

SCHEDULE 'A'
TO BY-LAW 2016-24

PART 1
GENERAL PROVISIONS

SECTION

1.1 Short Title

This By-law shall be cited as the "Burning Bylaw"

1.2 Scope

The provisions of this By-law, which includes the Schedules and Appendices annexed hereto and the Schedules and Appendices are hereby declared to form part of this by-law shall apply to all property within the geographic limits of the Township, except where otherwise provided.

1.3 Enforcement

This By-law shall be enforced by a *By-law Enforcement Officer* or a *Fire Prevention Officer* or *Chief Fire Official*, or a *Police Officer*.

1.4 Conflicts with other by-law

Where a provision of this By-law conflicts with a provision of another by-law in force in the Township of Harley, the provisions of this By-law shall prevail in order to protect the health, safety and welfare of the general public.

PART 2
DEFINITIONS

Definitions of words, phrases and terms used in this By-law that are not included in the list of definitions in this section shall have the meanings which are commonly assigned to them in the context in which they are used in this By-law.

The words, phrases and terms defined in this section have the following meaning for the purposes of this By-law.

SECTION

- 2.1** **“Adverse effect”** means one or more of,
(a) impairment of the quality of the natural environment for any use that can be made of it,
(b) injury or damage to property or to plant or animal life,
(c) harm or material discomfort to any person,
(d) an adverse effect on the health of any person,
(e) impairment of the safety of any person,
(f) rendering any property or plant or animal life unfit for human use,
(g) loss of enjoyment of normal use of property, and
(h) interference with the normal conduct of business. (“consequence préjudiciable”)
- 2.2** **“Applicant”** means the person (18) or older that makes application to the Chief Fire Official for a permit to hold open air burning.
- 2.3** **“By-law Enforcement Officer”** means the *person or persons* duly appointed by *Council* as Municipal Law Enforcement Officers for the purpose of enforcing regulatory by-laws of the *Township*.
- 2.4** **“Barbecue”** means a portable or fixed device designed and intended solely for the cooking of food in the open air, but does not include outdoor fireplaces and campfires.
- 2.5** **“Chief Fire Official”** means the assistant to the Fire Marshal who is the Municipal Fire Chief or a member or members of the fire department appointed by the Municipal Fire Chief under Article 1.1.1.2. of Division C or a person appointed by the Fire Marshal under Article 1.1.1.1. of Division C.
- 2.6** **“Township”** means the Corporation of the Township of Harley.
- 2.7** **“Township Property”** means any land situated within the *Township* which is owned by the *Township* or controlled by the *Township* by lease or otherwise, but does not include a *highway*.
- 2.8** **“Combustible Material”** means materials capable of burning including wood, paper, plastic and vegetation.
- 2.9** **“Council”** means the Municipal *Council* of the Township of Harley.
- 2.10** **“Designate”** means the person or persons appointed by the *Chief Fire Official* authorized to issue open air burning permits in accordance with this by-law.

- 2.11** “**Fire Prevention Officer**” means the *person* or *persons* duly appointed by *Council* as Fire Prevention officer.
- 2.12** “**Farming Business**” means a farming business as defined in the Farm Registration and Farm Organizations Funding Act, 1993, S.O. 1993, c. 21, as amended.
- 2.13** “**Fire Ban**” means a period of time during which the Fire Chief or his/her designates, prohibits all outdoor burning activities within the *Township*.
- 2.14** “**Fire Restricted Times**” means the time of day in which open air burning activities are not permitted as set out in Section 3.7.
- 2.15** “**Fire Restricted Zone**” means the area in which the Ministry of Natural Resources has suspended all open air burning.
- 2.16** “**Open Air Burning**” means any fire that is conducted outside a building, including a fire conducted in a garden, yard, alley, field, park, industrial site, construction site, building lot, parking lot, street, or other open place. For the purpose of this definition *open air burning* does not include the following:
- (a) the operation of welding or similar equipment;
 - (b) a manufactured outdoor wood furnace installed and operated in accordance with the manufacturer’s instructions;
 - (c) an appliance which is fueled by natural gas or propane, including but not limited to a *barbeque*.
- 2.17** “**Open Air Burning Device**” means a manufactured or non-manufactured, non-combustible, enclosed container that is not fueled by natural gas or propane and is designed to hold a small fire for decorative, recreational, cooking or warmth purposes and the size of which is not larger than 1 metre (3.2 feet) in any direction and may include, but is not limited to a chiminea, unless approved by the Chief Fire Official or his/her designate.
- 2.18** “**Outdoor Fire Pit**” means a non-combustible, contained pit that is not fueled by natural gas or propane and is designed to hold a small fire for decorative, recreational, cooking or warmth purposes and the size of which is not larger than 1.0 metre (3.2 feet) in any direction.
- 2.19** “**Owner**” means the registered owner of the land.
- 2.20** “**Person**” means an individual firm or corporation.
- 2.21** “**Police Officer**” means a member of the Ontario Provincial Police Service.
- 2.22** “**Provincial Offences Act**” means the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.
- 2.23** “**Brush Piles**” means tight piles made up of materials such as stumps, brush, limbs, clean lumber.
- 2.24** “**Windrow**” means a pile or row of material made up of stumps, brush, limbs, earth and rock. Generally results from land clearing operations in agricultural areas or from industrial forest operations using mechanical equipment.

