

**THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN**

**BY-LAW No. 2005 - 26**

**Being a BY-LAW To regulate Open Air Burning  
in the Municipality of Magnetawan**

**WHEREAS** Section 130 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a Municipality may regulate matters not specifically provided for by this Act or any other Act for purposes related to the health, safety and well being of the inhabitants of the Municipality;

**AND WHEREAS** Section 7.1 (1) of the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4, provides that a Council of a Municipality may pass By-laws:

- a) regulating fire prevention including the prevention of the spreading of fires;
- b) regulating the setting of open air fires including establishing the times during which open fires may be set;

**AND WHEREAS** it is deemed expedient that such a By-law be passed to protect people and property from the risk of being exposed to fire;

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

**SECTION 1 DEFINITIONS**

- 1.1 “**approved**” means approved by the Fire Chief
- 1.2 “**burning ban**” means that **no** open air burning shall take place during the time that the ban is in effect
- 1.3 “**campfire**” means a small fire set in a fire pit or tire rim or other device designed to burn firewood for cooking or warmth and shall not exceed one (1) metre (3.3 feet) in diameter
- 1.4 “**controlled burn**” means open air burning for which a permit is required
- 1.5 “**Fire Chief or Chief Fire Official**” shall include the Fire Chief or the Deputy Fire Chief of the Municipality of Magnetawan or their designate
- 1.6 “**fire department**” means the fire department of the Municipality of Magnetawan
- 1.7 “**Incinerator**” includes equipment used for the burning of waste (Environmental Protection Act, R.R.O., 1990, Reg 346)
- 1.8 “**Municipality**” means the geographic area within the Municipality of Magnetawan
- 1.9 “**open air**” means any place, field, yard or construction area which is not enclosed by a building or structure
- 1.10 “**permit**” means the written permission granted by the Municipality to set, start or maintain a controlled burn

**SECTION 2 REGULATIONS AND PROHIBITIONS**

**2.1 Permit Required**

No person shall in the open air set or start or maintain or cause to be set, started or maintained, a fire unless

- a) a permit issued pursuant to this By-law has been obtained and is in effect;
- b) such fire is subject to an exemption set out in the By-law; and

- c) such fire is set, started or maintained in accordance with the provisions of this By-law

## **2.2 Fire Ban**

During a burning ban declared by the Fire Chief or his or her designate no person shall set, start or maintain or cause to be set, started or maintained an open fire including a campfire.

## **2.3 Supervision and Safety**

2.3.1 All open air fires shall be supervised and under the care and control of a person eighteen (18) years of age or older at all times.

2.3.2 Any person starting, setting or maintaining an open fire shall ensure that there are adequate personnel, equipment, land, and water to contain and control such fire.

## **2.4 Time**

No person shall set, start or maintain or cause to be set, started or maintained, an open fire during the time period between two (2) hours after sunrise and two (2) hours prior to sunset.

## **2.5 Materials**

No person shall burn:

- a) discarded materials at a construction site
- b) wet materials, household waste, garbage, refuse, leaves, treated wood products, shingles, plastic, tires, petroleum products or any other toxic substance that creates excessive smoke or odour
- c) any substance or material that will in any way cause discomfort, danger, irritation and or nuisance for any other persons
- d) more than two (2) cubic metres of materials at any one (1) time
- e) without having adequate equipment and resources at the burning site to control and prevent any adverse effect
- f) material for the fire shall not be transferred to or from another property
- g) material for the fire shall not be moved into the Municipality from outside the Municipality

## **2.6 Regulations**

No person shall set, start or maintain or cause to be set, started or maintained, an open air fire:

- 2.6.1 closer than ten (10) metres from a building or structure, roadway, overhead wires or property line
- 2.6.2 when the wind is in such a direction and/or such an intensity so as to cause a decrease in visibility on any highway within the Municipality or to cause the rapid spread of fire through any vegetation
- 2.6.3 if the material to be burned is in a pile greater than two (2) metres in diameter and/or two (2) metres in height
- 2.6.4 if the material to be burned is standing grass exceeding one (1.0) hectares in area and/or the flaming edge of such standing grass exceeds thirty (30) metres

## **2.7 Post Burn Regulations**

Every person to whom a permit is issued shall immediately after the fire is conducted and extinguished:

- a) carry out a site inspection
- b) remove all flammable material from the site of the fire
- c) return the site to the condition it was in prior to the fire

## **SECTION 3 EXCEPTIONS**

### **3.1 Leaves**

- 3.1.1 Notwithstanding section 2.5 (b), leaves may be burned from December 1<sup>st</sup>, up to and including, March 31<sup>st</sup>.
- 3.1.2 Burning of leaves shall be supervised at all times.

### **3.2 Campfires**

- 3.1.1 A permit is not required for a small confined campfire as defined in this By-law
- 3.1.2 Campfires shall be supervised at all times

### **3.3 Municipality**

This By-law shall not apply to fires set, started or maintained in the course of activities undertaken by or on behalf of the Municipality by an employee or agent of the Municipality.

