



THE CORPORATION OF THE TOWNSHIP OF CARLOW/MAYO

BYLAW 23-2021

BEING A BYLAW FOR REGULATING OPEN AIR FIRES IN THE TOWNSHIP OF
CARLOW/MAYO

WHEREAS section 7.1 of the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended, Council may pass bylaws to establish regulations and precautions for the setting of fires, including the prevention of the spreading of fires; and regulating the setting of open-air fires, including establishing the times during which open-air fires may be set;

AND WHEREAS section 2.4.4.4 (1) of the Fire Code, Ontario Regulation 213/07, as amended, prohibits open-air fires unless approved, or unless such fire consists of a small, confined fire, supervised at all times, and used to cook food on a grill, barbeque or spit and is commensurate with the type and quantity of food being cooked;

AND WHEREAS The *Municipal Act*, 2001 Subsection 10(2) 6 and 8 authorizes a Municipality to pass bylaws respecting the health, safety and well being of persons and the protection of persons and property;

AND WHEREAS section 429 (1), of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, provides that a Municipality may establish a system of fines for offences under a bylaw of the Municipality passed under this Act. 2006, c. 32, Sched. A, s. 184;

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 bylaw, 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 WHEREAS Section 446 (2) provides for the purposes of subsection (1), the Municipality may enter upon land at any reasonable time. 2006, c. 32, Sched. A, s. 184;

AND WHEREAS Section 446 (3) and (4) provides that the Municipality may recover the costs of doing a matter or thing under subsection (1) from the person directed or 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. 2006, c. 32, Sched. A, s. 184;

AND WHEREAS Council deems it desirable to regulate and prescribe conditions for open-air fires within the Township of Carlow/Mayo;

NOW THEREFORE the council of the Corporation of the Township of Carlow/Mayo enacts as follows:

PART 1- DEFINITIONS

Applicant- means a person, organization, company, or group that makes an application to the Community Fire Safety Officer for permission to set or conduct an open-air fire.

Approved Propane Appliance- means any propane fixture, appliance, apparatus, or device that uses propane as a source of fuel or light, heat or cooking and is CSA or ULC approved listed fixture, appliance, apparatus, or device. Approved Propane Appliances shall not be modified or used for anything other than for the purpose recommended by the manufacturer. Approved Propane Appliances must be equipped with an on/off valve that can be easily operated and the valve must be accessible.

Barbeque- means an appliance or structure designed and intended solely for the cooking of food in the open air, including a hibachi, and any other similar commercially manufactured device designed and intended solely for the cooking of food in the open air, but does not include devices predominantly designed for personal warmth, fire pits or campfires.

Built-up Area- means any such area as a hamlet, village, town, or city which has a lot of buildings and structures in close proximity.

Burn Barrel- means a metal barrel in sound condition no larger than a 205-litre container equipped with a heavy screen with mesh size not greater than 5 mm over the top to prevent debris from flying out of the barrel. Vent holes must be punched in the side for ventilation, and drainage holes in the bottom with adequate clearance from surrounding vegetation, combustible materials, or structures.

Bylaw Enforcement Officer- means that person or persons appointed by Council for the purpose of enforcing bylaws and provincial laws and includes a provincial offences officer.

Campfire- means a fire no larger than 60 centimeters in diameter (2 ft by 2 ft) that is used for cooking or warmth and is always supervised by a responsible person; includes an open-air fire device.

Community Fire Safety Officer- means an officer of the Township appointed as such by way of Municipal Bylaw.

Class "A" Materials- means combustible materials that are generally carbon based such as wood, paper, leaves, grass and are of a less toxic nature than petroleum-based combustibles such as plastics.

Council- means the Council of the Corporation of the Township of Carlow/Mayo.

Day Burning- means the use of open-air fire from 7 a.m. to 7 p.m.

Extinguish- means to be completely put out or quenched so that there is no flame, smoke, hot or glowing embers remaining.

Fire Ban- Temporary measures put in place by the township or MNRF to restrict open-air fires when extreme fire conditions may exist. This measure is put into place in order to help prevent human caused fires.

Fireworks- means as defined in the Explosive Regulations made pursuant to the Explosives Act, R.S. c. E-15, s.1 as amended and includes one single item of fireworks.

Fire Season- means the period from the 1st day of April to the 31st day of October in each year.

