

# THE CORPORATION OF THE TOWN OF PERTH

## BY-LAW NO. 4408-1

### A By-law for regulating the setting of open air fires in the Municipality and the precautions to be observed

#### 1. Recitals:

- 1.1. Section 2.4.4.4. (1)(a) of the Fire Code, Ontario Regulation 213/07, prohibits Open Air Burning unless approved;
- 1.2. Section 7.1 (1) of the *Fire Protection and Prevention Act* Part II, as amended, authorizes municipalities to pass by-laws regulating fire prevention including the prevention of the spreading of fires and regulating the setting of open air fires, and including establishing the times during which open air fires may be set;
- 1.3. The Committee of the Whole has reviewed Report 2021-COW-2.6 and concurs with the staff recommendation;
- 1.4. Council for The Corporation of the Town of Perth deems it advisable to pass this By-law.

Accordingly, the Council of The Corporation of the Town of Perth enacts as follows.

#### 2. Definitions:

- 2.1. Wherever a word is used in the **By-law** with its first letter capitalized, and bolded, the term is being used as it is defined in this Section 2.1. Where any word appears in ordinary case, its regularly applied meaning in the English language is intended.
  - 2.1.1. "**Approved Device**" means a commercially manufactured burning device to confine a fire complete with a mesh spark arresting screen to control sparks. Such device maybe called, but not limited to, chimineas or fire bowls. Homemade fire rings, barrels, incinerators, fire pits or fire places are not approved devices.
  - 2.1.2. "**Burn Ban**" means a period of time by which the **Chief Fire Official** designates that no fire shall be set.
  - 2.1.3. "**By-law**" means this **By-law**, as it may be amended from time to time. The Schedules attached to this **By-law** are considered integral parts.
  - 2.1.4. "**Campfire**" means a fire, set outside in an **Approved Device**, having a maximum fuel volume 0.6 meters (2 ft.) x 0.6 meters (2 ft.) x 0.6 meters (2 ft.), that is set, maintained and **Supervised** at all times for the purpose of recreational enjoyment, cooking or providing warmth and where:
    - a) The fire is set in an **Approved Device** that has a spark arrestor screen in place that has grid openings no more than 1/4 inch in diameter.
    - b) The **Approved Device** is set on bare rock or non-combustible material that extends a minimum of 0.3 meters (1ft.) beyond the limit of the approved device used for the fire.
    - c) The fire is at least 5 meters (16.4 ft.) from any combustible material, property line or **Object**.
    - d) The fire is a least 15 meters (49.2) from any utility line (gas, hydro, or telecommunications).

