

THE CORPORATION OF THE TOWNSHIP OF BILLINGS

BY-LAW 2020-16

Being a bylaw to provide for the regulation of open-air burning and precautions to be taken while burning

WHEREAS Section 7.1 of the *Fire Prevention and Protection Act, S.O. 1997* as amended provides that the Council may pass bylaws regulating the setting of open-air fires, including establishing the times which open-air fires may be set; and,

WHEREAS the *Fire Prevention and Protection Act, S.O. 1997* provides that the Chief Fire Official or Designate is required to approve open-air burning and appropriate fire safety provisions; and,

WHEREAS Section 130 of the *Municipal Act, S.O. 2001* provides that the Council may regulate matters related to the health, safety and well being of the inhabitants of the municipality; and,

WHEREAS Section 129 of the *Municipal Act S.O. 2001* provides that the Council can prohibit and regulate matters that it deems to be a public nuisance; and,

WHEREAS Section 391 of the *Municipal Act S.O. 2001* provides that municipalities may pass bylaws imposing fee or charges on any class of Persons for services or activities provided or done by or on behalf of it; and,

WHEREAS Section 427 of the *Municipal Act, S.O. 2001* provides that where the Council has the authority to direct or require by bylaw or otherwise that any matter or thing be done, the council may by bylaw direct that, in default of its being done by the Person directed or required to do it, such matter or thing shall be done at the Person's expense and the Corporation may recover expenses incurred in doing it by adding the costs to the tax roll and collecting them in the same manner as taxes;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF BILLINGS HEREBY ENACTS AS FOLLOWS:

1.0 DEFINITIONS

- 1.1 "Approved" means approved by Chief Fire Official or Designate.
- 1.2 "Balcony" means a platform projecting from a wall of a multiple level dwelling, surrounded by railing or balustrade.
- 1.3 "Brush Fire" means a fire set for the purpose of burning brush, grass vegetation or leaf type material only.
- 1.4 "Burn Barrel" means a steel container similar in construction to a 45-gallon drum and with a volume no greater than that of a 45-gallon drum.
- 1.5 "Burn Permit" means a burn permit which is issued in accordance with this Bylaw authorizing specific types of open-air burning. (i.e. brush and clean wood products).
- 1.6 "Bylaw Enforcement Officer" means a Person duly appointed by the Township of Billings Council to enforce its municipal bylaws.
- 1.7 "Campfire" means a fire set for cooking or warmth, approved by Chief Fire official or Designate, that is no greater than 66 centimetres in diameter and no more than 1 metre high; does not include barbeques.
- 1.8 "Chief Fire Official" means the Fire Chief as defined in the *Fire Protection and Prevention Act S.O.1997*.
- 1.9 "Chiminea" means a non-combustible device made largely from pottery or metal used to hold a small fire with substantially enclosed hearth and an outlet fitted with a spark arrester or covered by a metal wire mesh with grid openings no larger than 5 millimetres.
- 1.10 "Council" means the Council of the Township of Billings.
- 1.11 "Deck" means a combustible surface area attached to a structure.

- 1.12 “Designate” means the CAO/Clerk, Deputy Clerk or the Deputy Chief Fire Official.
- 1.13 “Municipal Fire Ban” means a complete ban of all open-air fires which is enacted by the Fire Chief Official or designate within the Township by authority of the *Fire Protection and Prevention Act S.O. 1997*.
- 1.14 “Fire Department” means the Township of Billings Fire Department.
- 1.15 “Fire Hazard Rating” means a rating system utilized by the Chief Fire Official or Designate to assess the possibility that any fire is safe or dangerous to light. The rating system is rated as Low, Moderate, High or Extreme.
- 1.16 “Fire Season” means the period of time from the 1st day of April through to the 31st day of October in each year or as determined by the Ministry of Natural Resources and Forestry (MNRF).
- 1.17 “Incinerator” means a completely self-contained high temperature furnace used to burn branches, clean wood waste and wood bi-products to ash.
- 1.18 “Township” means the Corporation of the Township of Billings.
- 1.19 “Open-Air Fire” means a fire that is set for the purpose of disposing clean wood, wood by-products, brush or leaf products that is not greater than 2 metres in diameter and no more than 2 metres high. An Open-Air Fire does not include a campfire set for the purpose of cooking.
- 1.20 “Person” means an individual, association, firm, partnership or corporation.
- 1.21 “Registered Owner” means the Person(s) whose name appears on deed for the property.