Flying Lantern- also known as a sky lantern or Chinese lantern, means a small hot air balloon made of paper, with an opening at the bottom where a small fire is suspended.

Hazardous Material- means materials with properties such as flammability, corrosiveness, inherent toxicity or is hazardous to human health or the environment.

Household Waste- means any solid waste composed of garbage or rubbish, which normally originates in a private home or apartment.

Incinerator- means an enclosed apparatus for burning materials at high temperatures until it is reduced to ash but does not include outdoor furnaces.

Non- Combustible Surface- is bare rock, mineral soil, or other non-combustible material extending at least two metres in all directions from outer edge of fire or appliance.

Noxious Material- includes, but not limited to petroleum products, tires, plastics, rubber products, drywall, tar, asphalt products, pressure treated lumber and creosote treated wood.

Officer- includes the Community Fire Safety Officer, the Bylaw Enforcement Officer, the Ontario Provincial Police, a Provincial Offences Officer, or any person authorized by the Corporation of the Township of Carlow/Mayo to regulate or enforce the provisions of this bylaw.

Open-Air Fire- means a fire set in the Open-Air for the purpose of burning clean wood, clean wood wastes, grass, and wood by-products, this includes fires in barrels, incinerators, and pits, but does not include campfires or barbeques.

Outdoor Furnace- means, but is not limited to, any enclosed device, appliance, equipment, apparatus, or structure that is designed, intended and/or used to provide heat and/or hot water to any associated structure which operates by burning wood or any other approved fuels and

includes paper pellets, corn, wood pellets or agricultural products. It shall not be located within the structure to be heated and includes but is not limited to devices referred to as wood furnaces, outdoor boilers, or hydronic heaters.

Owner- means the registered owner of the land which the open-air fire occurs and includes a trustee acting on behalf of the registered owner, the estate of a registered owner and a person with a leasehold interest in the land.

Person- means any individual, property owner, association, firm, partnership, corporation, agent or trustee and their heirs, executors, or other legal representation of a person.

Property- means a building or structure or part of a building or structure and includes lands ad premises appurtenant thereto mobile homes, mobile buildings, structures, outbuildings, fences, and erections thereon, and includes vacant property.

Responsible Person- means any adult person (18 years of age or older) who, in the opinion of the Community Fire Safety Officer or his/her designate, can exercise the required judgement and who is capable of performing the necessary actions to control a fire and prevents its unwanted spread.

Restricted Fire Zone- means a complete ban of all open-air fires in a defined area and is enforced by the Ministry of Natural Resources and Forestry under the *Forest Fire Prevention Act*.

Supervise- means a responsible person to watch an activity and make certain that everything is done correctly and safely by maintaining a constant visual.

Township- means the Corporation of the Township of Carlow/Mayo.

Township Property- means any property under the jurisdiction of the Corporation of the Township of Carlow/Mayo.

Smog Alert- means an alert issued by the Ministry of the Environment with respect to air quality.

Spark Arrester- means a device which prevents the emission of flammable debris from a chimney, usually a fine metal mesh or grid with holes not larger than 5mm.

Yard Waste- includes but is not limited to grass, leaves, trees, brush, brush trimmings, spent flowers, garden plants, weeds, pine needles, and hay.

PART 2- GENERAL PROVISIONS

- 2.1 No person shall set, maintain, or cause to be set or maintained an open-air fire except as authorized by this Bylaw.
- 2.2 No person shall set, maintain, or cause to be set or maintained an open-air fire on any roadway, highway, park, easement, beach, or other public property owned or operated by the Township of Carlow/Mayo without prior permission from the Township.
- 2.3 No person shall set, maintain, or cause to be set or maintained an open-air fire between the hours of 7 a.m. and 7 p.m. and between the dates of April 1st to October 31st except as permitted under Part 6.
- 2.4 Every person setting, permitting to be set, maintaining, or permitting to be maintained, an open-air fire shall comply with the following conditions:
 - (a) a responsible person is available and in attendance at all times until the fire is completely extinguished;
 - (b) the material is burned in a single pile that is less than one (1) meter in diameter and less than one (1) meter high;
 - (c) only burn class "A" materials;
 - (d) not burn noxious materials;