## **SECTION 4 FARMERS**

### **4.1 Extended Permit**

- 4.1.1 A farmer who intends to set or maintain a fire in the open air on a specified day or days, for disposal of vegetable matter or vegetation on farmlands which is normal and incidental for farming purposes shall be issued a permit to cover the period of the proposed fire.
- 4.1.2 The Fire Chief or his designate, shall be notified by the farmer, for each day of the proposed fire.
- 4.1.3 A permit issued under this section shall be valid for a maximum period of seven (7) consecutive days.

### **4.2 Preparation Required**

Farm acreage shall be pre-cut to a maximum of fifteen (15) centimetres in height prior to a controlled burn.

## **SECTION 5 PERMIT PROCEDURE**

### **5.1 Application**

- 5.1.1 Applications for permits issued under the provisions of the By-law shall be made to the Fire Chief on forms provided by the Clerk.
- 5.1.2 Every applicant shall provide in full, at the time the application is submitted, all of the information requested on the application form as well as:
  - 5.1.2.1 payment of the prescribed licence fee set out in Schedule 'B' of this By-law;
  - 5.1.2.2 any other document or information as may be required in any other section of this By-law.

### **5.2 Qualification**

All persons applying to the Fire Department for a permit shall be eighteen (18) years of age or over and be the owner or occupant of land within the Municipality or have the authorization, in writing, by the owner or occupant of land, to conduct a controlled burn on the said property.

### **5.3 Permits Non-transferable**

Permits are non-transferable.

### **5.4 Term**

Permits are valid during the period specified therein and up to a maximum of seven (7) consecutive days.

### **5.5 Conditions**

The Fire Chief or his designate may impose special conditions upon the issuance of such permit as deemed appropriate, including the relaxing of any regulation set out herein, and such condition(s) shall be set out on the permit.

### **5.6 Regulations**

A person who has obtained a Fire Permit pursuant to Section 4.1 shall:

- 5.6.1 maintain the Fire Permit on the site of the burning at all times during the burning
- 5.6.2 ensure that the means of extinguishing the fire designated on the permit form is available at the site at all times during the fire

## **SECTION 6 RESPONSIBILITIES OF PERMIT HOLDER**

### **6.1 Responsibilities**

All persons setting an open air fire in the Municipality of Magnetawan shall:

- 6.1.1 obey all terms and conditions set out in the permit, including the need for resources, personnel and sufficient water to extinguish the fire
- 6.1.2 be responsible for any damage to property or injury to persons occasioned by the said fire
- 6.1.3 be liable for costs incurred by the Fire Department, including personnel, equipment and apparatus necessary and called in to extinguish the said fire

**SECTION 7 PERMITS MAY BE CANCELLED OR SUSPENDED**

**7.1 Cancellation/Suspension**

A Fire Permit may be cancelled or suspended at any time by the Fire Chief or his designate and immediately upon receiving notice of such cancellation or suspension, the Permittee shall extinguish any fire started under the permit.

**SECTION 8 RIGHT OF ENTRY**

The Fire Chief or his designate, a Fire Marshall, a Fire Warden, and/or the By-law Enforcement Officer are authorized to enter at all reasonable times upon any property in order to ascertain whether the By-law is obeyed, and to enforce or carry into effect the By-law.

**SECTION 9 ENFORCEMENT**

**9.1 Enforcement Officials**

The Fire Chief, every member of the Fire Department designated as an Assistant Fire Marshall and the By-law Enforcement Officer are authorized to enforce this By-law.

**9.2 Penalty**

Any person who contravenes any provision(s) of this By-law is guilty of an offence and upon conviction is liable to such fines and penalties as provided for in the Provincial Offences Act, R.S.O. 1990, c.P33, as amended.

**9.3 Costs**

Despite Section 9.2, any owner of property who permits or sets or maintains a fire, or who causes a fire to be set or maintained other than in accordance with this By-law shall be liable for the full cost of attendance at the fire, should the Fire Department be dispatched on a fire call and such cost may be recovered by action or like manner as taxes.

**9.4 Clarification**

Despite Sections 9.2 and 9.3, any penalty imposed shall not be deemed to be payment of any fee due.

**SECTION 10 SEVERABILITY**

If a court of competent jurisdiction should declare any Section or part of any Section of this By-law to be invalid, such Section or part of a Section shall not be construed as having persuaded or influenced Council to pass the remainder of the By-law and it is hereby declared that the remainder of the By-law shall be valid and shall remain in force.

**SECTION 11 REPEAL**

By -Law No. 2000-18 is hereby repealed.

**SECTION 12 EFFECTIVE DATE**

This By-law shall come into full force and effect March 31<sup>st</sup>, 2006.

**Passed in open Council as read a First, Second and Third time,  
this 12<sup>th</sup> day of October, 2005**

**THE CORPORATION OF THE  
MUNICIPALITY OF MAGNETAWAN**

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Sam Dunnett, *Mayor*

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Brenda J. Fraser, *Clerk/Administrator*

**SCHEDULE 'A'**  
**OPEN AIR BURNING PERMIT**

## **SCHEDULE 'B'**

### **FEE STRUCTURE**