2.0 BURNING RESTRICTIONS

- 2.1 No Person shall set an Open-Air Fire or Campfire unless conditions will allow the fire to burn safely.
- 2.2 No Person shall set an Open-Air Fire or Campfire within 8 metres of any structure or combustible object.
- 2.3 No Person shall use a Burn Barrel for the purposes of burning within the Township unless it is in an area designated as Agricultural (A), Rural (R) or Shoreline Residential (SR) as per Billings Township Official Plan and Zoning Bylaw.
- 2.4 No Person shall set an Open-Air Fire during the Fire Season within the Township without having obtained a Fire Burning Permit.
- 2.5 No Person shall set an Open-Air fire or Campfire and burn household garbage, construction materials, materials made of or containing rubber, plastic, paint, tar, chemical wastes, pressure treated wood, synthetic or man-made materials or any other materials that create excessive smoke or odour.
- 2.6 No Person shall set or continue an Open-Air Fire between the hours of 8:00 am through 8:00 pm.
- 2.7 No Open-Air Fire or Campfire shall be set unless there is a competent Person to be in charge/control of the fire to prevent the fire from spreading or endangering property.
- 2.8 No Person shall abandon or leave unattended an Open-Air Fire or Campfire without extinguishing the fire.
- 2.9 No Person shall set an Open-Air Fire or Campfire without having a method of controlling or extinguishing fire readily available.

- 2.10 No Person shall set or tend a fire if the weather/wind conditions may cause the following:
- a) A decrease in visibility on any highway;
 - b) The rapid spread of fire through grass, brush, forested area or where property is not intended to be burned;
 - c) An adverse impact on other Person(s) or property.

2.11 No Person shall set an Open-Air Fire or Campfire during a municipal Fire Ban when the Fire Hazard Rating is rated as High or Extreme.

2.12 No Person shall set an Open-Air Fire or Campfire in a Restricted Fire Zone.

2.13 No Person shall set an Open-Air Fire or Campfire on any of the following:

- a) A highway or asphalt surface;
- b) On any municipal property unless prior arrangements have been made with the Chief Fire Official or designate or the CAO/Clerk.

2.14 The use of Fireworks is prohibited during any Fire Ban or Restriction. The Township may grant permission upon request under the conditions that a professionally licensed or insured Person is responsible for the setting of the fireworks. All authorizations will be approved under the guidance of the CAO/Clerk or Chief Fire Official. No Person shall use or set off fireworks during a Fire Ban or Restriction without authorization.

3.0 CONDITIONS FOR OPEN-AIR BURNING

3.1 An approved Burn Permit be obtained that identifies the Person authorized to perform the burn and the material to be burned shall be readily available.

3.2 The burn must take place in the allotted time frame identified on the Burn Permit.

3.3 The burn must be supervised by a competent Person.

3.4 Extinguishing and fire control tools must be readily available.

3.5 The material being burned is clean wood, brush, leaves or discarded wood by-products.

3.6 The burn must be done in accordance to the parameters determined by Fire Hazard Rating or Restricted Fire Zone criteria.

3.7 The burn does not cause or have an impact on others.

3.8 The burn is taking place between 8:00 pm and 8:00 am.

3.9 The Chief Fire Official or Designate may, in extenuating circumstances for major projects or ceremonial activities not previously considered, authorize in writing to a Person, to burn under conditions other than those listed in section 3.1 through 3.7 of this Bylaw.

4.0 BURNING IN A CHIMINEA

4.1 Fires other than Open-Air or Campfires must be set in a Chiminea or other approved devices bearing a CSA/ULC certification and that the following conditions are met:

- a) the burning device is not located on a balcony;
- b) the burning device is not located on a combustible surface;
- c) the burning device is in good working order;
- d) the burning device is at least 3 metres from any structure, forest or woodland.

4.2 The Person in charge of the Chiminea shall only burn clean dry wood or charcoal in the Chiminea.

5.0 EXEMPTIONS

5.1 Propane, natural gas and charcoal barbeques, heating devices or incinerators are exempt.

5.2 Any fires under the direct supervision of the Township Fire Department for training or demonstration purposes are exempt.

6.0 ENFORCEMENT AND PENALTIES

6.1 This Bylaw shall be enforced by the Township Bylaw Enforcement Officer, The Chief Fire Officer or Designate who are designated by Council or an officer of the O.P.P.

6.2 Any Person who contravenes or fails to comply with any provision of this Bylaw is guilty of an offence and upon conviction is liable to a fine as provided by the *Provincial Offences Act, R.S.O. 1990, chapter P.33* as amended. (See Schedule "A").

6.3 No Person shall hinder or obstruct or attempt to hinder or obstruct an officer who is exercising a power or performing a duty under this Bylaw.

6.4 The Township reserves the right to recover the costs associated with the extinguishment of an Open-Air Fire, which has been set in contravention of this Bylaw. These costs will be above any set fines and at a rate set by the Township.

7.0 ISSUING/REVOCAION OF BURN PERMITS

7.1 Any Person applying for a Burn Permit must do so in Person at or by telephone with the Township office.

7.2 The Person applying must provide identification and complete all questions on the Burn Permit Application.

7.3 The Burn Permit Application will be reviewed and approved or denied within 3 working days, by the Chief Fire Official or Designate, dependant on any restrictions, accuracy of information provided or other extenuating circumstances.

7.4 The issued Burn Permit will only be valid for the date(s) indicated on the Permit.

7.5 The Chief Fire Official or designate has the authority to revoke a Burn Permit at any time if it is determined that the holder of the Burn Permit is not complying by the provisions of this Bylaw or if changes occur regarding Fire Hazard Rating, Municipal Fire Ban or Restricted Fire Zone directives.

