

# THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

## BY-LAW NO. 17-35

**BEING** a by-law to regulate the setting and maintaining of Open Air Burning for the Corporation of the Municipality of Mississippi Mills.

**WHEREAS** Section 2.4.4.4. (1)(a) of the Fire Code, Ontario Regulation 213/07, prohibits Open Air Burning unless approved;

**AND WHEREAS** Section 128 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that a Municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are, or could become or cause, a public nuisance;

**AND WHEREAS** Section 425(1) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, permits Council to pass by-laws providing that any person who contravenes any by-law of the Municipality is guilty of an offence;

**AND WHEREAS** Section 7.1(4) of the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended, provides that a Municipality may appoint an officer to enter upon land and into structures, at any reasonable time, to inspect the land and structures to determine whether by-laws enacted in accordance with this section are being complied with;

**AND WHEREAS** Section 391(1) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that despite any Act, a Municipality and a local board may impose fees or charges on any person for services or activities provided or done by, or on behalf of it, or for costs payable by it, for services or activities provided or done by or on behalf of any other Municipality or local board;

**AND WHEREAS** Section 446(1) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that if a Municipality has the authority by any Act, or under a by-law, to direct or require a person to do a matter or thing, the Municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense and Section 446(3) provides that the Municipality may recover the costs of doing a matter or thing from the person required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as Property taxes;

**AND WHEREAS** the Council of the Corporation of the Municipality of Mississippi Mills is desirous of enacting a by-law to regulate the setting and maintaining of Open Air Burning and reducing the negative health effects, public nuisance, and negative environmental impacts arising from such fires;

**NOW THEREFORE** the Council of the Corporation of the Municipality of Mississippi Mills enacts as follows:

## Short title

1. This by-law may be referred to as the “Open Air Burning”.

## Definitions

2. In this by-law, the following terms have the specified meanings:
  - a) “**Adverse effect**” means one or more of:
    - i. impairment of the quality of the natural environment for any use that can be made of it;
    - ii. injury or damage to property or to plant or animal life;
    - iii. harm or material discomfort to any person;
    - iv. an adverse effect on the health of any person;
    - v. impairment of the safety of any person;
    - vi. loss of enjoyment of normal use of property;
  - b) “**Barbeque**” means an appliance or structure designed and intended solely for the cooking of food and fueled by charcoal, natural gas or propane.
  - c) “**Building**” means any structure used or intended for supporting or sheltering any use of occupancy.
  - d) “**Brush Fire**” means an open air fire where the material to be burned does not exceed 3m (9.84ft) 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.
  - e) “**Burn drum**” means an open air fire set and maintained in an open top steel barrel that does not exceed 1.5 m (4.92 ft) in diameter and 1.5 m (4.92 ft) in height and where the open air fire is set and maintained for the purposes of burning wood, tree limbs, branches and non-compostable material limited to paper and sisal twine.
  - f) “**Campfire**” means an open fire area where the material to be burned does not exceed 60cm (23.62 inches) in width and 60cm (23.62 inches) in height that is set and maintained solely for the purposes of cooking food, providing warmth or recreational enjoyment.
  - g) “**Campground**” means an area of Property owned or operated by a person and that contains Camp Sites for the purpose of providing overnight accommodations for tents and trailers in exchange for monetary payment.
  - h) “**Council**” means the Council of the Corporation of the Municipality of Mississippi Mills.
  - i) “**Dangerous conditions**” mean any condition as determined by the Fire Chief that increases the risk of the spread of a fire or is adverse to public safety.