- (e) fire must be at least five (5) meters from combustible materials, property line, buildings, fences, trees and roadway;
 - (f) the responsible person has tools and/or extinguishing agent adequate to contain and completely extinguish the fire;
 - (g) the fire must be completely extinguished before the burn site is vacated.
- 2.5** No person shall set or maintain an open-air fire when the wind is in such direction or intensity so as to cause;
- (a) a decrease in visibility on any highway or roadway;
 - (b) a rapid spread of fire through grass or a brush area;
 - (c) wind speed, as reported by Environment Canada for the Township is in excess of 25 km/hr
- 2.6** Burning will not be permitted during the following conditions:
- (a) if it is foggy and/or
 - (b) if a Smog Alert has been declared
- 2.7** Every person shall allow an Officer to inspect the location or proposed location of the open-air fire.
- 2.8** Only one fire may be permitted at any one time, on one property, unless there is sufficient space, supervisory personnel, fire extinguishing capability and the Community Fire Safety Officer has approved more than one open-air fire.
- 2.9** The Community Fire Safety Officer may, upon application, approve the setting of any fire subject to the fire being supervised by the Community Fire Safety Officer of the Township.
- 2.10** A person who sets an open-air fire and loses control of the fire shall report the fire and loss of control to the Township immediately.
- 2.11** No person shall burn materials other than Class "A" Materials.
- 2.12** No person shall burn household waste, human waste or hazardous waste.
- 2.13** The Community Fire Safety Officer is authorized to order any person to extinguish any fire when there is a breach of any provisions of this bylaw, or, where in the opinion of the Community Fire Safety Officer, there is a danger of such fire spreading or otherwise endangering life or property. All person(s) shall comply with any such order.
- 2.14** Notwithstanding any other Section of this Bylaw, the Community Fire Safety Officer may authorize a controlled fire of brush piles at a Municipal Waste Disposal/Transfer Site.

PART 3- OPEN-AIR FIRE FOR COOKING OR WARMTH

- 3.1** Open-air fires may be set between the hours of 7 a.m. and 7 p.m. and between the dates of April 1st to October 31st, when such burning consists of a small, confined fire, supervised at all times and is used to cook food on a grill or a barbeque, or is for personal warmth. In addition to the provisions of this bylaw an open-air fire for cooking and/or warmth must be:
- (a) smaller than .6 meters in diameter;
 - (b) must comply with all conditions of this bylaw;
 - (c) must be confined within a fire pit or appliance;
 - (d) must be completely extinguished when cooking is complete;
 - (e) fires for cooking and warmth are not permitted during a fire ban.

PART 4- FIRE BAN

- 4.1** A complete ban on all open-air fire within the boundaries of the Township shall be put in place or lifted at the sole discretion of the Community Fire Safety Officer should conditions warrant.
- 4.2** No person shall set an open-air fire when a ban is in effect;
- 4.3** Wood fueled boilers utilized as a heat source are exempt from a Fire Ban if;
- (a) boiler is located on a non-combustible surface;
 - (b) open flame is contained in a firebox within the boiler;
 - (c) chimney has a spark arrester in the cap.
- 4.4** Approved propane appliances may be used during a Fire Ban if;
- (a) appliance can be easily turned off;
 - (b) appliance is on a non-combustible surface;
 - (c) appliance is monitored by a responsible person.
 - (d) the fuel used is a flammable gas commercially produced for the purpose of cooking, such as natural gas and propane gas.

PART 5- FLYING LANTERNS AND FIREWORKS

- 5.1** No person within the Township shall ignite or release an ignited Flying Lantern.
- 5.2** Any person who ignites or released a Flying Lantern and causes an open-air fire in the township assumes full responsibility for fire control and shall:
- (a) be responsible for any damages to property or injury to persons or animals occasioned by the fire.
- 5.3** No person within the Township shall offer for sale or permit to be sold any Flying Lanterns.
- 5.4** No person shall discharge any fireworks during a Fire Ban.

PART 6- INCINERATORS

- 6.1** No person shall install, use or maintain incinerators for the burning of wood like materials, paper and other class "A" materials within the Township will only be permitted if:
- (a) incineration must be undertaken through the use of an enclosed device;
 - (b) incinerators must be located at least five (5) meters from any combustible materials or buildings;
 - (c) incinerators must be covered by mesh less than five (5) millimeters in size;
 - (d) incinerators are subject to all provisions of Section 2;
 - (e) incinerators shall not be used during a Fire Ban.
- 6.2** No person shall have an open-air fire in an incinerator in any built-up area.

