

THE CORPORATION TOWN OF MATTAWA

COMMITTEE: BY-LAW DEPARTMENT

CHAIRPERSON: COUNCILLOR L. PERREAULT

DEPT. HEAD: WAYNE P. BELTER

TITLE: RECREATIONAL OPEN AIR BURNING BY-LAW

X Draft By-law Item Policy Recommendation

Mayor D. Backer and Members of Council:

Due to the amount of complaints about open air burning, a Recreational Open Air Burning By-Law is recommended. With this by-law the Town of Mattawa along with the Fire Department will be able to regulate and control who can have a fire and when they can burn by having a permit system in place that will be a part of this by-law.

Recommendation:

It is recommended that Council adopt By-Law No. 11-17 ,which will regulate Recreational Open Air Burning and precautions to be taken by the owner.

Respectfully submitted

Councilor L. Perreault

**CORPORATION OF THE TOWN OF MATTAWA
BY-LAW NUMBER 11-17**

**BEING A BY-LAW TO REGULATE "RECREATIONAL OPEN AIR BURNING" AND
PRECAUTIONS TO BE TAKEN BY OWNER.**

WHEREAS under the authority granted in Section 7.1 of the Fire Protection and Prevention Act, S.O., 1997, as amended, Chapter 4, Municipal Councils may establish open air burning by-laws to regulate the setting of fires, including establishing the times during which open air fires may be set.

WHEREAS Section 391(1) of the Municipal Act, S.O. 2001, c.25, a municipality may pass by-laws imposing fees or charges on any class or persons for services or activities provided or done by or on behalf of it.

AND WHEREAS the Ontario Fire Code Part 2 Section 2.6, article 2.6.3.4 states open air burning shall not be permitted unless approved or unless such open air burning consists of a small confined fire, supervised at all times, and used to cook food on a grill or barbecue;

**THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF
MATTAWA ENACTS AS FOLLOWS:**

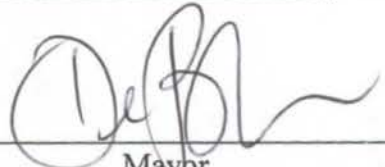
1. For the purpose of this by-law the following definitions shall apply:
 - a) "Agricultural Waste" shall include any animal fecal deposits and animal carcasses;
 - b) "Approved" means as approved by the Chief Fire Official or his/her designate;
 - c) "Chief Fire Official" means the Fire Chief of the Corporation of the Town of Mattawa or his/her designate;
 - d) "Domestic Waste" shall include kitchen waste, food scraps, cloth, rags, clothing, plastics and any other materials which contents include any of the aforementioned;
 - e) "Industrial Waste" shall include used automobile and truck bodies, tires, oil, grease, paint, cloth, rags, plastics and any other materials which contents include any of the aforementioned;
 - f) "Permit" means a permit issued to a person for the purpose of allowing a recreational open air fire to be burned, issued by the Fire Chief or his/her designate to issue permits;
 - g) "Person" means any individual, association, firm, partnership, corporation, agent or trustee, executors or other legal representation of a person;
 - h) "Permit Holder" means any person who is a land owner, tenant, lessee, individual, association, firm, partnership, corporation, agent or trustee, executors or other legal representation of a person that has been granted a permit for recreational Fires;

- i) "Tenant" means a person, who is not the registered owner and abides at any property or rents, leases or otherwise exercises control over a property
 - j) "Recreational Open Air Fire" means an open air fire that does not exceed one meter (1 m or 39") in width and forty six centimeters (18") in height, that is set and maintained solely for the purpose of cooking food, providing warmth and recreational enjoyment.
2. This By-Law shall apply to all land within the geographical limits of the Town of Mattawa.
3. No person(s) or owner(s) of land shall:
- a) Set a fire or permit the setting of a fire, or having set or permitted the setting of fire, permit a fire to continue to burn without first having obtained a fire permit, in the form attached hereto as "**Schedule A**" from the Chief Fire Official or his/her designate, and in accordance with the provisions of the permit and this by-law;
 - b) Set any fire out of doors in the Town of Mattawa between the hours of 6:00 a.m. and 6:00 p.m., during the fire season. **The period from the first day of April to the last day of October of each year shall be a fire season.**
 - c) Burn industrial waste, agricultural waste, domestic waste, rubber, painted lumber, mixed demolition debris or anything else that will cause excessive smoke or fumes in addition to any other material identified in the regulations contained in the *Environmental Protection Act*;
 - d) Set a fire or allow a fire to burn on any land of which he/she is not the registered owner, without the written permission of the registered owner;
 - e) No person shall start a fire or permit the setting of a fire during a restricted fire ban.
4. Where a Recreational Open Air Fire Burning Permit, pursuant to this by-law, has been issued the applicant and the owner shall jointly and severally be responsible for any damage or injury to persons or property with respect to the setting of a fire or permitting the fire to burn and to insure that:
- a) Only dry material is burned (including leaves);
 - b) Recreational open air fires shall be contained to commercial, non-combustible containers or to a pit no larger than 1.5 meters by 1.5 meters in size by .5 meters (18 ") in height;
 - c) The fire is kept at least six (6) meters from any dwelling and/or any structure;
 - d) The fire is attended at all times until it is completely extinguished before leaving the burn site;
 - e) Sufficient equipment and resources are available at the burn site to extinguish the fire if the fire gets out of control or is causing any adverse effect including those set out in Section 5 below;