- j) **“Farming business”** means a farming business as defined in the Farm Registration and Farm Organizations Funding Act, 1993,c.21 as amended.
- k) **“Fire Ban”** means a prohibition on all burning issued by the Fire Department of The Corporation of the Municipality of Mississippi Mills.
- l) **“Fire Break”** means open space that surrounds an open air fire and serves as a non-combustible obstacle to the spread of fire.
- m) **“Fire Chief”** means a Fire Chief appointed under subsection 6 (1), (2) or (4) of the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended, for The Corporation of the Municipality of Mississippi Mills, or designate.
- n) **“Fire Department”** means The Corporation of the Municipality of Mississippi Mills Fire Department and any member thereof.
- o) **“Fire Season”** means the period from the 1<sup>st</sup> day of April to the 31<sup>st</sup> day of October in any year.
- p) **“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.
- q) **“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.
- r) **“Highway”** means a common and public highway and includes any bridge or other structure forming part of the highway and, except as otherwise provided, includes a portion of a highway.
- s) **“Listed”** means equipment included in a list published by a certification organization accredited by the Standards Council of Canada (i.e. ULC, CSA).
- t) **“Maintain”** means to allow an open air fire to continue to burn and “maintained” and “maintaining” have a corresponding meaning.
- u) **“Material to be burned”** means the total volume of the materials contained in the fire.
- v) **“Municipality”** means The Corporation of the Municipality of Mississippi Mills or the geographic area of the Municipality of Mississippi Mills as the context requires.

- w) **“Normal farm practice”** means a practice that:
- i. 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
  - ii. makes use of innovative technology in a manner consistent with proper advanced farm management practices.
- x) **“Nuisance”** means smoke or odour that interferes with the enjoyment of neighbouring Properties.
- y) **“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 drums, windrows and outdoor fireplaces, but does not include barbecues.
- z) **“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 (3.28ft) in any direction and includes, but is not limited, to a chiminea.
- aa) **“Owner”** includes any person, firm or corporation having control over any portion of buildings, Property or premises and may include landlords, building managers, rental agents, agents, tenants, trustee, a representative of the Owner, superintendents and, includes, any other person to whom rent is payable.
- bb) **“Permit”** means a Permit issued by the Mississippi Mills Fire Department for the purpose of allowing Open Air Burning, subject to compliance with a set of rules and guidelines,
- cc) **“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.
- dd) **“Prohibited material”** 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*, R.S.O 1990, *Chapter E. 19* as amended.
- ee) **“Set”** means to light an open fire and “setting” has a corresponding meaning.

- ff) **“Windrow”** means an open air fire where the material to be burned does not exceed 50m (164.04ft) in length, 5m (16,40ft) 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.

Definitions of words and phrases used in this by-law that are not included in this list of definitions have the definitions assigned by the Ontario Fire Code, or, where not defined, the meaning commonly assigned.

### **Interpretation**

3. In this by-law, a word interpreted in the singular number has a corresponding meaning when used in the plural.
4. This by-law includes the schedule attached hereto and the schedule are hereby declared to form part of this by-law.
5. It is declared that if any section, subsection or part or parts thereof be declared by any Court of Law to be 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.
6. 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".

### **Prohibitions**

7. No person shall set or maintain an open air fire without first having obtained the necessary permit from the Fire Chief.
8. Despite Section 7, no person shall set or maintain an open air fire within the Ward of Almonte, the hamlet of Pakenham, and other areas of the Municipality that cannot meet the setback provisions outlined in Sections 6, 7 and 8 of this by-law.
9. Subject to Section 7, a person owning or operating a campground as identified on Schedule "A" may apply for a permit to set campfires or open air fires in an outdoor fireplace.
10. No person shall set or maintain an open air fire when a fire ban on open air fire has been issued by the Fire Chief or designate.
11. 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.

## **Application for an Open Air Fire Permit**

12. Any person eighteen (18) years of age or older may apply for an open air fire permit to the Fire Chief prior to the proposed date of the first open air fire.
13. The application 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 if it differs from the address of the applicant. A farming business may offer multiple locations to reflect their agricultural property;
  - d) an indemnification in writing or electronically in accordance with the terms of Section 35; and
  - e) such other information as may be required by the Fire Chief
14. Subject to Sections 12 and 13 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.
15. In addition to complying with Sections 12 and 13, a person who applies for an agricultural open air fire permit shall also provide, at the time an application is made, the farm business registration number that is issued pursuant to the provisions of the Farm Registration and Farm Organizations Funding Act, , 1993, S.O. 1993, c. 21, as amended.
16. 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
  - c) cause adverse effects;
  - d) here are reasonable grounds to believe that the open air fire will
  - e) result in a breach of this by-law, the FPPA, or any other provincial or federal statute.