7.6 Burn Permits are non-transferable.

8.0 SEVERABILITY

8.1 If any provision or part of this Bylaw is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part in particular circumstances, the balance of the bylaw or its application in other circumstances, shall not be affected and shall continue in full force and effect.

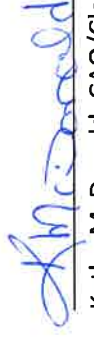
9.0 ADMINISTRATION

- 9.1 This Bylaw repeals Township of Billings Bylaw 2013-35.
- 9.2 This Bylaw will come into effect upon the final passing thereof.

Read a first, second and third time in open council and enacted this 19th day of May, 2020.



Ian Anderson, Mayor



Kathy McDonald, CAO/Clerk

THE CORPORATION OF THE TOWNSHIP OF BILLINGS

BY-LAW 2020-16

Schedule 'A'

Part 1 Provincial Offenses Act

BY-LAW 2020-16: Being a bylaw to provide for the regulation of open-air burning and precautions to be taken while burning

Item	Short Form Wording	Provision creating or defining offence	Set Fine
1	Set fire in unsafe conditions.	2.1	\$200.00
2	Set fire within 8 metres of structures	2.2	\$200.00
3	Set fire in Burn Barrel	2.3	\$200.00
4	Set fire without Burn Permit	2.4	\$300.00
5	Burn prohibited materials	2.5	\$200.00
6	Set fire between 8:00 AM-8:00 PM	2.6	\$200.00
7	Leave or abandon unextinguished fire	2.8	\$300.00
8	Fire control tools or extinguisher not available	2.9	\$200.00
9	Causing reduced visibility on a highway	2.10 a)	\$300.00
10	Causing a fire that spreads	2.10 b)	\$300.00
11	Causing a fire that impacts neighbours	2.10 c)	\$300.00
12	Set fire during Fire Ban	2.11	\$500.00
13	Set fire in Restricted Fire Zone	2.12	\$500.00
14	Set fire on highway or asphalt	2.13 a)	\$300.00
15	Set fire on Township property	2.13 b)	\$300.00
16	Set off fireworks during Fire Ban or in Restricted Fire Zone	2.14	\$500.00
17	Hinder or Obstruct Officer	6.3	\$500.00

Note: The penalty provision for the offences indicated above is section 6.2 of this Bylaw No. 2020-16 of which a certified copy has been filed.

Note: Costs associated with extinguishing a fire caused by a contravention of this Bylaw will be recovered by the Township as per section 6.4.

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

159 CEDAR STREET
3rd FLOOR, SUITE 303
SUDBURY, ONTARIO P3E 6A5



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

159, RUE CEDAR
3^e ÉTAGE, BUREAU 303
SUDBURY (ONTARIO) P3E 6A5

TELEPHONE/TÉLÉPHONE (705) 564-7624
FAX/TÉLÉCOPIEUR (705) 564-7620

August 13, 2020

Ms. Megan Bonenfant, Deputy Clerk
The Township of Billings
The Old Mill, P.O. Box 34
Kagawong, Ontario, P0P 1J0

Dear Ms. Bonenfant:

Re: *Set Fine Application – Provincial Offences Act – Part I*
Township of Billings, Manitoulin District

Enclosed herewith is an original Order and an original schedule of set fines for By-law No. 2020-16, the By-law indicated in the schedule. Please ensure that a copy of the said documents is forwarded to the Provincial Offences Office, which has jurisdiction for the Township of Billings.

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

I have forwarded the copy of the Order and the schedules of these set fines to the Ontario Court of Justice in Gore Bay, together with a certified copy of the By-Law.

Yours truly,

A handwritten signature in blue ink, appearing to read 'P. Boucher'.

PATRICK BOUCHER
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

PJB/hrd

Encl.

c.c.: His Worship Gary McMahon, Regional Senior Justice of the Peace
Her Worship Darlene Hayden, Justice of the Peace

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August 13, 2020

Devyani Anandjit
Crown Law Office, Criminal
720 Bay Street, 10th floor
Toronto, Ontario
M5G 2S9

Dear Ms. Anandjit:

Re: Set Fine Application – Provincial Offences Act – Part I
Township of Billings, Manitoulin District

Please find enclosed a copy of an Order dated August 13, 2020, and a copy of a letter to Megan Bonenfant, Deputy Clerk for the Township of Billings.

Should you have any questions, please do not hesitate to contact me at (705)564-7624.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Patrick Boucher', written in a cursive style.

PATRICK BOUCHER
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

PJB/hrd

Encl.

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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. 2020-16, of the Township of Billings, Manitoulin District, attached hereto is the set fine for that offence. This Order is to take effect August 27th, 2020.

Dated at the City of Greater Sudbury, this 13th day of August, 2020.

A blue ink signature of Patrick Boucher, written in a cursive style.

PATRICK BOUCHER
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

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