- e) The space above the fire is at least 3 meters (10 ft.) from vegetation, combustible material or **Object**;
  - f) The flame length does not exceed 1 meter (3.3 ft.) in height and 1 meter (3.3 ft.) in diameter.
- 2.1.5. **“Chief Fire Official”** means the Fire Chief of the Perth Fire Services or their designate.
- 2.1.6. **“Competent Person”** means an adult 18 years or older having the capacity to respond.
- 2.1.7. **“Fire Permit”** means the numbered document, valid until December 31<sup>st</sup> in the year it was issued by the **Chief Fire Official** authorizing an **Open Air Fire, Campfire, or Permission** with special conditions.
- 2.1.8. **“Highway”** means and includes a common and public highway, street, roadway, avenue, parkway, sidewalk, driveway, place, bridge, viaduct, which are designed and intended for, or used by the general public.
- 2.1.9. **“Nuisance Smoke”** means smoke causing:
- a) Harm, or material discomfort to any **Person**, place, or thing;
  - b) An adverse effect on the health of any **Person**;
  - c) Impairment of the safety of any **Person**, or place;
  - d) Loss of enjoyment of normal use of property;
  - e) Interference with the normal conduct of business;
  - f) Decreased visibility on any **Highway**; or
  - g) Odour saturation of any place, or thing.
- 2.1.10. **“Object”** means building, structure, hedge, fence, vehicle, sidewalk, roadway, underground utility, overhead wiring, trees, or any property line.
- 2.1.11. **“Open Air Fire”** means the ignition and combustion by fire of dry, untreated combustibles such as wood, wood fiber products, paper, cardboard, boxboard, brush, tree branches, that is set, maintained and **Supervised** at all times where:
- a) The maximum fuel volume does not exceed 3 meters (10 ft.) x 3 meters (10 ft.) x 3 meters (10 ft.).
  - b) The site of the fire is on mineral soil, rock or non-combustible material that extends a minimum of 3 meters (10 ft.) beyond the limit of the fuel used for the fire.
  - c) The fire is at least 15 meters (49.5 ft.) from any combustible material, utility line, (hydro, gas, telecommunications) property line, or **Object**.
  - d) The space above the fire is at least 10 meters (33 ft.) from vegetation, and 15 meters (49.5 ft.) from combustible material or **Object**.
  - e) The flame length does not exceed 5 meters (16 ft.) in height and 5 meters (16 ft.) in diameter.
  - f) The minimum lot size is 2 acres.
  - g) It exceeds the criteria defined in the definition of **Campfire**.
- 2.1.12. **“Outdoor Wood Burning Furnace and Boiler”** means a wood burning heating devise designed to provide heat energy to a building through a series of underground piping.
- 2.1.13. **“Permission”** means authorization by the **Chief Fire Official**.
- 2.1.14. **“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.

2.1.15. **“Prohibited Materials”** means any material which are prohibited by the *Environmental Protection Act*, as amended, and for greater clarity, the term includes but not limited to:

- a) Rubber or rubber products;
- b) Plastic or plastic products;
- c) Straw, hay, grass clippings, garden waste and leaves;
- d) Household waste containing animal by-products, garbage, rubbish, diapers, pressure treated or painted lumber, laminated paper; or
- e) Hazardous waste consisting of waste petroleum, solvents, paint, acid, chemical.

2.1.16. **“Supervised”** means constant attendance by a **Competent Person** at the fire so as to prevent the fire from spreading until it is completely extinguished.

2.1.17. **“Town”** means the geographic area within the jurisdiction of the Corporation of the Town of Perth.

2.1.18. **“Windy Day”** means winds in excess of 10kph.

### 3. Interpretation:

3.1. Rules for interpretation of the language used in the **By-law** are contained in the numbered paragraphs of this Section 3.1.

3.1.1. **Headings:** The captions, article and section names and numbers appearing in this **By-law** are for convenience of reference only and have no effect on its interpretation.

3.1.2. **Legislation References:** Each reference to legislation in this **By-law** is printed in Italic font. Where the name of the statute does not include a year, the reference is to the *Revised Statutes of Ontario, 1990 edition*. Where the name of the statute does include a year, the reference is to the Statutes of Ontario for that year. In every case, the reference is intended to include all applicable amendments to the legislation, including successor legislation. Where this **By-law** references other by-laws of the Town, the term is intended to include all applicable amendments to that by-law, including successor by-laws.

3.1.3. **Scope:** This **By-law** shall apply to all property in the **Town**.

3.1.4. **Severability:** If a court or tribunal of competent jurisdiction declares any portion of the **By-law** to be illegal or unenforceable, that portion of the **By-law** will be considered to be severed from the balance of the **By-law**, which will continue to operate in full force.

### 4. Application for a Fire Permit:

4.1. Any property owner, or an agent authorized in writing by the property owner, may submit a request for a **Fire Permit** by contacting the **Chief Fire Official**.

4.2. 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 **Fire Permit** if it differs from the address of the applicant and;
- e) Such other information as may be required by the **Fire Chief Official**.

4.3. The signature of the property owner on the **Fire Permit** shall confirm that they have read and understand the **By-law** and assume full responsibility for setting and maintaining an **Open Air Fire, Campfire**, or a fire set with **Permission** subject to special conditions.