**PART 3
REGULATIONS**

SECTION

- 3.1** No *Person* shall set out fires in open air from January 1st to December 31st unless an Open air burning permit is obtain, in substantially the form set out in Appendix “2” of Schedule “A” attached to this by-law, approved by the Chief Fire Official or his/her designate.
- 3.2** No *Person* shall conduct an *open air burn* at any time other than the *owner* of the property where the fire is to occur, save an authorized agent acting on the *owner(s)* behalf who produces written authorization signed and dated by the *owner*.
- 3.3** The *Applicant* shall acquire a burning permit from the *Chief Fire Official* or his/her designate.
- 3.4** No *Person* shall conduct an *open air burn* at any time in a Ministry of Natural Resources declared *fire restricted zone(s)* or during a Township declared *fire ban*.
- 3.5** No *Person* shall conduct an *open air burning* within the Township between the hours of eight (8) o’clock in the morning and six (6) o’clock in the evening unless written approval by the *Chief Fire Official* or his/her designate is issued.
- 3.6** Application to burn during *fire restrictive time(s)*, as outlined in section 3.5 may be granted by the *Chief Fire Official* or his/her designate.
- 3.7** No household garbage, construction materials or materials made of/or containing rubber, plastic, tar, pressure treated or creosote treated wood, or any material which may emit noxious or poisonous substances or pollutants, including PCB’s and other chemicals shall be burned at anytime.
- 3.8** All Persons conduction an *open air burn* shall ensure that it is controlled and supervised at all times and completely extinguished before the burn site is vacated except as outlined in Section 5.7 and 6.11.
- 3.9** Without limiting in any way the prohibition set forth in Section 3.8, all persons shall ensure that only dry, woody type of materials that do not emit noxious or poisonous substances or pollutants other than those produced by the burning of wood, tree limbs or branches shall be permitted to be burned in an *open air burning device* or *outdoor fire pit*.
- 3.10** No *Person* shall conduct an *open air burn* that causes an inconvenience or irritation to others.
- 3.11** Every *Person* who is *open air burning* shall ensure that he/she has adequate safety equipment such as water, portable water pumps, portable multi-purpose fire extinguisher, rakes or any other tools necessary to contain the fire.
- 3.12** No *Person* shall set *open air burning* in an area near grass or other vegetation where it may spread due to strong winds.
- 3.13** No *Person* shall discharge a contaminant or cause or permit the discharge of a contaminant into the natural environment, if the discharge causes or may cause an adverse effect. (Environmental Protection Act Section 14 (1)).

- 3.14 The Applicant shall comply with the provision of the Environmental Protection Act, R.S.O. 1990, Chapter E.19 as amended.
- 3.15 The Applicant shall comply with the provision of the Farming And Food Production Protection Act, 1998, S.O. 1998, Chapter 1, as amended.
- 3.16 The Applicant shall protect adjacent properties from the potential spread of fire.
- 3.17 The Applicant shall ensure the Open Air fire does not create a Nuisance.
- 3.18 The Applicant shall ensure the material being burned is not received by the Owner of the lands where the Open Air fire is located in exchange for a fee.
- 3.19 The Applicant shall ensure the Open Air fire is not otherwise in contravention of the provisions of this by-law, the regulations passed thereunder or any other by-law of the Township.
- 3.20 The *Chief Fire Official* or his/her designate can suspend or rescind an open air burning permit at anytime, if it is unsafe or is unhealthy to the public.
- 3.21 *Farming business* shall adhere to the additional open air burning guidelines for burning of *Windrows* as set out in Appendix "3" of Schedule "A".
- 3.22 *Open air burning* permits can be obtained from the Township of Harley located at 903303 Hanbury Road (8:00 a.m. to 4:00 p.m. Monday to Friday).
- 3.23 The Corporation of the Township of Harley By-law No. 2009-07, is hereby repealed in its entirety.
- 3.24 This by-law shall come into force and effect upon the passing of third and final reading.