## **Conditions for Permit Issuance**

17. No permit holder shall undertake to set or maintain any open air fire except in accordance with the conditions of the permit.
18. The permit holder shall comply at all times with the FPPA and with all other applicable municipal by-laws and provincial and federal laws
19. 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.
20. No holder of a permit issued under this by-law shall set or maintain an open air fire unless the permit holder,

- a) notifies the Fire Chief for permission on the day of each proposed open air fire;
- b) 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;
- c) produces his or her permit upon being so directed by the Fire Chief;
- d) immediately extinguishes the fire upon being so ordered by the Fire Chief;
- e) complies at all times with the requirements of Sections 23 and 24 and, where applicable, Sections 25, 26, 27 or 28; and
- f) 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.

21. The Fire Chief may attach such additional conditions to a permit as he or she deems necessary to ensure public safety.

22. A permit for an open air fire is not transferable to another person or to a new location.

### **General Requirements for Open Air Fires**

23. Where the material to be burned in an open air fire is 2m or less in length (Medium Open Air Fire), width and height or is in a burn drum, no permit holder shall set or maintain an open air fire,

- a) at a distance of less than 25m (82ft) from any building, hedge, fence, overhead wiring or a highway and at a distance of less than 25m (82ft) from another open air fire;
- b) where combustible material, other than a building, hedge, fence, or overhead wiring or a highway is present within a radius of 15m from the open air fire;
- c) where the size of the open air fire will exceed the limits set by this by-law;
- d) that is set or maintained with the aid of flammable or combustible liquids of any kind;
- e) that uses fuel other than untreated wood and wood fiber products like non-laminated paper and cardboard and boxboard, brush, tree branches / limbs and leaves or, if in a burn drum, fuel other than that permitted in a burn drum;
- f) 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, R.S.O 1990, Chapter E.19, as amended,
- g) between the hour of 10:00am and 6:00pm during fire season, with the exception of campfires and outdoor fireplaces that comply with the requirements of this by-law; or
- h) unless the additional conditions specified on the permit deemed necessary by the Fire Chief have been met.

24. Where the material to be burned in an open air fire is between 2m and 3m in length (Large Open Air Fire), width and height, no permit holder shall set or maintain an open air fire,
- a) at a distance of less than 60m from any building, hedge, fence, overhead wiring or a highway and at a distance of less than 25m (82ft) from another open air fire;
  - b) where combustible material other than a building, hedge, fence, or overhead wiring or a highway is present within a radius of 25m(82ft) from the open air fire; and
  - c) unless the permit holder complies with the conditions of Section 23, clauses (c) to (h) inclusive.

### **Additional Requirements for Campfires**

25. Despite clauses (a), (b) and (g) of Section 23, no permit holder shall set or maintain any campfire,
- a) where the material to be burned exceeds 60cm (23.62 inches) in width at the largest point or is piled higher than 60 cm(23.62 inches) in height;
  - b) that uses material other than dry firewood;
  - c) unless in compliance with the requirements of Section 23 clauses (c) to (f) inclusive and clause (h); and
  - d) unless the campfire is located a distance of not less than 5m(16ft) from any building, hedge, fence, overhead wiring or other combustible material or a highway where the campfire is not surrounded by non-combustible material;

### **Additional Requirements for Outdoor Fireplaces**

26. Despite clauses (a), (b) and (g) of Section 23, no permit holder shall set or maintain an open air fire in an outdoor fireplace unless,
- a) the outdoor fireplace is located a distance of not less than 5 m (16ft) from any building, hedge, fence, overhead wiring or other combustible material or a highway and is equipped with a spark arrester;
  - b) the outdoor fireplace is located on a non-combustible surface extending beyond the outdoor fireplace to a dimension equal to the height of the outdoor fireplace;
  - c) the outdoor fireplace uses only dry firewood; and
  - d) in compliance with the requirements of Section 23, clauses (c) to (f) inclusive and clause (h).