4.3.1. An electronic signature or electronic submission of the application shall be deemed to meet this requirement.

4.4. The **Chief Fire Official** may refuse the issue of any **Fire Permit** where, in the opinion of the **Chief Fire Official**, the ability to control the fire may be hampered by the development of an adverse condition in proximity to or near the proposed site.

#### 5. Activation of Fire Permit:

5.1. The **Person** to whom the **Fire Permit** has been issued shall notify the **Chief Fire Official** of their intention to set an **Open Air Fire** within twelve (12) hours prior to the time of the **Person's** intent to burn.

5.2. The **Person** to whom the **Fire Permit** has been issued shall provide the following information: the **Fire Permit** number, name and phone number of the contact **Person**, location of the fire, date and time of the fire for activation of an **Open Air Fire**.

#### 6. Prohibition:

6.1. No **Person** shall set or maintain a fire containing **Prohibited Materials**.

6.2. No **Person** shall set an **Open Air Fire** without a **Fire Permit**.

6.3. No **Person** shall set a **Campfire** without a **Fire Permit**.

6.4. No **Person** shall set a fire that exceeds an **Open Air Fire** without **Permission**.

6.5. No **Person** shall set and maintain a fire contrary to the **Permission** with special conditions.

6.6. No **Person** shall set and maintain an **Open Air Fire** or **Campfire** that is not **Supervised**.

6.7. No **Person** shall set an **Open Air Fire** or **Campfire** when a **Burn Ban** is in effect.

6.8. No **Person** shall set or maintain a fire on a **Windy Day**.

6.9. No **Person** shall set or maintain a fire that creates **Nuisance Smoke**.

6.10. No **Person** shall set or maintain:

6.10.1. An **Open Air Fire** between sunset and sunrise.

6.10.2. A **Campfire** between 11:00 PM and sunrise.

6.11. No **Person** shall, upon receiving notice of cancellation, fail to extinguish any form of fire immediately.

6.12. No **Person** shall install or operate an **Outdoor Wood Burning Furnace** or **Boiler**.

6.13. No **Person** shall set a **Campfire** unless it is in an **Approved Device**.

## 7. Exemptions:

- 7.1. Notwithstanding Section 6.1 and 6.2, the **Chief Fire Official** may provide **Permission** with special conditions to set and maintain a fire subject to the fire being monitored by the **Chief Fire Official**.
- 7.2. The **Chief Fire Official** may cancel the **Permission** and/or **Fire Permit** at any time.
  - 7.2.1. Upon receiving notice of cancellation under Section 7.3, the **Person** shall extinguish any form of fire immediately.
- 7.3. Notwithstanding the provisions of the **By-law**, the **Chief Fire Official** may institute a **Burn Ban** at any time to protect the environment.

## 8. Responsibility of Person:

- 8.1. Any **Person** setting a fire without a **Fire Permit** shall:
  - 8.1.1. Be accountable and liable for any damages to property or injury to **Persons** affected by the fire.
  - 8.1.2. Be liable for costs incurred by the Fire Services, including personnel, equipment and apparatus called in to investigate or extinguish the fire, as identified in the Fees and Charges By-law, as amended.
- 8.2. The Property Owner named on the **Fire Permit** shall:
  - 8.2.1. Be accountable and liable for any damages to property or injury to persons affected by the **Open Air Fire, Campfire**, or a fire set with **Permission** subject to special conditions.
  - 8.2.2. Be liable for costs incurred by the Fire Services, including personnel, equipment and apparatus called in to investigate or extinguish the fire, as identified in the Fees and Charges By-law, as amended.

## 9. Enforcement:

- 9.1. This **By-law** may be enforced by the **Chief Fire Official**, any By-law Enforcement Officer or Peace Officer.