PART 4
NORMAL FARM/ RURAL PARCTICE

- 4.1 A Person shall obtain an *Open air burning* permit before conducting an Open air burn for Normal Farm / Rural Practices if it is part of a normal farm practice carried on as part of an agricultural operation, as terms defined in the Farming And Food Production Protection Act, 1998, on lands zoned for agricultural use, and subject to the conditions set out in Parts 5 and 6.

**PART 5
BRUSH PILES**

SECTION Preamble: All *persons* creating *brush piles* or intending to burn *brush piles* shall ensure that the following conditions are complied with:

- 5.1 The *brush pile* does not exceed 6 metres (30 feet) long by 6 metres (20 feet) wide by 3 metres (10 feet) high;
- 5.2 the *brush pile* is constructed on soil other than peat soil types between April 1st to October 31st of the year;
- 5.3 a burn plan is filled and submitted for approval by the *Chief Fire Official* or his/her designate as set forth in Appendix "3";
- 5.4 the permit holder shall notify the *Chief Fire Official* or his/her designate and the Township's Dispatch Contractor for the Fire Department at the commencing of the *brush pile burning* and again when the *brush pile burning* activity is completed;
- 5.5 the permit holder ceases to add material to the *brush pile* if a *fire ban* comes into effect, and shall extinguish the fire;
- 5.6 the permit holder uses best efforts to aerate and separate any soil from wood, tree limbs, and branches in the *brush piles*;
- 5.7 the permit holder ensures that a competent person eighteen (18) years or older maintains care and control over the *brush pile* from the time of ignition until the fire is extinguished; the number of *brush piles* to be burned at any time shall be approved by the *Chief Fire Official* and/or his/her designate;
- 5.8 The permit holder will ensure that prohibited materials, which include garbage, pressure treated or creosote treated wood, or any combustibles that produce toxic fumes other than those produced by the burning of wood, tree limbs or branches, will not be used.
- 5.9 If the *brush pile* is deemed to be unsafe, or cause an unsafe situation, or create a health hazard to the public, by the *Chief Fire Official* and/or his/her designate, it will result in NO permit being issued, or the permit being cancelled until the necessary steps are taken to correct the problem.

PART 6
FARMING BUSINESS

- SECTION** Preamble: All *persons* creating *windrows* shall ensure that the following conditions are complied with:
- 6.1** The *windrow* shall be kept as narrow as possible;
 - 6.2** *Windrows* should be at least 30 meters (100 ft.) apart and should be no longer than 150 meters (450 ft.) in length, 6.5 meters (20 feet) in width, 3 meters (10 feet) in height;
 - 6.3** The *windrows* are located a distance of not less than 90 meters (300 feet) from a building, structure, power line, fence and highway;
 - 6.4** A burn plan is filled and submitted for approval by the *Chief Fire official* or his/her designate as set forth in Appendix "3";
 - 6.5** The permit holder shall notify the *Chief Fire Official* or his/her designate and the Township's Dispatch Contractor for the Fire Department at the commencing of burning and again when the burning activity is completed.
 - 6.6** The permit holder uses best efforts to aerate and separate any soil from wood, tree limbs and branches in the *windrow*;
 - 6.7** best practices is to burn *windrows* when materials have dried and cured;
 - 6.8** Permits to burn *windrows* will become effective on or after the 1st day of November, and must be extinguished prior to April 1st of the following year. Permits are valid all day (24 hrs);
 - 6.9** The permit holder shall have on site a minimum of one (1) competent person eighteen (18) years or older and adequate fire equipment which is in serviceable condition with which to extinguish the fire should it become necessary during the ignition stage. Equipment shall include shovels, adequate quantity of water (on site), pails, pack pumps, power pumps and hose or any combination thereof and as may be ordered by the *Chief Fire Official* and/or his/her designate;
 - 6.10** No person shall ignite a *windrow* until two hours before sunset and under light winds;
 - 6.11** The permit holder will ensure that *windrows* are monitored daily. Any problems must be dealt with immediately. The Harley Volunteer Fire Department must be notified of such problems immediately;
 - 6.12** If the *windrow* is deemed to be unsafe, or cause unsafe situation, or create a health hazard to the public, by the *Chief Fire Official* and/or his/her designate, it will result in NO permit being issued, or the permit being cancelled until the necessary steps are taken to correct the problem.

