campfire set for the purpose of cooking;
- 1.10 **“Person”** includes an association, firm partnership, or corporation.

2. GENERAL BURNING RESTRICTIONS

- 2.01 No person shall start a fire outdoors unless conditions will allow the fire to burn safely from ignition to extinguishment.
- 2.02 No person who starts a fire outdoors shall leave the fire without leaving a competent person in charge of the fire.
- 2.03 Any person who starts a fire outdoors 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.
- 2.04 No person shall start any fire to burn, or shall burn outdoors, any household kitchen garbage or construction materials or 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.
- 2.05 No person shall start or tend any fire outdoors when the wind or conditions are such that it may cause any of the following:
- (a) a decrease in visibility on any highway or road;
 - (b) the rapid spread of fire through grass, brush, forested area or other property that was not intended to be burned;
 - (c) an adverse impact on other people or property;
 - (d) the contravention of any municipal law, provincial or federal legislation.
- 2.06 No person shall start or tend a fire outdoors during a period of Extreme Fire Hazard.
- 2.07 Notwithstanding any provisions herein, no person shall set or maintain a fire;
- (a) in contravention of the Ontario Fire Code, the Environmental Protection Act, or any other statutory requirements of the Province of Ontario, or the Government of Canada;
 - (b) on any highway, or public property within the Municipality;
 - (c) on any asphalt surface;
 - (d) in any park owned or operated by the Municipality without the written permission of the Municipality;
- 2.08 During a municipal fire ban or a restricted fire zone, no open air fires are allowed.

3.0 CONDITIONS FOR OPEN AIR BURNING

- 3.01 Except as provided in Section 4.1 of this By-law, no person shall start or tend a fire outdoors during Fire Season (April 1 - October 31) unless all of the following conditions are met:
- (a) the person is burning wood, brush, leaves or discarded wood by-products;
 - (b) a responsible person is available to tend and supervise the fire until it is completely extinguished;
 - (c) the material is burned in a single pile that is less than 2 metres in diameter and less than 2 metres high;
 - (d) the fire is started not earlier than 6:00 p.m. in the evening and extinguished not later

- than 10:00 a.m. the following day or earlier;
 - (e) the fire is at least ten (10) metres from any combustibile structures or objects;
 - (f) the person tending the fire has tools or water adequate to contain the fire within the fire site;
 - (g) the Chief Fire Official has declared that there is a Low Fire Hazzard or Moderate Fire Hazzard;
 - (h) Open Air Fires are not permitted if the Chief Fire Official has declared a High or Extreme Fire Hazzard.
 - (i) Section 2.7 of this By-law also applies to this Section.
- 3.02 No person shall make or tend a fire in an incinerator during Fire Season (April 1 - October 31) unless all of the following conditions are met:
- (a) the person is burning clean wood, brush, leaves or discarded wood by-products;
 - (b) the incinerator is an enclosed device constructed entirely of non-combustible material;
 - (c) the incinerator is placed on base mineral soil, bare rock, concrete or non-combustible material of at least 4cm. (2") thickness, extending a minimum of 30 cm. (12") beyond the perimeter.
 - (d) the incinerator is at least eight (8) metres away from any forest, woodland or building;
 - (e) the incinerator is at least eight (8) metres away from any flammable materials;
 - (f) the outlet of the incinerator is covered with a screen having a mesh size of not more than five (5) millimetres (1/4");
 - (g) a responsible person is available to tend and supervise the fire until it is completely extinguished;
 - (h) the fire is started not earlier than 6:00 p.m in the evening and extinguished not later than 10:00 a.m. the following day or earlier;
 - (i) the Chief Fire Official has declared that there is a Low Fire Hazard or Moderate Fire Hazard;
 - (j) incinerator fires are not permitted if the Chief Fire Official has declared a High or Extreme Fire Hazard;
 - (k) Section 2.7 of this By-law also applies to this Section.
- 3.03 No person shall start or tend a fire outdoors during Fire Season for the purpose of burning grass or leaf litter unless all of the following conditions are met:
- (a) the total area to be burned does not exceed 0.4 hectares (1 acre);
 - (b) a responsible person is available to tend the fire until the fire is extinguished;
 - (c) the length of the flaming edge does not exceed 30 metres;
 - (d) the fire is started after 6:00 p.m. and is extinguished before 10:00 a.m. the following day; and
 - (e) the person tending the fire has tools and water adequate to contain the fire within the fire site.
- 3.04 The Chief Fire Official may, in extenuating circumstances for major projects or activity not previously considered, authorize in writing a person to burn under conditions other than those permitted in Sections 3.01, 3.02 and 3.03 of this By-law.
- 4.0 CAMPFIRE FOR COOKING**
- 4.01 No person shall start or tend a campfire outdoors for the purpose of cooking unless all of the following conditions are met:
- (a) the fire does not exceed 1 metre in diameter and 1 metre in height;
 - (b) a responsible person is available to tend the fire until the fire is extinguished;
 - (c) the person tending the fire has tools and/or water adequate to contain the fire within the fire site;
 - (d) the fire must be surrounded by at least 1 metre of non-combustible material; and be at least 2 metres from any combustibile material; and
 - (e) a municipal fire ban or a restricted fire zone is not in effect.
 - (f) Campfires are not permitted, including those in organized camp grounds, if the Chief Fire Official has declared an Extreme Fire Hazzard or a Fire Ban has been declared in

effect.

5.0 FIRE DEPARTMENT EXEMPT

5.01 Any fires under the direct and constant supervision and control of the McKellar Township Fire Department are exempt from the provisions of this By-law.