### **Additional Requirements for Windrows**

27. No permit holder shall set or maintain an open air fire that is a windrow unless,
- a) the windrow does not exceed the size limits set out in this by-law;
  - b) the windrow is located a distance of not less than 90m(295ft) from a building, overhead wiring or highway;

- c) the windrow is located a distance of not less than 60m from a wooden fence rail, hedge or standing timber;
- d) subject to Section 27(b) and (c), the windrow is located a distance of not less than 30m (98ft) from any other combustible material;
- e) a firebreak of 5m (16ft) in width surrounds the windrow until the open air fire is extinguished;
- f) the windrow is constructed at right angles to the prevailing wind direction;
- g) the windrow is constructed on soil other than peat soil types;
- h) there is a separation distance of at least 15m (49ft) between the ends of the windrows and at least 25m(82ft) 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 each day that the windrow is set and maintained until the windrow is extinguished;
- k) the permit holder ceases to add material to the windrow 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) without a suitable means to control or extinguish the agricultural fire with a earth moving equipment (i.e. backhoe, front end loader, bobcat, etc.)
- n) the permit holder ensures that a person eighteen (18) years of age or older maintains constant watch and control over the windrow from the time of the setting of the windrow until there is no visible open flame; and
- o) the permit holder complies with conditions of clauses (d) to (f) inclusive and clause (h) of Section 23.

### **Additional Requirements for Specific Event**

- 28. Despite Section 8 of this by-law, 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.
- 29. The requirements of Sections 12-16 of this by-law apply to an application under Section 28.
- 30. The Fire Chief may issue an open air fire permit subject to compliance with Sections 25 or 26 as applicable and any additional conditions imposed by the Fire Chief.
- 31. A site inspection of the proposed site of the open air fire may be required by the Fire Chief prior to issuing a permit.
- 32. A permit issued pursuant to Sections 7 - 11 is valid only for the day or days of the specific event.
- 33. Despite Sections 17-22 a permit may be issued to the same community not-for-profit organization or religious institution for the same location for setting and maintaining a

campfire or an open air fire in an outdoor fireplace at more than one event during the calendar year and this permit shall be valid for the calendar year.

34. No permit holder for a specific event open air fire shall set or maintain a campfire or an outdoor fireplace that is not in compliance with the requirements of Sections 7-11.

### **Delegation of Authority - Updating Schedule**

35. The Fire Chief is authorized to approve amendments to the schedule to this 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:
- a) population density;
  - b) building density;
  - c) risk management issues, including but not limited to incidence of false alarms and proximity to forested areas.

### **Indemnification**

36. The applicant shall indemnify and save harmless the Corporation of the Municipality of Mississippi Mills from any and all claims, demands, causes of actions, 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 employee, directors, contractors and agents.

### **Revocation**

37. 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.
38. 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.

### **Exemptions**

39. The Mississippi Mills 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.
40. 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.
41. The Municipality shall be exempt from the provisions of this by-law with respect to open air fires related to municipal works.

## Offences and Penalties

42. Every person who contravenes any of the provisions of this by-law is guilty of an offence.
43. 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*.
44. 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
  - c) 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.
45. 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 Council. Any costs chargeable to any person pursuant to this section shall be invoiced to the person and paid to the Municipality within thirty (30) days of the date of such invoice, failing which the costs may be deemed to be municipal taxes and added by the Treasurer of the Municipality to the Collector's Roll and collected in the same manner and with the same priority as municipal taxes.

## Enactment

46. That By-law No. 11-61 is hereby repealed.
47. This by-law shall come into force on the date of passing.

**BY-LAW READ**, passed, signed and sealed in open Council this 4<sup>th</sup> day of April, 2017.

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Shaun McLaughlin, Mayor

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Shawna Stone, Clerk

**SCHEDULE "A" TO BY-LAW NO. 17-35**

**CAMPGROUNDS**

**Campground**

**Municipal Address**

Riverbend

2918 County Rd 29

Bayview Lodge Resort

467 Bayview Lodge Rd

Clayton lakeside (Beaton)

168 Lakeside Parkway

White Lake Campground

3200 3<sup>rd</sup> Conc. Pakenham