- f) No damage results to property or injury to persons with respect to the setting of a fire or permitting the fire to burn.
5. Where a Recreational Open Air Fire Burning Permit, pursuant to this by-law has been issued, no person shall:
- a) Set a fire or permit a fire to burn when the wind is in such a direction or of such intensity so as to create a decrease in the visibility on any highway or cause danger to any person or structure;
 - b) Create, by the setting or burning of the fire, any odour which causes discomfort to any person residing in the area;
 - c) Set a fire or permit a fire to burn without first having confirmed that the materials to be burned meets the requirements of the *Environmental Protection Act, R.S.O. 1990, Chapter E 19*.
6. Any Recreational Open Air Fire Burning Permit may be cancelled or suspended at any time by the Chief Fire Official or his/her designate and immediately upon receiving notice of such cancellation or suspension, the permittee shall extinguish any fire started under the permit.
7. Notwithstanding the provisions of Section 3, 4 and 5 hereof the Chief Fire Official may, upon application, approve the setting of fire subject to the fire being supervised by the Fire Chief of the Corporation of the Town of Mattawa.
8. The fee for a Recreational Open Air Burning Permit shall be \$20.00 per Recreational Open Air Burning Permit for the purpose of burning on an approved site and approved incinerators; The permit shall be valid from the date of issuance to the last day of December in the same year. Permits can be purchased at the Municipal Office, Monday to Friday between the hours of 9:00 a.m. and 5:00 p.m.;
- a) Notwithstanding paragraph 8 herein, the Chief Fire Official or his/her designate may issue a Recreational Open Air Burning Permit on an annual basis in the form of **Schedule "A"** for burning as defined in this by-law. The fee for issuance of a burn permit for campfires shall be \$100.00 for each campground, trailer park or tourist park. Such permit shall allow multiple campfires at such times and in such places within the campground, trailer park or tourist park. Such permit shall allow multiple campfires at such times and in such places within the campground, trailer park or tourist park as the owner may permit and in accordance with Sections 3, 4 and 5 of this by-law and in accordance with the conditions set out in **Schedule "A"** Recreational Open Air Burning Permit.
9. If the Mattawa Fire Department is called to respond to a fire set or permitted to burn, in violation of this by-law, the person who set the fire, or allowed it to burn, and the owner of the land if the owner permitted the fire to be set or permitted the fire to burn, shall forthwith pay, upon demand the costs incurred by the Mattawa Fire Department including the personnel, equipment and apparatus necessary to extinguish any fire set or burning contrary to this by-law or contrary to any permit issued under this by-law by paying fees as follows:

- a) For an uncontrolled fire, be liable for costs incurred by the Mattawa Fire Department, at a rate of \$175.00 per half hour (30 minutes) for each fire fighting apparatus accompanied with four (4) people; or crews of eight (8) people.
 - b) Time will be charged from the receipt of the alarm through to the time responding personnel leave the location of the fire, to return to their station.
10. If any person fails to pay the fees set out above, forthwith upon demand, the amount of the fee in default may, in addition to any other remedies Mattawa may have, be recovered by the Corporation of the Town of Mattawa in like a manner as municipal taxes in accordance with Section 398(2)2 of the Municipal Act, S.O. 2001, c25, against the owner of the land, if the owner set the fire, allowed the fire to burn, or permitted the fire to be set or to burn, in violation of this by-law or any permit issued under this by-law.
11. Every person who contravenes any provision of this by-law is guilty of an offense and may be charged in accordance with the terms of the Fire Protection and Prevention Act as amended, Part 2 article 2.6.3.4 of the Ontario Fire Code, in addition to the requirement to pay the fees set out above; or may be charged with an offence under the Provincial Offences Act under this by-law.
12. This by-law will come into force on the date of passing.

READ, PASSED AND ADOPTED this 13th day of June, 2011.



Mayor



Clerk



SCHEDULE "A" to SCHEDULE "A" to By-Law No. 11-17



THE CORPORATION OF THE TOWN OF MATTAWA

FIRE DEPARTMENT
RECREATIONAL OPEN AIR BURNING PERMIT
(Pursuant to Recreational Open Air Burning By-Law No. 2011-17)

And subject to the limitations thereof and subject also to the terms and conditions herein, this permit is issued to:

The authority granted the applicant, by the issuance of this permit, may be revoked at any time due to weather conditions.