6.0 ENFORCEMENT, PENALTY AND RECOVERY OF COSTS

6.01 The Chief Fire Official, Deputy Fire Chief and By-law Enforcement Officer are hereby authorized to enforce the provisions of this By-law pursuant to the Provincial Offences Act.

6.02 Pursuant to Section 7.1(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 By-law is being complied with.

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

6.04 In addition to any fines or penalties established elsewhere in accordance with this By-law, the person or persons responsible for setting or maintaining, or permitting to be set or maintained, an Open Air Fire shall be liable to the Township by way of a fee or charge, as calculated in accordance with Schedule 'A' to this By-law, on account of those costs and expenses incurred by the Township in:

- (a) Investigating and responding to a complaint made to the Township or the Fire Department by any person acting reasonably and in good faith, which complaint results from setting and/or maintenance of the Open Air Fire and, in the opinion of the Chief Fire Official or the Chief Fire Official's designate, smoke or emissions from such Open Air Fire were causing or had caused actual discomfort to the complainant; and
- (b) the dispatching of Fire Department vehicles and fire-fighting personnel for the purpose of controlling or extinguishing the Open Air Fire.

6.05 All fees and charges payable under this By-law are due and owing to the Municipality within thirty (30) days of the date of an invoice rendered to the person liable to pay them.

6.06 All overdue accounts shall accrue interest at the rate of 1.25% per month (15% per annum), calculated monthly, from the due date until paid in full.

6.07 If a person who sets or maintains an Open Air Fire contrary to this By-law is not the owner of the property but occupies or is using the property with the owners consent, the owner and the person conducting the Open Air burning shall be jointly and severally liable to pay any fees and charges imposed by this By-law.

6.08 All fees and charges payable under this By-law constitute a debt of the person liable for payment of them to the Municipality and, in the case of owners of a property being responsible for payment of the fees and charges, the Municipality may add the amount owing to the tax roll for the owner(s) real property and collect them in like manner as municipal taxes.

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

7.0 SEVERABILITY

7.01 If any section, clause or provision of this By-Law is for any reason declared to be invalid by a court of competent jurisdiction, the same shall not effect the validity of the By-Law as a whole or in part thereof, other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention that all the remaining sections, clauses or provisions of this By-Law shall remain in full force and effect until repealed.

8.0 **ADMINISTRATION**

8.01 This By-law applies to the entire geographic area of the municipality.

8.02 This By-Law shall come into force and take effect on the date of its passing.

READ a FIRST and SECOND time this 21st day of November, 2005

(Original Signed)

Reeve

(Original Signed)

Clerk

READ a THIRD time and **PASSED** in **OPEN COUNCIL** this 21st day of November, 2005.

(Original Signed)

Reeve

(Original Signed)

Clerk

SCHEDULE "A" TO BY-LAW 2005-26 as amended by By-law No. 2011-20

COST OF FIRE DEPARTMENT SERVICES AND FEES

1. The expenses for which the Person may be liable cover the cost of sufficient personnel and equipment required to control a fire, as referred to in Section 6 of this By-law and such costs have been deemed as being:
 - a) \$420.00 for each Fire Department vehicle attending for the first hour or part thereof.
 - b) \$210.00 for each Fire Department vehicles attending for every additional half hour or part thereof.
 - c) \$420.00 for responding to a call where services are not required.

This shall be calculated from the initial dispatch of the Fire Department or any Fire Department under contract or agreement, until such time as each vehicle is back in service (defined as when the vehicle is back at the hall and has been replenished with the requirements for the unit to respond to the next activation).

These fees are in addition to any fines or penalties established elsewhere, in accordance with this By-law.

Costs will be invoiced by the Municipality and will be due thirty days from the date of the invoice and interest shall accrue and be added to the amount at the rate of 1.25% per month commencing 30 days following the delivery or sending of the invoice.

The above cost and fee schedule may be amended at any time at the discretion of the Council of the Township of McKellar.

CORPORATION OF THE TOWNSHIP OF MCKELLAR

**By-law No. 2005-26, as amended, OPEN BURNING BY-LAW - SET FINE SCHEDULE
Part I Provincial Offences Act**

<u>ITEM</u>	<u>COLUMN 1</u> Short Form Wording	<u>COLUMN 2</u> Provision Creating or Defining Offence	<u>COLUMN 3</u> Set Fine
1.	Fail to supervise/control fire	Section 2.03	\$125.00
2.	Burn prohibited material(s)	Section 2.04	\$125.00
3.	Burn during windy conditions	Section 2.05	\$125.00
4.	Burn during Extreme Fire Hazzard	Section 2.06	\$125.00
5.	Burn on highway/public property	Section 2.07(b)	\$125.00
6.	Burn pile in excess of 2 m in diameter	Section 3.01(c)	\$125.00
7.	Burn pile in excess of 2 m in height	Section 3.01(c)	\$125.00
8.	Burn after 10 a.m. and before 6 p.m.	Section 3.012(d)	\$125.00
9.	Burn during High or Extreme Fire Hazard	Section 3.01(h)	\$125.00
10.	Burn incinerator after 10 a.m. and before 6 p.m.	Section 3.02(h)	\$125.00
11.	Burn during High or Extreme Fire Hazard	Section 3.02(j)	\$125.00
12.	Campfire in excess of 1 m in diameter	Section 4.01(a)	\$125.00
13.	Campfire in excess of 1 m in height	Section 4.01(a)	\$125.00
14.	Campfire during fire ban	Section 4.01(e)	\$125.00
15.	Campfire during extreme hazard or fire ban	Section 4.01(f)	\$125.00

NOTE: The Penalty Provision for the offences indicated above is Section 6 of By-law No. 2005-26, as amended, a certified copy of which has been filed.