## 10. Penalty:

- 10.1. Every **Person** who commits an offence under Section 6 of this **By-law** is, upon conviction, liable to the fines or other penalties as provided for in the *Provincial Offences Act*.
- 10.2. Upon registering a conviction of any provision of the **By-law**, the Ontario Court, Provincial Division, may in addition to any penalty imposed by the **By-law** make an order prohibiting the continuation or repetition of the offence by the **person** convicted.

## 11. Schedules:

- 11.1. Attached to and forming part of this **By-law** is:
  - 11.1.1. Schedule "A" – Set Fines Schedule

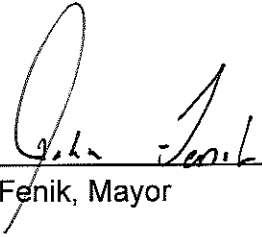
## 12. Short Title:

- 12.1. This By-law shall be cited as the "**Open Air Fire By-law**".

**13. Effective Date:**

13.1. This **By-law** shall come into force and effect on the date it is passed by Council.

Read a first, second and third time and finally passed this 23<sup>rd</sup> day of February 2021.

  
\_\_\_\_\_  
John Fenik, Mayor

  
\_\_\_\_\_  
Michael Touw, Deputy Clerk

(Seal)

**Town of Perth  
Part I Provincial Offences Act  
By-law 4408-1, Open Air Fire By-law**

**SCHEDULE "A"  
SET FINES**

The sums to be paid as set fines are as follows:

<b>Item</b>	<b>Column 1 Short Form Wording</b>	<b>Column 2 Provision Creating or Defining Offence</b>	<b>Column 3 Set Fine</b>
1	Set or maintain a fire containing <b>Prohibited Materials</b> .	s. 6.1	\$195
2	Set an <b>Open Air Fire</b> without a <b>Fire Permit</b> .	s. 6.2	\$195
3	Set a <b>Campfire</b> without a <b>Fire Permit</b> .	s. 6.3	\$195
4	Set a fire that exceeds an <b>Open Air Fire</b> without <b>Permission</b> .	s. 6.4	\$195
5	Set and maintain a fire contrary to the <b>Permission</b> with special conditions.	s. 6.5	\$195
6	Set and maintain an <b>Open Air Fire</b> that is not <b>Supervised</b> .	s. 6.6	\$195
7	Set and maintain a <b>Campfire</b> that is not <b>Supervised</b> .	s. 6.6	\$195
8	Set an <b>Open Air Fire</b> when a <b>Burn Ban</b> is in effect.	s. 6.7	\$195
9	Set a <b>Campfire</b> when a <b>Burn Ban</b> is in effect.	s. 6.7	\$195
10	Set or maintain a fire on a <b>Windy Day</b> .	s. 6.8	\$195
11	Set or maintain a fire that creates <b>Nuisance Smoke</b> .	s. 6.9	\$195
12	Set or maintain an <b>Open Air Fire</b> between sunset and sunrise.	s. 6.10.1	\$195
13	Set or maintain a <b>Campfire</b> between 11:00 p.m. and sunrise.	s. 6.10.2	\$195
14	Fail to extinguish any form of fire immediately.	s. 6.11	\$195
15	Install or operate an <b>Outdoor Wood Burning Furnace</b> or <b>Boiler</b> .	s. 6.12	\$195
16	Fail to use an <b>Approved Device</b> for a <b>Campfire</b> .	s. 6.13	\$195