**PART 7
INCINERATOR**

SECTION Preamble: All *persons* setting a fire in an outdoor incinerator in the Township shall ensure that the following conditions are complied with:

- 7.1** an *Open air burning* permit for an incinerator is required between April 1st and October 31st;
- 7.2** the *person* shall first obtain an Open air burning permit for using an incinerator from the Chief Fire Official or his/her designate;
- 7.2** the *person* is allowed to burn wood, brush, leaves or discarded wood by-products;
- 7.3** the incinerator is an enclosed device constructed entirely of non-combustible material, which is not capable of holding more than one cubic metre of unburned material;
- 7.4** the outlet of the incinerator is covered with a screen having a mesh size of not more than five millimetres;
- 7.5** the incinerator is at least two (2) metres from any flammable materials;
- 7.6** the incinerator is at least five (5) metres from any forest or woodland;

PART 8
GRASS & FIELD/CROPS

SECTION Preamble: All persons setting fire to field/crop residue, grass or leaf litter in the Township shall ensure that the following conditions are complied with:

- 8.1** an *Open air burning* permit is required to burn grass or field/crop residue between April 1st and October 31st;
- 8.2** the *person* shall first obtain an Open air burning permit for burning grass or field/crop residue from the Chief Fire Official or his/her designate;
- 8.3** the length of flaming edges does not exceed 30 metres;
- 8.4** the total area to be burn does not exceed one hectare;
- 8.5** a responsible person is available to tend the fire until the fire is extinguished;
- 8.6** the person tending the fire has tools or water adequate to contain the fire within the fire Site;

**PART 9
EXEMPTIONS**

SECTION

- 9.1** The Harley Volunteer 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;
- 9.2** The *Township* shall be exempt from the provisions of this by-law with respect to open air fires related to municipal works and *Council* approved or sanctioned events upon approval of the *Chief Fire Official* or his/her designate.
- 9.3** A permit is not required for a small confined fire, supervised at all times and is used to cook food on a grill or a barbecue, or is for personal warmth.

**PART 10
PENALTIES**

SECTION

- 10.1** Every person who contravenes any of the provisions of By-law 2016-24 is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, as amended.
- 10.2** Any *Person* who contravenes any provision of the Ontario Fire Code and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 for an individual or \$100,000 for a corporation or to imprisonment for a term of not more than one year or both.
- 10.3** Where an offence is a continuing offence, each day that the offence is continued shall constitute a separate and distinct offence.
- 10.4** 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 *Chief Fire Official* or his/her designate shall, in addition to any penalty provided for herein, be liable to the *Township* for all expenses incurred for the purposes of investigating, controlling and extinguishing any fire set or left to burn, and such expenses may be recoverable by court action or in a like manner such as municipal taxes. The Township shall use the Ministry of Transportation hourly chargeable rate to calculate their expenses incurred.

PART 11

OPEN AIR FIRE ALLOWED WITHOUT A PERMIT – COOKING / RECREATION FIRE

SECTION

- 11.1** A Person may conduct an Open Air fire in an Outdoor fire container subject to the conditions set out in this Part.
- 11.2** A Person conducting an Open Air fire shall comply with the following conditions for an Open Air fire in an Outdoor fire container:
- (a) shall only use an Outdoor fire container that is constructed from non-combustible material
 - (b) shall not burn or attempt to burn a volume of combustible material greater than 1 metre wide, by 1 metre long, by 1 metre high (approximately 39 inches wide, by 39 inches long, by 39 inches high);
 - (c) shall contain the fire within the Outdoor fire container at all times;
 - (d) shall locate the Outdoor fire container at least 5 metres (approximately 16 feet) from any building, structure, property line, tree, hedge, fence, roadway, overhead wire or other combustible article; and
 - (e) shall locate the Outdoor fire container on a non-combustible surface extending beyond the unit to a dimension equal to the height of the Outdoor fire container.

PART 12

VALIDITY

SECTION

- 12.1** If any section, clause, or provision of this By-law, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the section, clause or provision so declared to be invalid and it is hereby declared to be in the intention that all remaining sections, clauses or provisions of this By-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof shall have been declared to be invalid.