PART 7- ADMINISTRATION AND ENFORCEMENT

7.1 This bylaw shall be administered and enforced by the Community Fire Safety Officer, an officer as described under this bylaw, or anyone known to be an assistant to the Fire Marshal.

PART 8 - OBSTRUCTION

8.1 No person shall hinder, obstruct, or attempt to hinder or obstruct an Officer who is exercising a power or performing a duty under the *Municipal Act* or under a bylaw passed under this Act.

8.2 Any person who has been alleged to have contravened any provision under the *Municipal Act* or under a bylaw passed under this Act, shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered an Officer in the execution of his/her duties.

PART 9- OFFENCES AND PENALTIES

9.1 Any person who contravenes any provision of this Bylaw is guilty of an offence and may be subject to such fees or charges as described in this Bylaw under Schedule "A" Part 1 Provincial Offences Act.

9.2 Every person who contravenes any provision of this bylaw is guilty of any offence and upon conviction is liable to a fine as provided for the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended.

PART 10- SEVERABILITY

10.1 Should any provision, or any part of a provision, of this Bylaw be declared invalid, or to be of no force and effect, by a court of competent jurisdiction, it is the intent of Council that such a provision, or part of a provision, shall be severed from this Bylaw, and every other provision of this Bylaw shall be applied and enforced in accordance with its terms to the extent possible according to law.

10.2 Bylaw 05-2015 and all its amendments shall be rescinded on the day this bylaw comes into force and effect.

PART 11- SHORT TITLE

11.1 The short title of this bylaw shall be the "Open Air Fire Bylaw"


PART 12- EFFECTIVE DATE

12.1 THAT this Bylaw shall come into effect on the day it was passed.

ENACTED and PASSED in council this 13 day of July 2021.



Bonnie Adams, Mayor



Jenny Snider, CAO/ Clerk

SCHEDULE "A" TO BYLAW 23-2021

**BEING A BY-LAW FOR REGULATING OPEN AIR FIRES IN THE TOWNSHIP OF
CARLOW/MAYO**

Part 1- Provincial Offences Act Set Fines

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE	COLUMN 3- SET FINE
1	Set open-air fire on public property	2.2	\$ 350.00
2	Set open-air fire during prohibited times	2.3	\$ 500.00
3	Set an open-air fire greater than 1 meter in height and/or 1 meter in diameter	2.4 (b)	\$ 300.00
4	Set an open-air fire within 5 meters of combustible materials	2.4 (e)	\$ 300.00
5	Fail to properly extinguish fire before vacating site.	2.4 (g)	\$ 500.00
6	Set an open-air fire causing decrease in visibility on highway or roadway	2.5 (a)	\$ 300.00
7	Set open-air fire when winds in excess of 25km/hr.	2.5 (c)	\$ 350.00
8	Set open-air fire when smog alert in effect	2.6 (b)	\$ 300.00
9	Failure to allow an Officer to inspect proposed location of open-air fire	2.7	\$ 500.00
10	Failure to report a fire out of control	2.10	\$ 900.00
11	Burn material other than class "A" materials	2.11	\$ 350.00

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SCHEDULE "A" TO BYLAW 23-2021

**BEING A BY-LAW FOR REGULATING OPEN AIR FIRES IN THE TOWNSHIP OF
CARLOW/MAYO**

Part 1- Provincial Offences Act Set Fines

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE	COLUMN 3- SET FINE
12	Burn household waste, human waste or hazardous materials	2.12	\$ 350.00
13	Failure to extinguisher open-air fire as ordered by the CFSO	2.13	\$ 300.00
14	Set an open-air fire during a fire ban	4.1	\$ 500.00
15	Prohibited use of Flying Lantern(s)	5.1	\$ 500.00
16	Sell/permit sale of Flying Lantern(s)	5.3	\$ 500.00
17	Discharge fireworks during a fire ban	5.4	\$ 500.00
18	Use an incinerator contrary to bylaw	6.1	\$ 350.00
19	Set an open fire in an incinerator where prohibited	6.2	\$ 500.00
20	Hinder/Obstruct an Officer	8.1	\$ 500.00

**Note: the general penalty provision for the offences listed above is section 9.2 of
bylaw 23-2021, a certified copy of which has been filed.**