**NOTE: The general penalty provision for the offences listed above is section 10 of By-law No. 4408-1.**

**Court costs and surcharges will be applied to set fines.**

THE HONOURABLE  
JUSTICE HUGH L. FRASER  
REGIONAL SENIOR JUSTICE  
ONTARIO COURT OF JUSTICE

COURT HOUSE  
161 ELGIN STREET, 8<sup>TH</sup> FLOOR  
OTTAWA, ONTARIO  
K2P 2L1



L'HONORABLE  
JUGE HUGH L. FRASER  
JUGE PRINCIPAL RÉGIONAL  
COUR DE JUSTICE DE L'ONTARIO

PALAIS DE JUSTICE  
161, RUE ELGIN, 8<sup>E</sup> ÉTAGE  
OTTAWA (ONTARIO)  
K2P 2L1

TELEPHONE/TÉLÉPHONE (613) 238-1520  
FAX/TÉLÉCOPIEUR (613) 238-1672

March 18<sup>th</sup>, 2014

The Corporation of the Town of Perth  
80 Gore Street East  
Perth, Ontario  
K7H 1H9

**Attention: Ms. Lauren Walton**

RECEIVED  
MAR 26 2014

TOWN OF PERTH

Dear Ms. Walton:

**Re: Set Fines – Provincial Offences Act – Part I**  
**By-law No.:4408: Open Air Fire**

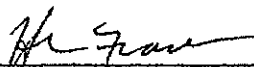
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Enclosed herewith are the original Order dated March 18<sup>th</sup>, 2014 and original schedule of set fines for By-Law No. 4408, the By-law indicated in the schedule.

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

Please ensure that a copy of the said documents is forwarded to the Provincial Offences Office, which has jurisdiction for the Town of Perth.

Yours truly,

  
\_\_\_\_\_  
Hugh L. Fraser  
Regional Senior Justice  
East Region  
Enclosures




**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. 4408 of the Corporation of the Town of Perth, attached hereto is the set fine for that offence. This Order is to take effect on March 18<sup>th</sup>, 2014.

Dated at Ottawa this 18<sup>th</sup> day of March 2014.

.....  
Hugh L. Fraser, Regional Senior Justice  
Ontario Court of Justice  
East Region

**Town of Perth  
Part I Provincial Offences Act  
By-law 4408, Open Air Fire By-law**

**SCHEDULE "B"  
SET FINES**

The sums to be paid as set fines are as follows:

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1	Set or maintain a fire containing <b>Prohibited Materials</b> .	s. 6.1	\$195
2	Set an <b>Open Air Fire</b> without a <b>Fire Permit</b> .	s. 6.2	\$195
3	Set a <b>Campfire</b> without a <b>Fire Permit</b> .	s. 6.3	\$195
4	Set a fire that exceeds an <b>Open Air Fire</b> without <b>Permission</b> .	s. 6.4	\$195
5	Set and maintain a fire contrary to the <b>Permission</b> with special conditions.	s. 6.5	\$195
6	Set and maintain an <b>Open Air Fire</b> that is not <b>Supervised</b> .	s. 6.6	\$195
7	Set and maintain a <b>Campfire</b> that is not <b>Supervised</b> .	s. 6.6	\$195
8	Set an <b>Open Air Fire</b> when a <b>Burn Ban</b> is in effect.	s. 6.7	\$195
9	Set a <b>Campfire</b> when a <b>Burn Ban</b> is in effect.	s. 6.7	\$195
10	Set or maintain a fire on a <b>Windy Day</b> .	s. 6.8	\$195
11	Set or maintain a fire that creates <b>Nuisance Smoke</b> .	s. 6.9	\$195
12	Set or maintain an <b>Open Air Fire</b> between sunset and sunrise.	s. 6.10.1	\$195
13	Set or maintain a <b>Campfire</b> between 11:00 p.m. and sunrise.	s. 6.10.2	\$195
14	Fail to extinguish any form of fire immediately.	s. 6.11	\$195
15	Install or operate an <b>Outdoor Wood Burning Furnace or Boiler</b> .	s. 6.12	\$195
16	Fail to use an <b>Approved Device</b> for a <b>Campfire</b> .	s. 6.13	\$195

**NOTE:** The general penalty provision for the offences listed above is section 10 of By-law No. 4408.

Court costs and surcharges will be applied to set fines.

*Hrf*