Applicant's Name: _____ Fee: \$20.00

Applicant is: ☐ Owner ☒ Tenant ☐ If tenant, written permission from owner

Address: _____

Location of Burn: _____

Type of Material to be burned: _____

Person Responsible for Supervising Burn: _____ Tel.# _____

This permit is valid from the _____ day of _____, 20____ to December 31, 20____

Subject to the following conditions:

- 1 The permit is not valid for winds greater than 20 kph
- 2 The permit is not valid between the hours of 6:00 a.m. and 6:00 p.m.
- 3 The permittee does not burn any industrial, agricultural or domestic waste, dry material only
- 4 The permittee shall have at the location of the fire, sufficient equipment and resources to extinguish the fire if the fire gets out of control such as:

☐ a charged garden hose

☐ a spade shovel

☐ a rake

Date of issue: _____

I, the undersigned, make application for a Recreational Open Air Fire Permit, pursuant to By-Law # 11-17 And I confirm that the material to be burned meets the requirement of the Environmental Protection Act and the conditions under which the burn will take place, meets the requirements of By-Law # 11-17. I also hereby assume full responsibility for any damage caused directly or indirectly by an uncontrolled fire and I waive any claim against the Corporation of the Town of Mattawa and agree to save the Corporation of the Town of Mattawa harmless against all claims which may be brought as a result of damages caused by a fire permit pursuant to By-Law # 11-17. I hereby agree to pay the penalty or fee levied by the Fire Department in connection with a violation of By-Law # 11-17 And or the costs for extinguishing an out of control fire.

Signature of Permittee

Signature of Issuing Officer

NOTICE: FAILURE TO CONDUCT THE BURN IN ACCORDANCE WITH THE BY-LAW MAY
RESULT IN FINES PLUS FIRE EXTINGUISHING COSTS.

Personal information on this form is collected under the authority of the Municipal Act, R.S.O. 1990,
Chapter M.5 and will be used for the purpose of enforcing the provisions of By-Law # 11-17.
Questions should be directed to the Fire Chief -Cell #705-303-3477

THE CORPORATION OF THE TOWN OF MATTAWA – SET FINES
PART 1 – PROVINCIAL OFFENCES ACT

RECREATIONAL OPEN AIR BURNING BY-LAW NO. 11-17

ITEM	COLUMN 1 Short form wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set fine
1	Setting fire without permit	Section 3 a)	\$150.00
2	Setting fire during restricted hours	Section 3 b)	\$150.00
3	Burning of restricted items	Section 3 c)	\$150.00
4	Setting of fire when not the registered owner	Section 3 d)	\$150.00
5	Setting of fire during Restricted fire ban	Section 3 c)	\$150.00
6	Burning of items other than dry material	Section 4 a)	\$150.00
7	Fire too close to structure or building	Section 4 c)	\$150.00
8	Fire is left unattended	Section 4 d)	\$150.00
9	Sufficient equipment to extinguish fire is not available	Section 4 c)	\$150.00
10	Damage to property or injury to person due to setting a fire	Section 4 f)	\$150.00
11	Decrease in visibility on any highway or cause danger to person or structure	Section 5 a)	\$150.00
12	Causing discomforting odour	Section 5 b)	\$150.00

Note: The penalty provisions for the offences listed above is section 11 of By-Law No. 11-17, a certified copy of which has been filed.

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET, SUITE 303
SUDBURY, ONTARIO, P3E 6A5



BUREAU DU JUGE PRINCIPAL RÉGIONAL
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU NORD-EST

159, RUE CEDAR, PIÈCE 303
SUDBURY (ONTARIO) P3E 6A5

TELEPHONE/TÉLÉPHONE : (705)564-7624
FACSIMILE/TÉLÉCOPIEUR : (705)564-7620

July 29, 2011

Mr. Wayne Chaput
By-Law Enforcement Officer
The Corporation of the town of Mattawa
160 Water Street
Mattawa, Ontario, P0H 1V0



Dear Mr. Chaput:

Re: Set Fines – Provincial Offences Act – Part I
Town of Mattawa, Nipissing District

Please find enclosed 2 copies of Orders, and 2 copies of schedules of set fines for By-law Numbers 2010-29, and 2011-17 as amended, the By-laws indicated in the schedules. Please ensure that a copy of the said documents is forwarded to the Provincial Offences Office, which has jurisdiction for the Town of Mattawa.

The setting of the fines does not constitute my approval of the short form of wording used to describe the Offences.

I have forwarded a copy of the Orders and the schedules of the set fines to the Ontario Court of Justice in North Bay.

Yours truly,

A handwritten signature in blue ink, appearing to read "RAH", with a long, sweeping horizontal stroke extending to the right.

Richard A. Humphrey
Regional Senior Justice
Ontario Court of Justice

RAH/sp
Encl.

c.c.: Her Worship Kathleen Bryant, Regional Senior Justice of the Peace
His Worship Michel Moreau, Justice of the Peace

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ONTARIO COURT OF JUSTICE
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PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-Law No. 2011-17, as amended of the Town of Mattawa, attached hereto is the set fine for those Offences. This Order is to take effect August 5, 2011.

Dated at the City of Greater Sudbury, this 29th day of July 2011.



RICHARD A. HUMPHREY
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

THE CORPORATION OF THE TOWN OF MATTAWA – SET FINES
PART 1 – PROVINCIAL OFFENCES ACT

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